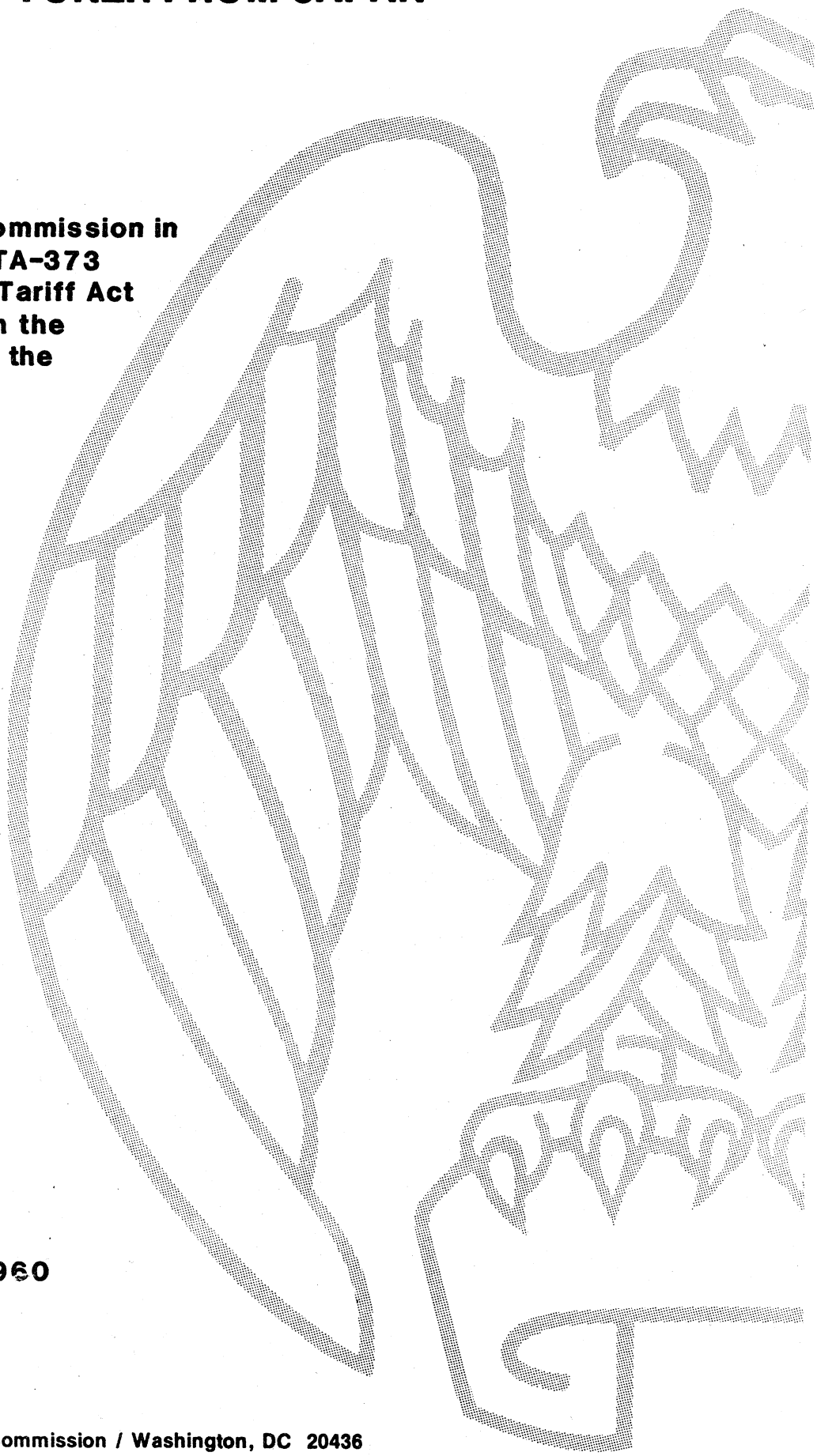
CERTAIN COPIER TONER FROM JAPAN

Determination of the Commission in Investigation No. 731-TA-373 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigation No. 731-TA-373 (Preliminary)

CERTAIN COPIER TONER FROM JAPAN

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of electrically resistive monocomponent toner and "black powder" preparations therefor of a kind used in electrostatic copying machines, provided for in item 408.44 of the Tariff Schedules of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On February 3, 1987, a petition was filed with the Commission and the Department of Commerce by Aunyx Corp., Hingham, MA, alleging that the establishment of an industry in the United States is materially retarded and that an industry is threatened with material injury by reason of LTFV imports from Japan of electrically resistive monocomponent toner and "black powder" preparations therefor of a kind used in electrostatic copying machines. Accordingly, effective February 3, 1987, the Commission instituted preliminary antidumping investigation No. 731-TA-373 (Preliminary).

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

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of February 13, 1987 (52 FR 4666). The conference was held in Washington, DC, on February 25, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF COMMISSIONER ECKES, COMMISSIONER LODWICK,
AND COMMISSIONER ROHR

We determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, nor is the establishment of an industry materially retarded, by reason of imports of electrically resistive monocomponent toner and "black powder" preparations therefor from Japan that are alleged to be sold in the United States at less than fair value (LTFV).

Like product and domestic industry

As a threshold matter in title VII investigations, the Commission must determine the domestic industry against which to examine the impact of the subject imports. "Industry" is defined 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 . . . . [1/] "Like product" is defined as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . . [2/]

The imported article that is subject to this investigation is electrically resistive monocomponent toner (ERMT) and "black powder" preparations [3/] therefor of a kind used in electrostatic copying machines. [4/]

1/ 19 U.S.C. § 1677(4)(A).
2/ 19 U.S.C. § 1677(10).
3/ "Black powder" preparations, as defined in the Commission's questionnaires, are any processed or semiprocessed mixture of chemicals dedicated for use in dry toners. Report of the Commission (Report) at A-7. Canon Business Machines, Inc. (CBM) is the only known importer of "black powder" preparations for ERMT from Japan.
4/ The article subject to investigation is defined by the scope of the Department of Commerce's (Commerce) investigation. Commerce defined the imported article subject to investigation as electrically resistive monocomponent toner and "black-powder" preparations therefor of a kind used with electrostatic copying machines, currently provided for under item number 408.44 of the Tariff Schedules of the United States. 52 Fed. Reg. 6203.

ERMT is a type of dry toner used in the electrostatic copying process. 5/ Toners are formulated products consisting of, at least, a pigment material, such as carbon black plus an electrostatically chargeable material, such as iron oxide or a benzenoid dye or pigment, and a polymer resin, such as a styrene acrylic. During the copying process, the pigment creates the visible image, the electrostatically chargeable material transports the toner, and the resin fuses the image to the paper. 6/

Original equipment manufacturers (OEMs) formulate toners to meet the specific requirements of a given machine model. Three basic toner systems have emerged: 1) monocomponent dry toner, 2) dualcomponent dry toner, and 3) liquid toner. Toners may be formulated to accommodate the charge on the photoreceptor (positive or negative), the fusing technology (radiant fuse or hot-roll fuse), and the electrostatic charging method (conductive or resistive). There is not necessarily, but may be, a unique formula for a given machine. 7/

Monocomponent dry toners typically contain magnetic pigment, polymer resin, charge control agent, lubricant, and charge control additives. In electrically resistive systems, the magnetic pigment becomes triboelectrically (by friction) charged as the toner particles rotate on the surface of a drum in the toner dispensing cartridge. In an electrically conductive system, magnetic forces initially hold the pigment on a magnetized cylinder. When opposite charges are induced in the toner by conduction, the toner transfers from the cylinder to the photoreceptor. 8/

5/ A description of the electrostatic copying process can be found in the Report at A-2-A-3.
6/ Id. at A-4.
7/ Id. at A-4-A-5.
8/ Id. at A-4.

Dualcomponent systems mix finely ground toner particles with larger carrier beads and external additives to formulate a final product (developer). As the toner and carrier are mixed, electrostatic forces temporarily bind the toner to the carrier. 9/

In liquid toner systems, the toner is dispensed in a carrier fluid and, as the dispersion is mixed, becomes triboelectrically charged. The liquid serves much the same purpose as the carrier in a dualcomponent dry toner system; that is, it triboelectrically charges the toner to the appropriate strength, transports the toner to the photoreceptor, and removes any extraneous particles. 10/

Petitioner, Aunyx Corp. (Aunyx), argues that the only domestic product "like" the imported ERMT and "black powder" preparations subject to this investigation is domestically produced ERMT. According to petitioner, other dry toners, such as dualcomponent and electrically conductive monocomponent, are not "like" the imported products because they are not interchangeable with the imported products but "function in entirely different copy development processes." 11/ In fact, if dualcomponent toner is put in an ERMT-compatible machine, the machine simply will not work. 12/

In addition, Aunyx emphasizes the uniqueness of ERMT in relation to other dry toner products. It describes the development of ERMT as a "technological breakthrough" that had overcome the disadvantages of dualcomponent toner. For example, dualcomponent toner requires the use of a separate developer

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9/ Id. at A-4-A-5.
10/ Id. at A-5.
11/ Petitioners' Post-Conference Brief at 4.
12/ Id.

substance to work. This separately supplied developer provides the surface to convey the toner, consisting of magnetic carrier particles. Developer particles begin to deteriorate chemically after their first use, which explains the variable quality of dualcomponent toner. In addition, it is difficult to sustain the proper mix of toner and developer particles. 13/ The ERMT differs from electrically conductive monocomponent toner (ECMT) because ERMT charges and transports itself by friction while ECMT uses a standard electric charge run on conductive material and requires special paper. It is a declining technology being phased out. 14/ Petitioner notes that it is inconsistent for Canon, a respondent, to define the like product as all dry toner when Canon has been touting the uniqueness of its "NP process" ERMT system for years. 15/

Respondent argues that all dry toners should be a single "like product." 16/ In support of this position, it focuses on five factors which it maintains the Commission traditionally utilizes: (1) physical appearance, (2) common production equipment and employees, (3) channels of distribution, (4) customer and producer perceptions, and (5) commercial interchangeability. 17/

13/ Id. at 5.
14/ Id. at 8.
15/ "NP" stands for "New Process." See Canon advertisements in Appendix of Petitioner's Post-Conference Brief.
16/ In addressing the like product issue, they acknowledged that the Commerce Department identified ERMT and black powder preparations as a separate "class or kind." However, respondent maintains that the examination of uses, and not merely characteristics, is permissible when making a like product determination and, therefore, that determination is not limited by Commerce's class or kind determination. GC-J-075 (April, 30, 1986).
17/ Canon's Post-Conference Brief at 6. See, e.g., Color Television Receivers from the Republic of Korea and Taiwan, Invs. Nos. 731-TA-134 and 135 (Final), USITC Pub. 1514 at 3-6 (1984); Certain Radio Paging and Alerting Receiving Devices from Japan, Inv. No. 731-TA-102 (Final), USITC Pub. 1410 at 8-9 (1983).

Taking those in order, respondent argues first that, all dry toners have the same physical appearance, being composed of a fine black powder base to which additional chemicals are added. The differences that do exist are invisible to the naked eye. Second, all dry toners are manufactured using common production equipment and employees. Aunyx itself testified that it produces both monocomponent and dualcomponent toner at the same facility. Third, all dry toners are marketed through the same channels of distribution. Aunyx's toners for non-Canon copiers are sold side-by-side with its Canon-compatible toners. Fourth, customers and producers perceive all dry toners as commercially interchangeable, although they do not perceive them as operationally interchangeable.

Regarding commercial interchangeability, Canon maintains that customers buy copying systems, not toners. Therefore, even though ERMT can only be used in a compatible machine, the customer is free to buy a system that uses another variety of toner. Commercial interchangeability, not operational interchangeability, is the standard respondent asserts. Since the price of toner materially affects the marketability of a copier system, being as much as 15 or 20 percent of the total cost of a copier system over its lifetime, businesses will change entire copying systems in order to capture the cost savings produced by the lower-priced toner. 18/ Furthermore, respondent claims that the vast majority of copy machines are leased and the leases often include supplies such as toner. Consumers, therefore, have little investment in the equipment they use and can easily change machines. 19/

18/ Canon's Post-Conference Brief at 7-10.
19/ Nashua's Post-Conference Brief at 8.

We have reservations regarding the petitioner's narrow definition of the "like product." 20/ Petitioner's primary argument--the lack of interchangeability between toner types--actually supports an even narrower "like product" definition than that offered by petitioner since different series of NP copiers use different, noninterchangeable types of ERMT. Yet petitioner would include them in its "like product" definition. 21/ Further, we note that very narrow "like product" definitions are adopted only in exceptional cases. In this preliminary investigation, we will accept petitioner's "like product" definition for the purposes of further analysis. However, we note that in a final investigation we may have defined like product differently.

Since we determine that ERMT is the "like product", the domestic industry comprises the U.S. producers of that type of toner. These producers are Aunyx (the petitioner), and at least two other producers. While respondent insists that Canon Business Machines, Inc. (CBM) of Costa Mesa, California is a

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20/ See Additional Views of Commissioner Rohr regarding the appropriate like product and domestic industry in this investigation.
21/ Petitioner asserted that the difference between types of ERMT were minor qualitative differences, compared with differences between monocomponent and dualcomponent toner, but they did not fully explain this distinction. The question of interchangeability rarely has a clear cut answer, usually involving varying degrees of interchangeability between a variety of products.

domestic producer, we have not included CBM within the scope of the domestic industry. 22/

Condition of the domestic industry

In assessing the condition of the domestic industry in a preliminary investigation, the Commission looks to determine whether there is a reasonable indication that:

> (1) an industry in the United States
> (A) is materially injured, or
> (B) is threatened with material injury, or
> (2) the establishment of an industry in the United States is materially retarded. 23/

In the present investigation, we agree with petitioner that the appropriate inquiry is whether the establishment of a domestic industry is being materially retarded. 24/ "Material retardation" is a concept appropriate to

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22/ We examined several factors in determining whether CBM is a domestic producer, such as: 1) the extent and source of a firm's capital investment, 2) the technical expertise involved in production activity in the United States, 3) the value added to the product in the United States, 4) employment levels, 5) the quantity and type of parts sourced in the United States, and 6) any other costs and activities in the United States directly leading to production of the like product. See Erasable Programmable Read Only Memories from Japan, Inv. No. 731-TA-288 (Final), USITC Pub. 1927 at 11 (1986). Our review of the data regarding CBM's "production" of ERMT in California leads us to conclude that CBM should not be considered a domestic producer. The value-added by those activities is small compared to the value of the final product. The domestic activities of CBM are not as technically complex as the production of "black powder" in Japan. The level of employment is low and much of the "production" work is primarily related to packaging the toner, not manufacturing it.

23/ 19 U.S.C. § 1673b(a).

24/ There is no doubt that the domestic producers of ERMT have made a substantial commitment to commence production. In fact there has been production since at least 1984, although at modest levels. Given these modest levels of production and the size of domestic operations compared to the market as a whole, we determine, for the purpose of this preliminary investigation, that the domestic industry may be considered a "nascent" industry. Therefore we will analyze the facts of record in the context of material retardation. See Lime Oil from Peru, Inv. No. 303-TA-16 (Preliminary), USITC Pub. 1723 (1985); Certain Dried Salted Codfish from Canada, Inv. No. 731-TA-199 (Final), USITC Pub. 1711 (1985).

assessing the activities of a "nascent" industry. One or more domestic companies must have demonstrated a "substantial commitment" to production. 25/ From this minimum level, the material retardation standard is applied in lieu of the more common material injury or threat of material injury standard in those cases in which commercial production has begun but the domestic industry has yet to attain a stable presence in the market. 26/ In examining the question of material retardation, the Commission determines whether the performance of the domestic industry reflects merely the normal start-up conditions of a company entering an admittedly difficult market or whether the performance is worse than what could reasonably be expected and is therefore evidence of material retardation. 27/

Apparent U.S. consumption of ERMT increased steadily from 1984 to 1986. 28/ Production by the domestic industry has remained essentially stable throughout the period of investigation. U.S. producers' total

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25/ See, e.g., Certain Commuter Airplanes from France and Italy, Invs. Nos. 701-TA-174 and 175 (Preliminary), USITC Pub. 1269 (1982); Salmon Gill Fish Netting of Manmade Fibers from Japan, Inv. No. 751-TA-5, USITC Pub. 1234 (1982).

26/ Material injury or threat of material injury and material retardation are mutually exclusive standards. We agree with petitioner that material retardation is the appropriate standard to apply in this investigation to the producers of ERMT. Therefore material injury or threat of material injury do not apply. The notion that there could be a real and imminent threat of material injury to a domestic industry is inconsistent with our determination, and the petitioner's argument, that a domestic industry has not been fully established.

27/ Certain Dried Salted Codfish from Canada, Inv. No. 731-TA-199 (Final), USITC Pub. 1711 at 4-5 (1985).

28/ Report at A-11, Table 3. Much of the information regarding the condition of the domestic ERMT industry is confidential and, therefore, can only be discussed in general terms.

shipments of ERMT increased steadily. [29/] Inventories have been negligible. [30/] The financial performance of Aunyx has improved dramatically since its entering the market in 1985, especially its operating income as a percentage of net sales. [31/]

The market for ERMT is expanding, as is indicated by the data regarding apparent consumption. [32/] There is also evidence of new domestic entrants into this market. Petitioner stated that it has discussed with IBM the possibility of producing ERMT in a joint venture. In addition, at least one other large producer of toner is in the preliminary stage of production of ERMT in the United States after having invested significant amounts of time and money in research and development. [33/]

Domestic shipments and production of ERMT are stable. Major producers of other types of toner and photocopiers either have entered or are preparing to enter the domestic industry. Moreover, Aunyx's financial condition has steadily improved. To the extent that petitioner believes it should be operating at higher levels with a greater market share, such expectations are unreasonable.[34/] Petitioner's business plan, calling for the capture of the

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29/ Id. at A-15, Table 5.
30/ Id. at A-16, Table 6.
31/ Id. at A-22.
32/ Id. at A-11, Table 3.
33/ Id. at A-22.
34/ Petitioner insists that an independent supplier, such as Aunyx can expect to achieve about 10 percent of the market for toner supplies and that its failure to reach that level of market share is evidence of material retardation. We disagree. First, the 10 percent figure is based on market shares of independent suppliers for similar products for which there is an established domestic industry. It is unrealistic for petitioner to assert that it should be able to capture 10 percent of the market before it has established a domestic industry. Second, even assuming that the OEM, such as Canon, would retain only 90 percent of toner sales, there are a number of independent suppliers, both domestic producers and importers, vying for the remaining 10 percent. Petitioner failed to explain why it was entitled to its estimate of the entire independent segment of the market.

entire independent market for ERMT within three years of initial production, failed to take into account the lack of an extensive, national distribution network that is necessary to compete on a national level with Canon and other independent suppliers. 35/ Based upon this information, we cannot conclude that the domestic producers are performing worse than could be reasonably expected. In fact the opposite is true. Thus, we conclude that there is no reasonable indication that the domestic industry is materially retarded. 36/

Causation 37/

Even if we had determined that the domestic industry was materially retarded, such material retardation is not by reason of LTFV imports from Japan. Factors relevant to a causation analysis in a material injury investigation, such as trends in the volume and market penetration of imports,

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35/ At the preliminary conference, one of the other independent suppliers of ERMT testified that Aunyx lacked an extensive dealer network, such as Nashua's (a domestic producer of toners other than ERMT), and that Aunyx was operating under a substantial disadvantage in terms of marketing, distribution, and service. Transcript of the Conference (Tr.) at 139. Aunyx only employed 13 people in its sales department, all of whom were located in the greater Boston area, and all of its sales were made through or to Canon dealers. Aunyx has no network of independent dealers. Moreover, petitioner's testimony at the Preliminary Conference regarding their potential joint venture with IBM can be viewed as an acknowledgement that it does not have the technical, financial, and distribution resources necessary to make serious inroads into the independent market for ERMT.

36/ We note that, in line with the Court of Appeals for the Federal Circuit's decision in American Lamb Co. v. United States, 785 F.2d 994 (Fed. Cir. 1986), this preliminary negative determination is based upon clear and convincing evidence of no material retardation. Furthermore, the data underlying this determination (i.e., levels of domestic production, shipments, market share, Aunyx's financial status, and information regarding new entrants to the market) is complete and there is no likelihood that additional or contrary evidence would arise in a final investigation.

37/ Commissioner Lodwick does not join this part of the opinion. Having found no material retardation, the issue of causation need not be addressed.

can be misleading when considering a material retardation case. This is especially true in this investigation, which involves an after-market dominated by an original equipment manufacturer. In the context of this investigation, information on market share is of limited relevance because we are investigating an allegation of dumping not to establish a share of trade, but to forestall the development of domestic competition in an import-dominated market. Further, volume figures for imports and apparent consumption are also misleading because demand for toner is derivative of demand for the Canon NP series copiers.

Petitioner's causation argument rests almost entirely on alleged price depression by Canon. Petitioner asserts that Canon's price for ERMT has been continually lowered in an effort to prevent petitioner's entrance in the market. Price data, therefore, are a critical element of this investigation. The Commission collected complete information from domestic producers and importers of ERMT compatible with Canon NP-210 through NP-500 photocopiers. That data indicate that while there was a significant decline in Canon's prices, it occured in 1984 before the petitioner had entered the market for this product. After entering the market in 1985, petitioner reduced its price, as did Canon. However, in 1986 both parties raised their prices to their original 1985 levels. In fact, Aunyx raised their price first. Consequently the margin of underselling by Aunyx remained the same at the end of the period as it was at the beginning. 38/

38/ For every period, the domestic product undersold the imported product by significant margins. This was expected since all parties agreed that independent producers must undersell the OEM in order to gain customers. The margins of underselling evidenced in the record are consistent with the range estimated by the parties. Report at A-28, Table 16.

As noted previously, data regarding market share must be viewed with caution because of the nature of this investigation. The independent suppliers, Aunyx and Nashua (which appeared in opposition to the petition) testified at the conference that, even with a mature domestic industry, an OEM such as Canon will normally retain at least 90 percent of the market for Canon-compatible toner. 39/ Thus Canon's high market share is not unexpected nor is it probative of a causal link between the alleged material retardation and imports. Moreover, it should be noted that the market share of Japanese imports has declined consistently throughout the period. 40/

Quality problems exist with Aunyx's ERMT which may explain why it has been unable to increase its market share, even while Canon's market share dropped and while petitioner consistently undersold Canon. The importance of qualitative factors in the sale of toner was apparent from the responses to the Commission's questionnaires and from the investigation of lost sales allegations. When asked whether differences in quality were a significant factor in the firm's sales of ERMT, most firms responded affirmatively. Furthermore, 4 out of 5 purchasers of ERMT stated that quality was their major, if not sole, criterion when selecting which brand to purchase. One purchaser specifically indicated that they did not find Aunyx's ERMT technically approvable and thus did not solicit prices from them. 41/

39/ Tr. at 37, 138.
40/ Report at A-25.
41/ Id. at A-31.

We conclude that LTFV imports of ERMT are not a cause of the difficulties petitioner may be experiencing. 42/ The pricing data and market penetration data fail to support petitioner's claims of price depression and causation. 43/

42/ There are allegations that Canon has engaged in anti-competitive conduct, in violation of the antitrust laws, that has prevented Aunyx's entry into the market. These allegations are currently being litigated in federal court and in a section 337 proceeding before the Commission, Inv. No. 337-TA-253. If true, these acts also could explain the difficulties Aunyx has encountered in marketing its product. However, there appears to be no evidence of price depression caused by the subject imports or that their pricing has affected petitioner's performance.

43/ Again we note that clear and convincing evidence underlies our determination regarding causation. Further, the pricing data, which is the basis of petitioner's causation argument, is complete, as is the data regarding trends in market share. Therefore, it is extremely unlikely that contrary evidence relating to these factors would be developed in a final investigation.

ADDITIONAL VIEWS OF COMMISSIONER DAVID B. ROHR
ON LIKE PRODUCT AND DOMESTIC INDUSTRY

Although I concur with the majority in determining the relevant "like product" for this investigation, I have certain reservations regarding this definition. The like product determination is a legal conclusion that defines the appropriate domestic industry.[1/] The like product definition is essentially a factual determination. The statutory guidelines are broad. The decision is made on a case by case basis. The statute merely requires that the domestic product be like, or in the absence of like, most similar in characteristics and uses with the product subject to the investigation, in this case, electrically resistive monocomponent toner (ERMT) from Japan.

The Commission is not confined to any single consideration in determining the breadth of the like product and the corresponding domestic industry. In past investigations, the Commission has sought to establish a consistent and cohesive approach to such determinations. The Commission has considered a variety of factors in making this determination, including, the function of the product, its end uses, its production process and costs, its channels of distribution, customer perceptions, and interchangeability of the domestic product with the product under investigation.[2/]

Petitioner's argument for a product definition rests almost exclusively on the lack of operational interchangeability between ERMT and other dry

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1/ Views of Commissioner Eckes, Commissioner Lodwick, and Commissioner Rohr, supra, at 3 n.1 & 2.

2/ *See* Dynamic Random Access Memory Semiconductors from Japan, Inv. No. 731-TA-300, USITC Pub. 1803 (Jan. 1986); Certain Silica Filament Fabric from Japan, Inv. No. 731-TA-355 (Final) (1986).

toners used in the photocopying process. They allege that ERMT functions in a "radically different" system from other dry toners. Consistency in this position, however, would support a still narrower "like product" definition than that alleged by petitioner because, even within the ERMT market, toners for different copier systems are not interchangeable.[3/] The petitioner makes no distinction between these various other non-interchangeable ERMT products.

Further, interchangeability is only one of the criteria for making a like product decision. No single criterion is determinative. Instead, the Commission considers a composite of factors and reaches the appropriate "like product" finding from this composite, giving as much weight as appropriate to the general function and end use of a product as to its operational interchangeability with other related products. Exclusive emphasis on interchangeability as a factor in the like product analysis ignores the phenomenon of technological evolution as it occurs in the current marketplace, particularly with regard to higher technology products. Products change and evolve over time for identical end uses and functions. Frequently, newer products are manufactured by the same companies, on the same facilities, by the same employees, and in similar production processes as the preceeding generations.

Each new generation improves upon the capabilities and technologies of the earlier generations. Changes in such a context should be considered less as radical shifts in the product, and more as linear progressions on a

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3/ *See* Certain Fresh Cut Flowers from Canada, Chile, Colombia, Costa Rica, Ecuador, Israel, and the Netherlands, Inv. Nos. 701-TA-275 through 278 and 731-TA-327 through 331 (Final) USITC Pub. 1956 at 12 (March 1937)

technological and functional continuum. The end use of a "next generation" product is usually identical to its predecessors. The product carries the technological lineage of its predecessors, is usually marketed through the same distribution channels, and is perceived by consumers as the same product.

Recent Commission determinations have reflected this approach to domestic "like product" analysis. In *Dynamic Random Access Memory Semiconductors from Japan (DRAM's)*, 4/ the Commission acknowledged that "different densities of DRAM's are not necessarily interchangeable, and cannot in all instances be substituted for one another." 5/ We found that end use products were redesigned as memory capacity expanded and that there existed a close linkage between the pricing of successive generations and changes in memory capacity and end-use designs. We determined, on the basis of all the relevant factors affecting the product, that DRAM's of all densities, although they represented evolutionary changes in the end-product, were one like product for purposes of the statute.

In *Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore*, 6/ the respondents argued that a lack of interchangeability among picture tubes of different types and sizes required a finding of separate like products. Finding in favor of the petitioner, the Commission stated that there must be "clear dividing lines among products in terms of distinct characteristics and uses" which shall consider "common manufacturing

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4/ (Inv. No 731-TA-300 January 1986)

5/ *Id.* at 11.

6/ (Invs. Nos. 731-TA-367 through 370 (January 1987)

facilities and production employees" as well as the interchangeability between the products.[7] As in DRAM's, the Commission again found that, despite the absence of operational interchangeability between types and sizes of picture tubes, all had similar characteristics and uses. "All picture tubes are made of the same materials and perform the same function. Moreover, for most sizes of picture tubes, the production process is similar."[8] A consistent application of the principles applied in both *DRAM's* and *Picture Tubes* would lead to similar conclusions regarding the "like product" finding in this investigation.

Nevertheless, I found in favor of the petitioner's much narrower like product interpretation in this investigation. I found that the facts available to us in the brief 45-day period for this investigation supported both like product determinations. Although, as I have stated, the more compelling argument from the standpoint of the logic of the marketplace, rests on the broader definition, neither definition can be said on the basis of the information before us to be required. Because the like product issue was not outcome determinative in this investigation, it was appropriate to find as I did, accepting petitioner's argument, despite my reservations regarding this position.

Had I adopted the broader "like product" definition, I would also have determined that there was no reasonable indication of material injury, or threat thereof, to the domestic dry toner industry. Alternatively, had I found such material injury, I would still have concluded that the allegedly

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7/ *Id.* at 4.

8/ *Id.* at 8

less than fair value imports from Japan under investigation were not a cause of that condition.

With few exceptions, I have in the past viewed domestic "like product" definitions narrowed to the point of brand name specificity as inconsistent with the intent of the statute. That I did not so find in this case should be viewed within the context of the above considerations, and not as a tacit approval of excessively narrow "like product" definitions.

VIEWS OF CHAIRMAN SUSAN LIEBELER
AND VICE CHAIRMAN ANNE E. BRUNSDALE

Certain Copier Toner From Japan
Inv. 731-TA-373 (Preliminary)

March 20, 1987

We agree with our colleagues that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or its establishment materially retarded, by reason of imports of certain copier toner and "black powder" preparations from Japan that are alleged to be sold in the United States at less than fair value (LTFV). We provide our separate views because we depart from our colleagues on the analysis of "like product" in this case.

In reaching our decision we are mindful of the mandate that the Commission should continue an investigation unless "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation" (American Lamb Co. v. United States).[1] This is a case where the standards articulated by the Court in American

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[1] 785 F.2d 994 (Fed. Cir. 1986).

Lamb are clearly satisfied and the facts and controlling law are so clear that continuation of this investigation would serve no legitimate purpose.

Like Product and Domestic Industry

Under Section 771(4)(A) of the Tariff Act of 1930, as amended, the term "industry" is defined 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."[2] The term "like product" is defined as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the [imported] article subject to investigation...."[3] According to the legislative history accompanying the provision: "The 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...."[4]

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2 19 U.S.C. 1677(4)(A)(1982).

3 19 U.S.C. 1677(10)(1982).

4 S. Rep. No. 249, 96th Cong., 1st Sess. at 90 (1979).

The Commission's like product determination is principally factual and is based on a case-by-case analysis that looks for clear dividing lines among products. Historically, the Commission has examined factors relating to the characteristics and uses of the subject merchandise, including physical appearance, customer perceptions of the articles, common manufacturing facilities and production employees, channels of distribution, and interchangeability between products.[5]

These factors address product substitutability from the standpoint of both the consumers and the producers of the products in question. From the standpoint of consumers, two products are "like" each other if they are close substitutes and if consumers can select from among them as close alternatives. From the standpoint of producers, two products are "like" each other if producers can easily switch from one to the other, e.g., without a substantial new investment or other material change in their production operations. Thus the Commission has often

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[5] See Portland Hydraulic Cement and Cement Clinker from Colombia, France, Greece, Japan, Mexico, the Republic of Korea, Spain, and Venezuela, Inv. 731-TA-356-363 (Preliminary), USITC Pub. 1925, at 4 (1986); 64K Dynamic Random Access Memory Components from Japan, Inv. 731-TA-270 (Final), USITC Pub. 1862 (1986); Certain Radio Paging and Alerting Receiving Devices from Japan, Inv. 731-TA-102 (Final), USITC Pub. 1410, at 6-9 (1983).

focused on whether the products in question are made by the same employees using the same equipment in the same facilities.[6]

The facts of this case show that, from the standpoint of producers and consumers, all dry toners have a very high degree of substitutability and thus should be treated as a single like product. From the standpoint of producers, all dry toners are produced in the same manner using the same equipment and the same employees. As Mr. Albert W. Leclair, a researcher employed by Nashua Corporation, testified:

> [T]he process for making dry toner and the equipment used is the same whether that toner is monocomponent or dual component.... There is no requirement that production equipment be dedicated to the production of a particular dry toner. You could easily produce dual component toner B and then monocomponent toner C. In each case you would be simply adjusting various settings on the production equipment and cleaning it to make sure there was no contamination.[7]

Petitioner Aunyx itself admitted that it produces both monocomponent and dual component toner at the same facility using

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[6] Id.

[7] Statement of Albert W. LeClair.

the same equipment and the same employees.[8] Not surprisingly, it appears that toner producers do not keep separate financial and production data for different types of dry toners.[9]

From the consumers' perspective, all toners have the same use -- they are the ink in photocopy machines.[10] As explained by Mr. Leclair, "toner is toner. Whether it is liquid or dry, monocomponent or dual component, the toner performs the same function in the copier machine. It is ink."[11] In the same sales materials Aunyx features toners for use in Xerox, IBM, Royal, Ricoh, Mita, and Minolta copiers.[12] Thus, the industry markets different types of toners as if they are substitutes.[13]

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8 Transcript (Tr.) at 21-22. Accord, Testimony of William Joseph, "Manufacturers find dry toners particularly attractive because the same equipment can be adjusted to permit the production of many different dry toners. Thus a small independent manufacturer can produce several lines of dry toner in the same plant and without additional employees by adjusting the equipment so that different toners are manufactured on alternating shifts." Id. at 83.

9 Tr. at 83-84. Indeed it appears that producers of roughly 75 percent of the dry toner shipped in the United States do not even keep records segregating the performance of their dry toner operations from the performance of the balance of their operations. Report at A-18, note 1.

10 Statement of Albert W. Leclair.

11 Id.

12 Petition, Exhibit 1.

13 See Prepared Statement of William A. Joseph at 10.

The only significant difference between the various formulations of dry toners is that one blend of toner will not work in all of the many different varieties of photocopying machines. Because electrically resistive monocomponent toner will not work in a machine designed to run on dualcomponent toner, petitioner contends that different types of dry toner are not like products.

Petitioner's argument might be convincing if the facts showed that the technological incompatibility of the various types of toner translated into a material limitation on the ability of toner customers to choose among toner alternatives. However, the record is clear that customers buy copying systems, not toner, and that per-copy cost plays a central role in their selection of a copying system. One of the principal elements of per-copy cost is the ongoing cost of toner. If the price of toner available for a system is too high, the entire system is uncompetitive with alternative systems. In such a circumstance, customers, other things being equal, will switch to a different copy system to gain the per-copy savings resulting from the lower-priced toner. In short, from the customers' perspective, various types of toner are realistic substitutes because the different types of copiers are realistic substitutes. Customers freely choose between different types of toner because they can easily switch to a different type of copier.

Petitioner's argument in this case regarding the alleged technological incompatibility of potential like products has been squarely rejected by the Commission in two recent cases. Only two months ago the Commission unanimously rejected a nearly identical argument in Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore.[14] In that case we concluded that both 13-inch and 19-inch picture tubes were like products even though the evidence was absolutely clear that 13-inch picture tubes would not work in 19-inch receivers:

> [T]he characteristics and uses of picture tubes are similar, regardless of a tube's screen size. All picture tubes are made of the same materials and perform the same function. Moreover, for most sizes of picture tubes the production process is similar....

The same result was reached last year in 64K Dynamic Random Access Memory Components from Japan[15] when we included within the definition of the like product DRAMs of different densities and pin configurations.

In view of the above, we conclude that the like product in this case is all dry toners and the relevant domestic industry is

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14 Inv. 731-TA-367-370 (Preliminary), USITC Pub. 1937 (1987).

15 Inv. 731-TA-270 (Final), USITC Pub. 1862 (1986).

defined as all domestic producers of dry toners.

Condition of the Industry

There is no reasonable indication of material injury, or threat thereof, to the domestic dry toner industry. Apparent U.S. consumption of dry toner increased steadily from 27.1 million pounds in 1984 to 28.0 million pounds in 1985 to 33.0 million pounds in 1986.[16] Domestic production of dry toner also increased steadily over the period, from 8.3 million pounds in 1984 to 12.3 million pounds in 1985 to 13.4 million pounds in 1986. Capacity rose from 15.4 million pounds in 1984 to 16.9 million pounds in 1985 to 18.5 million pounds in 1986, while capacity utilization increased from 1984 to 1985 and remained stable in 1986. Shipments of dry toner remained relatively stable for 1984 and 1985 at 28.0 million pounds and then increased to 31.0 million pounds in 1986.[17]

The number of employees in establishments producing dry toner remained relatively stable during the period of investigation. The number of production and related workers producing dry toner rose from 1984 to 1986. Hours worked and

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16 Report at A-11, Table 3.

17 Id. at A-15, Table 5.

wages paid also rose from 1984 to 1986.[18]

Income and loss data for producers of dry toner reflect a healthy industry. Net sales increased steadily from $35.0 million in 1984 to $69.6 million in 1985 to $76.6 million in 1986. A comparison of interim data for 1985 and 1986 also reflects an increase. Producers of dry toner showed an overall increase in gross profit during 1984-1986, and their operating income rose from $207,000 in 1984 to $3.4 million in 1985 to $4.1 million in 1986. Five firms indicated that they increased their investment in production facilities during the period of investigation.[19]

As a final matter, the strength of the domestic industry is reflected by the lack of industry support for the instant petition. Within the domestic industry consisting of the domestic producers of all dry toners, Petitioner Aunyx pales in significance compared to industry giants, such as Kodak, IBM, and Xerox, none of whom has indicated support for the petition. Even Nashua Corporation, an importer of electrically resistive monocomponent toner and, like Aunyx, a domestic producer of dry

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[18] Id. at A-17-A-18, Table 8.

[19] Id. at A-20, Table 10.

toner, has stated its opposition to the petition.[20] In light

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[20] We note that there is a serious question in this investigation as to the standing of petitioner to maintain a trade complaint on behalf of the national industry producing dry toner. See 19 U.S.C. 1671a(b)(1), 1673a(b)(1); Gilmore Steel Corp. v. United States, 585 F. Supp. 670, 676 (Ct. Int'l Trade 1984) ("not only must a petitioner be a member of the affected industry,...it must also show that a majority of that industry backs its petition.") Petitioner does not account for more than half of U.S. production of dry toner, and there is no indication in the record that the major domestic producers of this product support the petition. Petitioner therefore appears to be without standing to represent the dry toner industry under the standard set forth in Gilmore Steel.

We believe that the Commission probably has legal authority to make standing determinations. See Alberta Gas Chemicals, Ltd. v. Celanese Corp., 650 F.2d 9, 12 (2d Cir. 1981) (the Commission has "inherent power...to protect the integrity of its own proceedings"); Gilmore Steel, 585 F. Supp. at 674 (where petitioners in a Title VII case lack standing, the Commerce Department is not obligated "to continue with an investigation in the knowledge that there exist[s] a defect in the proceedings which could result in reversal by [the Court of International Trade]"). Moreover, because the Commission makes various determinations critical to resolution of the standing issue (e.g., definition of the domestic industry), and has greater access to information concerning industry support for petitions (e.g., market share data), it appears that practical as well as legal considerations support the conclusion that the Commission may make standing determinations. Nevertheless, since it has been suggested that the Commission is without authority to terminate investigations for want of standing, see General Counsel Memorandum GC-J-073 (April 28, 1986), we hesitate to rely exclusively on petitioner's lack of standing as a basis for our negative determinations in this case. We therefore proceed to consider the merits of petitioner's claim. See Operators for Jalousie and Awning Windows from El Salvador, Inv. 701-TA-272 and 731-TA-319 (Final), USITC Pub. 1934, at 7 n. 18 (1987).

of all these factors, we conclude that there is no reasonable indication that the domestic dry toner industry is materially injured by reason of imports of electrically resistive monocomponent toner from Japan.

Because of the relative health and stability of the domestic industry producing all dry toners and the absence of any indication that its performance levels are likely to decline, we find no convincing evidence now, and no reasonable possibility that evidence would be developed in a further investigation, to indicate that the domestic industry is threatened with material injury.[21] Lacking any indication that an industry in the United States is materially injured or threatened with material injury, we do not reach the issue of causation.

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[21] Because the domestic industry producing all dry toners is unquestionably well-established, in our view material retardation of the establishment of a domestic industry is not at issue in this case.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On February 3, 1987, petitions were filed with the U.S. International Trade Commission and the U.S. Department of Commerce by counsel on behalf of Aunyx Corp., Hingham, MA. The petitions allege that the establishment of an industry in the United States is materially retarded and that an industry is threatened with material injury by reason of imports from Japan of electrically resistive monocomponent toner and "black powder" preparations therefor of a kind used in electrostatic copying machines, 1/ currently provided for in item 408.44 of the Tariff Schedules of the United States (TSUS), which are allegedly being sold in the United States at less than fair value (LTFV). Accordingly, effective February 3, 1987, the Commission instituted preliminary antidumping investigation No. 731-TA-373 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.

Notice of the institution of the Commission's investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of February 13, 1987 (52 FR 4666). 2/ The conference was held in Washington, DC, on February 25, 1987. 3/

Effective March 2, 1987, the U.S. Department of Commerce initiated an antidumping investigation to determine whether the subject merchandise is being, or is likely to be, sold in the United States at LTFV. 4/

The Commission's briefing and vote on this investigation was held on March 17, 1987. The statute directs that the Commission make its determination within 45 days after its receipt of the petition, or in this case, by March 20, 1987.

Previous or Related Commission Investigations

On August 15, 1986, the Commission instituted investigation No. 337-TA-253 to determine whether there is a violation of subsection (a) of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337a) in the unlawful importation of certain electrically resistive monocomponent toner into the United States, or in its sale, by reason of alleged monopolization; attempt to

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1/ On Feb. 9, 1987, counsel to the petitioner filed a letter with the Commission and Commerce to clarify the scope of the investigation, as described herein.

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

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

4/ A copy of Commerce's notice of initiation is presented in app. A.

monopolize; conspiracy to monopolize the relevant market for said toner; exclusive dealing; and conduct actionable under the common and statutory law of unfair competition, such as alleged interference with Aunyx's business relations with its customers and alleged disparagement of Aunyx's products and reputation, the effect or tendency of which is to monopolize and restrain trade and commerce in the United States, to destroy or substantially injure an industry, efficiently and economically operated, in the United States, and to prevent the establishment of a United States industry. 1/ The complaint, which was filed on behalf of Aunyx Corp., named as respondents Canon Inc., Tokyo, Japan, and Canon U.S.A., Inc., Lake Success, NY.

The Product

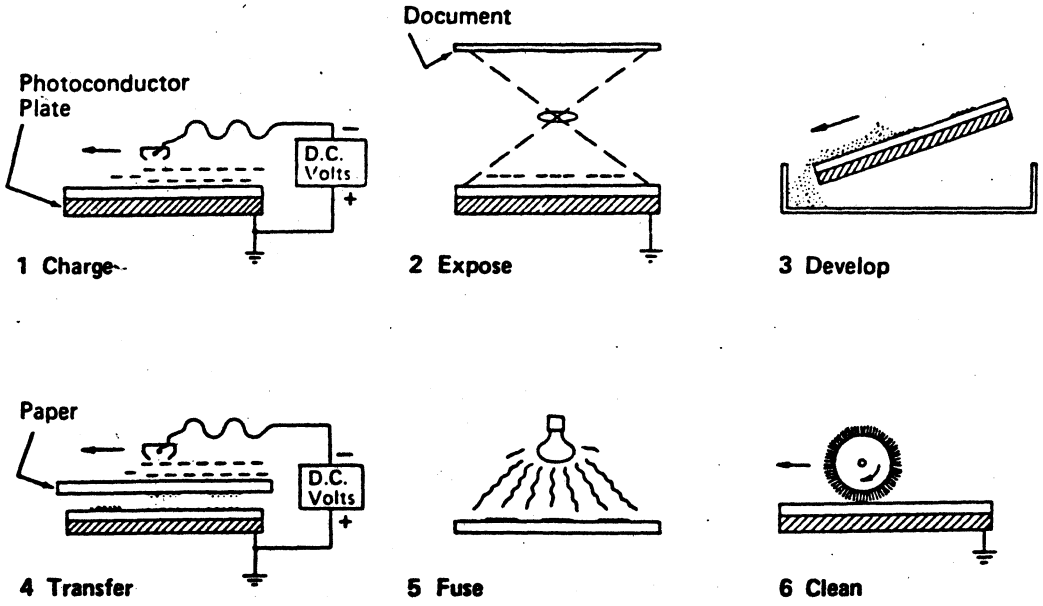
Description and uses

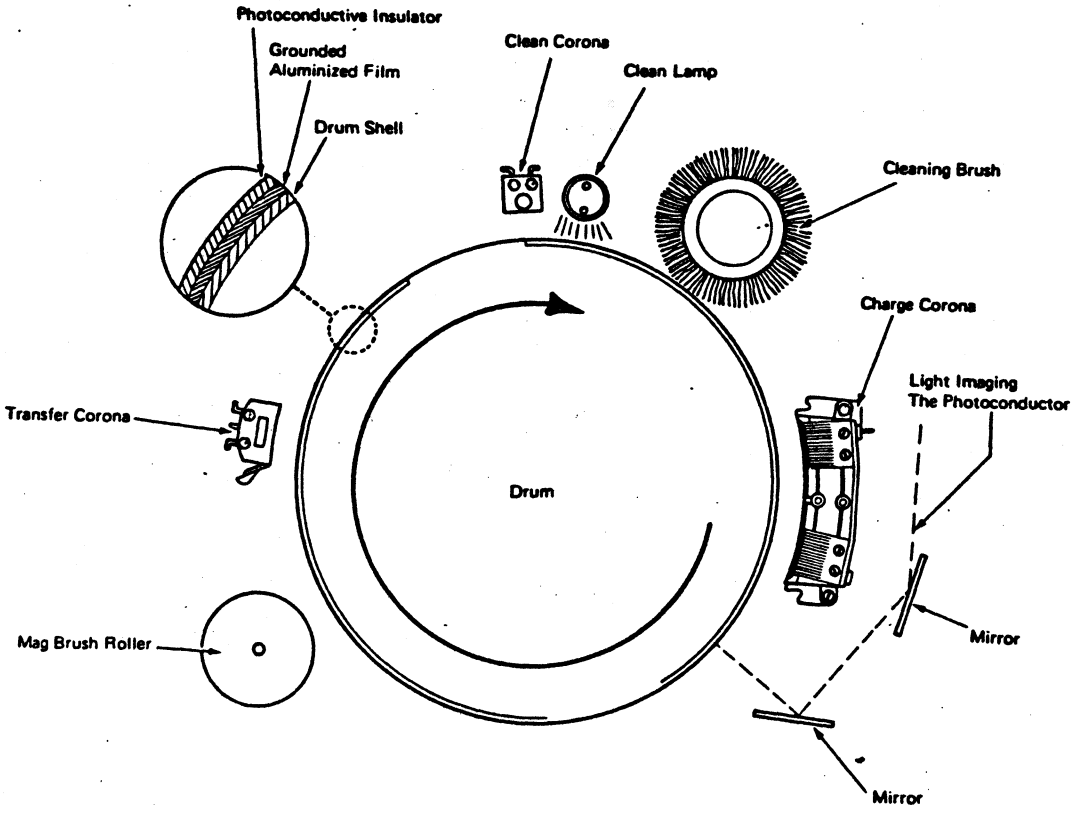
Electrically resistive monocomponent toner is a type of toner used in the electrostatic copying process. Briefly, as shown in figure 1, the process consists of the following six steps: (1) In the dark, a photoreceptor, in the shape of a drum, receives a uniform electrical charge by rotating it past a special charging (ionizing) device called a corotron. A photoreceptor is a light-sensitive material (semiconductor) that conducts electricity in light yet resists electrical conduction in the dark. It can, therefore, hold an electric charge in the dark. (2) The original material to be copied is exposed to intense light. The image area of the original (printed text, for example) absorbs light, while the nonimage area (page background) reflects the light. The reflected light is then focused, through an optical lense system, onto the photoreceptor. 2/ The portion of the drum receiving reflected light has its surface electrically discharged, while the remainder of the surface retains its original charge. The result is an exact electrostatic copy of the original image area reproduced on the photoreceptor. (3) During the development step, a very fine black powder (toner) containing a charge opposite to that of the photoreceptor is passed over the photoreceptor. The purpose of this development step is to convert an invisible (latent) electrostatic image to a visible image with toner particles. (4) Paper having the same but stronger charge as the photoreceptor is brought into contact with the photereceptor, causing the powder image to be transferred to the paper. (5) The powder image is subjected to heat and pressure, causing the image to be fused on the paper in a thin layer. (6) The photoreceptor is cleaned and prepared for further copies by the mechanical removal of residual toner and the neutralization of any lingering charge.

1/ An initial determination as to whether section 337 was violated was scheduled to be made by May 20, 1987. The investigation has been extended and the initial determination currently is scheduled to be made by Aug. 20, 1987.

2/ Focusing reflected light is only one method of creating an electrostatic image. A new and growing technology uses a laser beam to transmit digital information from a computer to the photoreceptor.

Figure 1.--Diagram of the electrostatic copying process





Source: IBM Corp.

Toners are formulated products consisting of, at a minimum, a pigment material, such as carbon black; an electrostatically chargeable material, such as iron oxide or a benzenoid dye or pigment; and a polymer resin, such as a styrene acrylic. During the copying process, the pigment creates the visible image, the electrostatically chargeable material transports the toner, and the resin creates a permanent image when fused to the paper. Other materials are usually added to the mixture in smaller portions to control static charge and particle flow.

Original equipment manufacturers (OEM's) formulate toners as 'performance products' to meet specific requirements of a given machine model. As machine manufacturers developed new generations of equipment, the requirements for toners changed. The major changes have created three basic toner systems: 1) monocomponent dry toner, 2) dualcomponent dry toner, and 3) liquid toner. Toners may be further modified to accommodate the charge on the photoreceptor (positive vs. negative), the fusing technology (radiant fuse vs. hot-roll fuse), and the electrostatic charging method (conductive vs. resistive). 1/ Although toners are formulated to meet the combined engineering and chemical requirements of the photoreceptor, the development system, toner concentration control, the fusing system, and the cleaning system, there is not necessarily a unique formulation for a given machine. There may be, for example, more than one polymer resin that can achieve the appropriate fuse. The basic compositions of the three major toner systems are monocomponent dry, dualcomponent dry, and liquid toner.

Monocomponent dry toner.--Monocomponent dry toners typically contain a magnetic pigment, polymer resin, a charge control agent, lubricant, and charge control additives. In electrically resistive systems, the magnetic pigment becomes triboelectrically charged (electrostatically charged by friction) as the toner particles rotate on the surface of a drum located in the toner dispensing cartridge. As the toner approaches the latent image, electrostatic forces cause the toner to transfer to the photoreceptor. In an electrically conductive system, magnetic forces also initially hold the pigment on a magnetized cylinder. As the toner approaches the electrostatic image on the photoreceptor, conduction induces an opposite charge on the toner. When the attractive forces of the induced charge exceed the magnetic forces, the toner transfers from the cylinder to the photoreceptor.

Dualcomponent dry toner.--Dualcomponent systems mix finely ground toner particles (5 to 20 microns) with larger carrier beads (100 to 500 microns) and external additives to formulate a final product (developer). As the toner and carrier are mixed, electrostatic forces are triboelectrically produced and temporarily bind the toner to the carrier. The carrier beads, which are reused a number of times, perform three functions: (1) they triboelectrically charge the toner to the appropriate field (positive vs. negative) and strength, (2) they physically transport toner from the toner reservoir to the photoreceptor, and (3) they act as a scavenger medium removing extraneous

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1/ Some industry analysts prefer the distinction conductive vs. triboelectric.

toner particles from noncharged areas on the photoreceptor. In the past, beads were coarse glass fragments. Today, carrier materials include sand, iron, steel, nickel, aluminum, and ferrite. Since the carrier beads are reused, they are often coated with a polymer to extend their life and improve their performance. The toner in this system contains a resin, a nonmagnetic pigment, lubricants, and a charge control agent.

Liquid toners.—In liquid toner systems, the toner is dispersed in a carrier fluid and, as the dispersion is mixed, the toner becomes triboelectrically charged. Although the toner particles are held in a stable suspension, when an oppositely charged electrostatic image comes into contact with the solution, the toner particles migrate to the image by a process called electrophoresis. The liquid serves much the same purpose as the carrier in a dualcomponent dry toner system; that is, it triboelectrically charges the toner to the appropriate field and strength, transports the toner to the photoreceptor, and removes any extraneous particles.

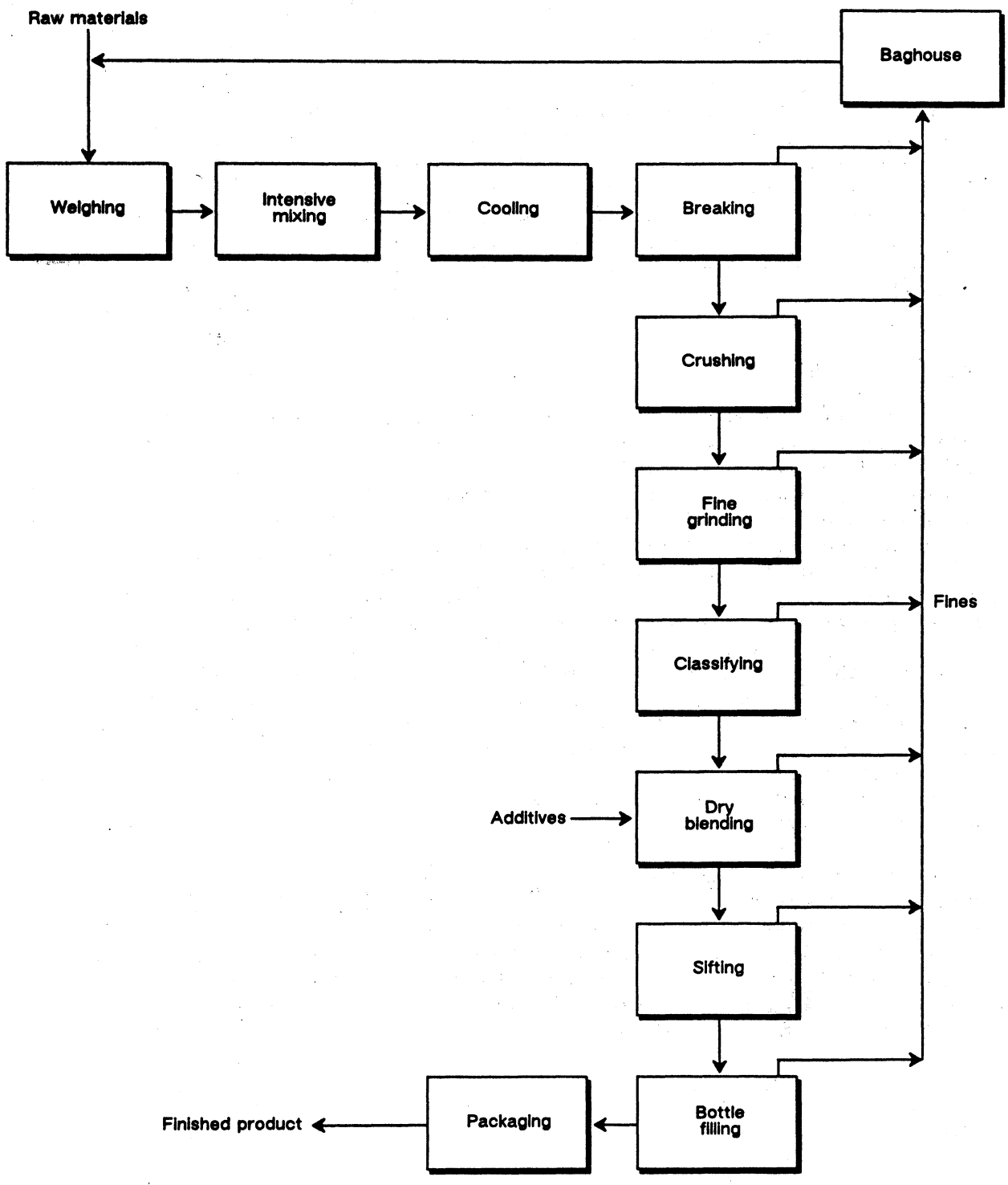
Production process

In the first stage of dry toner production, the basic component powders, pigment, resin, internal lubricant, and charge control agent, are precisely weighed and thoroughly mixed (fig. 2). As the number of constituents and blending steps increase, the process becomes more difficult. At this stage, complete and uniform mixing is crucial because the charge agent is a small portion of the toner. After the basic components are mixed, they are heated and extruded into a thin flat sheet. The sheet is cooled and then broken into small pieces (about one-eighth of an inch in diameter) in preparation for further pulverizing. Because the resin polymer can easily melt with too much heat, toner is reduced to the appropriate size with air jet equipment. Forced air acts both as a coolant and a means of causing the particles to collide and break apart. The appropriate toner particle size is between 7 and 15 microns and is ensured by screening (classifying) the material to remove both oversized and undersized particles. Some internal classification can be carried out in the air jet mill where oversized particles can be recycled into the grinding chamber. Particles less than 5 microns (fines) can also be recycled to increase overall yield. 1/

Once the basic components of the toner have been blended, external additives such as amorphous silica can be added (generally in small amounts ranging from 0.25 to 2.00 percent by weight) to further improve powder flow, triboelectric charge generation, photoreceptor performance, and drum cleaning. A final sifting process may be necessary to remove any agglomerates created while adding the external additives. The process is completed when the toner is bottled and packaged.

1/ Black powder preparations are produced through these steps of the production process.

Figure 2.—Typical flowchart for toner manufacturing



Source: Arthur S. Diamond, "The Market for Dry," *American Ink Maker*, October 1981.

U.S tariff treatment

Imports of electrically resistive monocomponent toner and black powder preparations therefor 1/ covered in this investigation are classified in TSUS item 408.44. Since January 1, 1987, the most-favored-nation (MFN) column 1 rate of duty has been 5.9 percent ad valorem. 2/ This rate represents the eighth and final staged reduction granted during the Tokyo Round of the Multilateral Trade Negotiations (MTN) and applies to products of Japan.

Nature and Extent of Alleged Sales at LTFV

To estimate dumping margins, petitioner selected electrically resistive monocomponent toner used in four of Canon's major copier series: NP-150/155 copiers, NP-210 through NP-500 copiers, NP-7000 series copiers, and NP-3000 series copiers. The petitioner compared retail prices in Japan with suggested retail prices in the United States, adjusted for inland freight and shipping costs, ocean freight and insurance, U.S. import duty, U.S. brokerage fees, and handling and port charges. The alleged dumping margin for each of the four copier series is presented below (in percent):

Item	Margin
NP-150/155 copiers.....	32.42
NP-210 through NP-500 copiers...	79.76
NP-7000 series copiers.....	30.94
NP-3000 series copiers.....	115.23

The U.S. Industry

The Commission sent producer and importer questionnaires to 30 firms believed to supply dry toners in the U.S. market. Of these 30 firms, 14 firms reported that they produced dry toners during the period of investigation. 3/ * * * of these known producers and * * * other firms reported that they imported dry toners or black powder preparations therefor.

1/ Black powder preparations, as defined in the Commission's questionnaires, are any processed or semiprocessed mixture of chemicals dedicated for use in dry toners.

2/ Col. 1 rates of duty are applicable to the imported product from all countries except those Communist countries and areas enumerated in general headnote 3(d) of the TSUS. Imports from the latter countries are assessed the col. 2 duty rate of 7 cents per pound plus 45 percent ad valorem.

3/ * * * firms reported that they did not produce dry toners during the period of investigation. * * *. * * * firms did not respond to the Commission's questionnaires. The Commission was able to contact * * * of these * * * firms. Of the * * * firms contacted, * * * firms, * * *, indicated that they produce dry toners. Staff conversations with * * *.

As summarized in table 1, of the 14 known producers of dry toners, Aunyx Corp., Canon Business Machines, Inc. (CBM), * * * reported that they produced electrically resistive monocomponent dry toner in the United States. 1/ * * * firms, Canon U.S.A., Inc., * * * reported importing electrically resistive monocomponent toner from Japan, while * * * firms, * * *, reported imports of electrically resistive monocomponent toner from other countries. * * * reported importing black powder preparations for electrically resistive monocomponent toner. Each of the firms that is reportedly a U.S. producer of electrically resistive monocomponent toner is briefly discussed below.

Aunyx Corp., Hingham, MA, was founded in 1971 and was initially a dealer of toners and developers produced by Nashua Corp. Aunyx began producing dry toners in the late 1970's. In 1981, Aunyx started research and development efforts to produce electrically resistive monocomponent toner for use in Canon copiers. In September 1982, the firm began to manufacture and sell Canon-compatible toner in commercial quantities. 2/ Aunyx is reportedly exploring a joint venture with IBM Corp. to produce electrically resistive monocomponent toner for Canon copiers. 3/

Canon Business Machines, Inc., Costa Mesa, CA, is 96 percent owned by Canon Inc. in Japan and 4 percent owned by Canon U.S.A., Inc. (a wholly-owned subsidiary of Canon Inc.). CBM began manufacturing liquid toner in 1975 and in mid-1984 modified the Costa Mesa plant to accommodate equipment necessary for the manufacture of dry toner. By late 1984, CBM began to manufacture electrically resistive monocomponent toner for Canon's NP-210 through NP-500 series copiers. CBM's dry toner is manufactured from black powder preparations produced by Canon Inc. in Japan. At its facility in Costa Mesa, CBM adds additional chemicals that improve the flow of the toner and act as a cleaner for the copier drum without which the toner would not work properly. Canon also tests and packages the toner at its facility in California. 4/ A wholly owned subsidiary of Canon U.S.A., Canon Virginia Inc., recently

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1/ Esgraph, Inc., a former subsidiary of Hercules, Inc., manufactured dry toners in facilities in California. Reportedly, Esgraph produced * * *. Esgraph declared bankruptcy on Aug. 31, 1986. * * *. Staff conversations with * * *.

2/ In its response to the Commission's questionnaire, * * *. See petition to investigation No. 731-TA-373 (Preliminary), p. 16, and * * *.

3/ * * *. In response to the Commission's inquiries on the joint venture with Aunyx, IBM would only confirm what was stated in a letter to Aunyx, dated Feb. 24, 1987, indicating that "IBM has initiated an analysis of the feasibility of manufacturing electrically resistive monocomponent toner at its Boulder, Colorado facility.....This analysis is ongoing and not yet conclusive. However, should the results indicate both technical and financial feasibility, we would be pleased to consider any and all proposals from your company to manufacture such toners to your specification." Letter from Dr. Howard Anderson, manager of supplies/media products, IBM Corp. to Mr. Robert Langone, president, Aunyx Corp., Feb. 24, 1987; and staff conversation with * * *.

4/ In response to the Commission's request, CBM provided data on the value that is added to the final toner product in the United States. According to these data, * * *. * * *. Response to questions posed by the Commission staff at the preliminary conference, pp. 2-5; * * *; and staff conversation with * * *.

Table 1.--Dry toners: U.S. producers' and importers' activities, 1986

* * * * * * *

completed the construction of a manufacturing facility in which the production of dry toners is expected to commence in late 1987 or early 1988. Canon Business Machines is in opposition to the petition in this investigation.

* * * * * * *

The Industry in Japan

There are * * * known producers of electrically resistive monocomponent toner in Japan: Canon Inc., * * *. 1/ * * * of the * * * producers, * * *, are also known to produce dualcomponent dry toners. Data on Canon Inc., which produces dry toners at plants in Toride and Ueno, Japan, are presented in table 2. 2/

Canon Inc.'s production of monocomponent toner * * *. The firm's production of monocomponent toner is expected to * * *. Canon's capacity to produce all dry toners * * *. The firm's capacity to produce all dry toners is expected to * * *. Capacity utilization * * *. Capacity utilization is forecast to be * * * percent in 1987.

Canon Inc.'s total shipments of monocomponent toner * * *. The firm's total shipments of monocomponent toner are forecast to * * *. Total shipments represented * * * of Canon's production of dry toners during 1984-86. * * *.

Canon Inc.'s home-market shipments of such monocomponent toner * * *.

Canon Inc.'s exports of monocomponent toner to the United States * * *. 3/ These exports are expected to * * *. The firm's exports of monocomponent toner to countries other than the United States * * *.

1/ On Feb. 18, 1987, the Commission requested data on the Japanese industry producing electrically resistive monocomponent dry toner and other dry toners via a telegram to the U.S. Embassy in Tokyo. On Feb. 26, 1987, the Commission received a response to that request, indicating that the three major Japanese manufacturers of electrostatic copying machines, Ricoh Co., Ltd., Fuji Xerox Co., Ltd., and Toshiba Corp., produce dry toners for use in their machines. The telegram further noted that Japanese manufacturers of copying machines also purchase dry toner from Mitsubishi Chemical, Tomoegawa Paper, and Dainippon Ink & Chemicals. Upon request by the Commission, counsel for Canon Inc. provided * * *. In addition, * * *.

2/ These data were provided by counsel for Canon Inc.

3/ Data include exports of black powder preparations, accounting for * * *, * * *, and * * * percent of exports of monocomponent toner to the United States in 1984, 1985, and 1986, respectively.

Table 2.--Dry toners: Canon Inc.'s production, capacity, capacity utilization, home-market shipments, export shipments, and total shipments, 1984-87

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The Domestic Market

Apparent U.S. consumption

Data on apparent U.S. consumption of dry toners were compiled from information submitted in response to questionnaires of the U.S. International Trade Commission. The consumption data presented are composed of reported shipments of dry toners, whether domestically produced or imported, in the U.S. market by each of the major known entities. 1/

Apparent U.S. consumption of all dry toners, by weight, increased steadily from 1984 to 1986, by 3 percent from 1984 to 1985 and by 18 percent from 1985 to 1986 (table 3). Apparent U.S. consumption of electrically resistive monocomponent toner, accounting for * * * percent by weight, and * * * percent by value, of consumption of all dry toners in 1986, rose by * * * percent from 1984 to 1985 and continued to rise by * * * percent from 1985 to 1986. Approximately * * * percent of electrically resistive monocomponent toner was used in copiers in 1986; * * * was used in non-impact printers.

Each firm's share of apparent U.S. consumption of electrically resistive monocomponent toner, by types, is presented in the tabulation below (in thousands of pounds):

* * * * * * *

1/ According to Diamond Research Corp., there are 15 key players that accounted for roughly 96 percent of U.S. consumption of dry toners in 1986. Of these 15 suppliers, the Commission received data on U.S. shipments from 13 firms. According to Diamond's estimates of each firm's share of the U.S. market, these 13 firms accounted for 95 percent of U.S. consumption in 1986. In addition to these 13 firms, the Commission received data on U.S. shipments from 5 other firms.

Diamond Research Corp., however, estimated that U.S. consumption of dry toners was approximately 65 million pounds in 1986, or roughly two times the Commission's figure. In a conversation with the Commission's staff, Mr. Arthur Diamond, President of Diamond Research Corp., indicated that the estimate of 65 million pounds may * * *. Dataquest estimates that U.S. consumption of dry toners was 49 million pounds in 1986; whereas * * * estimates that 1986 U.S. consumption of dry toners was * * * million pounds. * * * stated that it does not provide data to either Diamond Research Corp. or Dataquest. Staff conversations with * * *.

Table 3.—Dry toners: U.S. shipments of U.S. production, U.S. shipments of imports, 1/ and apparent U.S. consumption, 1984-86

Item	1984	1985	1986
	Quantity (1,000 pounds)		
U.S. shipments of U.S. production:			
Monocomponent:			
Electrically resistive 2/....	***	***	***
Electrically conductive.....	***	***	***
Dualcomponent.....	***	***	***
Total.....	22,929	24,075	26,267
U.S. shipments of imports:			
Monocomponent:			
Electrically resistive.....	***	***	***
Electrically conductive.....	***	***	***
Dualcomponent.....	***	***	***
Total.....	4,202	3,900	6,721
Apparent U.S. consumption:			
Monocomponent:			
Electrically resistive.....	***	***	***
Electrically conductive.....	***	***	***
Dualcomponent.....	***	***	***
Total.....	27,131	27,975	32,988
	Value (1,000 dollars)		
U.S. shipments of U.S. production:			
Monocomponent:			
Electrically resistive.....	***	***	***
Electrically conductive.....	***	***	***
Dualcomponent.....	***	***	***
Total.....	240,376	291,850	314,520
U.S. shipments of imports:			
Monocomponent:			
Electrically resistive 3/....	***	***	***
Electrically conductive.....	***	***	***
Dualcomponent.....	***	***	***
Total.....	87,550	95,350	152,183
Apparent U.S. consumption:			
Monocomponent:			
Electrically resistive.....	***	***	***
Electrically conductive.....	***	***	***
Dualcomponent.....	***	***	***
Total.....	327,926	387,200	466,703

1/ Includes domestic shipments and intracompany and intercompany transfers.
2/ Includes * * *.
3/ Includes * * *.

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

Channels of distribution

Dry toners are distributed generally by OEM's and independent manufacturers through dealers or directly to endusers. Independent suppliers compete with OEM's in the "follow-on" market in which independent toners are sold as substitutes for the toners offered by a copier system's manufacturer.

Some OEM's, such as Canon and * * *, distribute the majority of their dry toners through authorized independent dealers. Canon U.S.A., which also functions as the marketing arm for Canon Business Machines, 1/ distributes over 95 percent of its dry toners through a network of approximately 500 dealers throughout the United States. Independent suppliers sell dry toners to authorized dealers or to other independent distributors or agents, including copier supply firms and office equipment dealers. Nashua, the largest independent manufacturer, sells dry toners to approximately * * * distributors or agents. About * * * percent of Nashua's sales are through agents servicing * * *. Nashua also sells * * * of its products to authorized OEM dealers. Aunyx distributes its dry toners only to authorized equipment and supplies dealers. Aunyx's sales to approximately * * * dealers account for * * * percent of the firm's sales of dry toner. Both OEM's and independent manufacturers seek to generate dealer business at the National Office Machines Dealers Association (NOMDA) trade shows where equipment and supplies are displayed. About 95 percent of the independent dealers attend the NOMDA shows.

Other OEM's, such as * * *, distribute their dry toners directly through branch offices and telemarketing services. 2/ * * * has * * * marketing regions, * * *, with * * * districts or branches in each region. Supply account managers and sales representatives in each district service the local areas and are supported by telemarketing centers located in the * * * regions. * * * percent of * * *'s and * * *'s toner sales are generated from toll-free telephone orders.

Both OEM's and independent toner manufacturers market dry toners directly or indirectly to national accounts, including Fortune 500 companies, educational institutions, and other large endusers. Generally, a supplier will enter a 1-year contract with a large enduser, outlining product availability and establishing a negotiated price. The customer will distribute a qualification list of the supplier's products to locations nationwide. Dealers or branch offices are then requested to sell and distribute dry toners to these users at the negotiated prices. Sales to national accounts represent * * * percent of Nashua's dry toner sales, * * * percent of Canon's sales, and * * * percent of * * *'s sales. In * * * cases, Canon U.S.A. sells toner directly to national accounts.

1/ Canon Business Machines transfers its dry toners to Canon, U.S.A. which markets both Canon Business Machines' and Canon U.S.A.'s products in the United States.

2/ * * *.

OEM's and independent manufacturers also sell dry toners under private-label directly to major distributors, including paper merchants, manufacturers of computer supplies, and producers of typewriter and computer printer ribbons. Roughly * * * percent of * * *'s sales are distributed under private-label; whereas * * * percent of * * *'s annual sales are accounted for by private-label sales.

Dry toner suppliers sell directly to the U.S. Government and its military service organizations on a contract basis. To sell to Federal agencies, a supplier's product must be listed in the General Services Administration (GSA) catalogue. For Government contracts, * * * bills the Government directly, and reimburses, with a commission, the dealer that actually supplies the product. Aunyx's sales to the Government, * * *, account for * * * percent of the firm's dry toner sales. Sales to State and local governments are normally made under sealed bid for contracts on an annual basis. * * * of * * *'s dry toner sales is generated from sales to Government agencies.

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

Data in this section of the report were compiled from responses to questionnaires of the U.S. International Trade Commission. * * * firms, believed to account for roughly 95 percent of total shipments of U.S.-produced dry toners, provided partial responses to the Commission's questionnaire. * * * of these * * * firms are believed to account for 100 percent of total shipments of U.S.-produced electrically resistive monocomponent toner. The extent of the information reported is indicated in each section of this report.

U.S. production, capacity, and capacity utilization 1/

U.S. production of electrically resistive monocomponent toner rose from * * * pounds in 1984 to * * * pounds in 1985 (table 4). From 1985 to 1986, production of such toner continued to increase by * * * percent. * * *.

Reported U.S. production of all dry toners rose steadily from 1984 to 1986, by 49 percent from 1984 to 1985 and by 9 percent from 1985 to 1986. End-of-period capacity to produce dry toners, which basically are manufactured on the same equipment, increased by 10 percent from 1984 to 1985 and by 9 percent from 1985 to 1986. 2/ * * *. U.S. producers' capacity utilization rose from 53.6 percent in 1984 to 72.5 percent in 1986 because production rose at a faster rate than capacity to produce dry toners.

1/ Data on dry toners were provided by * * * firms, believed to account for roughly 40 percent of total shipments of U.S.-produced dry toners. Data on electrically resistive monocomponent toner were provided by * * * firms, believed to account for virtually 100 percent of total shipments of U.S.-produced electrically resistive monocomponent toner.

2/ * * *.

Table 4.—Dry toners: U.S. production, end-of-period capacity, and capacity utilization, 1984-86

Item	1984	1985	1986
Production:			
Monocomponent:			
Electrically resistive 1/.1,000 pounds..	***	***	***
Electrically conductive.....do....	***	***	***
Dualcomponent.....do....	***	***	***
Total.....do....	8,256	12,320	13,386
End-of-period capacity 2/.....do....	15,406	16,923	18,464
Capacity utilization 3/.....percent..	53.6	72.8	72.5

1/ * * *.
2/ * * *.
3/ * * *.

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

U.S. producers' shipments 1/

U.S. producers' total shipments of electrically resistive monocomponent toner rose from * * * pounds in 1984 to * * * pounds in 1986 (table 5). * * *.

U.S. producers' total shipments of all dry toners were relatively stable from 1984 to 1985, largely because * * *. Total shipments of all dry toners rose by 11 percent from 1985 to 1986, because of * * *.

U.S. producers' domestic shipments of all dry toners, accounting for * * * percent of total shipments, fell by * * * percent from 1984 to 1985, because of * * *. From 1985 to 1986, domestic shipments of all dry toners increased by * * * percent.

U.S. producers' export shipments of all dry toners fell by 20 percent from 1984 to 1985 but rose by 21 percent from 1985 to 1986. The 1986 level of exports of all dry toners was 4 percent below the level of such exports in 1984. U.S. producers' principal export markets of dry toners include * * *.

1/ * * * firms provided data on shipments of dry toners produced in the United States. These data represent 100 percent of shipments of electrically resistive monocomponent toner and roughly 95 percent of shipments of all dry toners produced in the United States.

Table 5.—Dry toners: U.S. producers' intracompany and intercompany transfers, domestic shipments, export shipments, and total shipments, 1984-86

Item	1984	1985	1986
	Quantity (1,000 pounds)		
Monocomponent:			
Electrically resistive:			
Intracompany and intercompany transfers	***	***	***
Domestic shipments	***	***	***
Export shipments	***	***	***
Total shipments	***	***	***
Electrically conductive:			
Intracompany and intercompany transfers	***	***	***
Domestic shipments	***	***	***
Export shipments	***	***	***
Total shipments	***	***	***
Dualcomponent:			
Intracompany and intercompany transfers	***	***	***
Domestic shipments	***	***	***
Export shipments	***	***	***
Total shipments	***	***	***
All dry toners:			
Intracompany and intercompany transfers	***	***	***
Domestic shipments	***	***	***
Export shipments	4,649	3,702	4,483
Total shipments	27,578	27,777	30,750
	Value (1,000 dollars)		
Monocomponent:			
Electrically resistive:			
Intracompany and intercompany transfers	***	***	***
Domestic shipments	***	***	***
Export shipments	***	***	***
Total shipments	***	***	***
Electrically conductive:			
Intracompany and intercompany transfers	***	***	***
Domestic shipments	***	***	***
Export shipments	***	***	***
Total shipments	***	***	***
Dualcomponent:			
Intracompany and intercompany transfers	***	***	***
Domestic shipments	***	***	***
Export shipments	***	***	***
Total shipments	***	***	***
All dry toners:			
Intracompany and intercompany transfers	***	***	***
Domestic shipments	***	***	***
Export shipments	42,459	38,482	44,157
Total shipments	282,835	330,332	358,677

Table 5.--Dry toners: U.S. producers' intracompany and intercompany transfers, domestic shipments, export shipments, and total shipments, 1984-86--Continued

Item	1984	1985	1986
	Unit value (per pound)		
Monocomponent:			
Electrically resistive:			
Intracompany and intercompany transfers	$***	$***	$***
Domestic shipments	***	***	***
Export shipments	***	***	***
Total shipments	***	***	***
Electrically conductive:			
Intracompany and intercompany transfers	***	***	***
Domestic shipments	***	***	***
Export shipments	***	***	***
Total shipments	***	***	***
Dualcomponent:			
Intracompany and intercompany transfers	***	***	***
Domestic shipments	***	***	***
Export shipments	***	***	***
Total shipments	***	***	***
All dry toners:			
Intracompany and intercompany transfers	***	***	***
Domestic shipments	***	***	***
Export shipments	9.13	10.39	9.85
Total shipments	10.26	11.89	11.66

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

U.S. producers' end-of-period inventories 1/

* * * firms held end-of-period inventories of electrically resistive monocomponent toner during the period of investigation. Such inventories, * * *, fluctuated during 1983-86 (table 6). * * *. End-of-period inventories of all dry toners increased * * * from 1983 to 1986, * * *.

Table 6.--Dry toners: U.S. producers' end-of-period inventories, 1983-86

* * * * * * *

1/ Data were provided by * * * firms, believed to account for roughly 30 percent of total shipments of U.S.-produced dry toners. Data on electrically resistive monocomponent toner were provided by * * * firms, accounting for approximately 99 percent of total shipments of such toner produced in the United States.

U.S. producers' shipments of imports and domestic purchases 1/

* * * firms, * * *, reported shipments of imports from Japan of electrically resistive monocomponent toner, while * * * reported shipments of such toner imported from other countries. As shown in table 7, shipments of U.S. producers' imports of electrically resistive monocomponent toner * * *. * * *. * * * reported purchases of electrically resistive monocomponent toner from other U.S. suppliers. Such purchases * * *.

Table 7.--Dry toners: U.S. shipments of producers' imports and domestic purchases, 1984-86

*	*	*	*	*	*	*

Employment and wages 2/

The average number of all employees in the establishments in which dry toners are produced * * * (table 8). The number of production and related workers producing all products declined * * *. The number of production and related workers producing dry toners rose by * * * percent from 1984 to 1986, while the number of such workers producing electrically resistive monocomponent toner * * *. Production and related workers producing electrically resistive monocomponent toner * * *.

* * * firms, * * *, reported significant reductions in the number of workers producing dry toners during the period of investigation. * * *. * * * firms, * * *, reported that their production and related workers were represented by unions, the United Paper Workers International and the United Steelworkers.

Hours worked by production and related workers producing all products declined by * * * percent from 1984 to 1985 and by * * * percent from 1985 to 1986. Hours worked by such workers producing dry toners increased by * * * percent from 1984 to 1986, while hours worked by production and related workers producing electrically resistive monocomponent toner * * *.

Wages paid to workers producing all products in establishments in which dry toners are produced fell * * *. Wages paid to workers producing dry toners rose * * *. Similarly, wages paid to production and related workers producing electrically resistive monocomponent toner showed * * *.

Total compensation paid to workers producing all products followed the pattern of wages paid to such workers, * * *. Total compensation paid to production and related workers producing dry toners and electrically resistive monocomponent toner * * *.

1/ * * * firms provided data on shipments of imports and domestic purchases of dry toners. These data represent 100 percent of shipments of electrically resistive monocomponent toner and roughly 95 percent of shipments of all dry toners produced in the United States.

2/ * * * firms reported data on employment and wages. These firms are believed to account for roughly 36 percent of total shipments of dry toners produced in the United States. * * * firms, * * *, which reported data on electrically resistive monocomponent toner, account for approximately 99 percent of total shipments of such toner produced in the United States.

Table 8.--Dry toners: Average number of employees in establishments in which dry toners are produced, number of production and related workers producing all products, dry toners, and electrically resistive monocomponent toner, hours worked by such production and related workers, and wages and total compensation paid to such production and related workers, 1984-86

* * * * * * *

Financial experience of U.S. producers

Six producers 1/ provided usable income-and-loss data on the overall operations of their establishments within which all dry toners are produced, as well as on their operations producing all dry toners and electrically resistive monocomponent toner. Separate income-and-loss data for Aunyx and Canon Business Machines are presented in the report.

Overall establishment operations.--Aggregate net sales of the six reporting firms increased by 26.3 percent, from $146.1 million in 1984 to $184.5 million in 1985 (table 9). Sales totaled $193.5 million in 1986, representing an increase of 4.9 percent from 1985 sales. Operating income totaled $10.0 million in 1984, $10.5 million in 1985, and $8.0 million in 1986. Operating income, as a share of sales, was 6.8 percent in 1984, 5.7 percent in 1985, and 4.2 percent in 1986. Interim period sales for 1986 were * * *. Operating income was * * * in interim 1985 and * * * in interim 1986. Operating income margins were * * * and * * * percent in interim 1985 and 1986, respectively.

A brief summary of the establishment income-and-loss experience for Aunyx and Canon Business Machines is presented below. More comprehensive summaries of their financial data are portrayed in the product line sections.

* * * * * * *

Operations producing all dry toners.--Aggregate net sales of the six reporting companies increased by 98.9 percent, from $35.0 million in 1984 to $69.6 million in 1985 (table 10). Sales totaled $76.6 million in 1986, representing an increase of 10.0 percent from 1985 sales. Operating income totaled $207,000 in 1984, $3.4 million in 1985, and $4.1 million in 1986. Operating income, as a share of sales, was 0.6 percent in 1984, 4.9 percent in 1985, and 5.4 percent in 1986. Three companies reported operating losses in 1984 and 1986, whereas one company reported such losses in 1985. The 1986 interim sales were * * *. Operating income was * * * in interim 1985 and * * * in interim 1986. Operating income margins were * * * percent and * * * percent in interim 1985 and 1986, respectively. * * * reporting firms incurred operating losses in * * *.

1/ The 6 producers are * * *. The operating results for establishment and all dry toners are * * * affected by the lack of detailed financial data from * * *. These companies did not fill out most of the financial sections of the questionnaires and indicated that such data are not readily available. The 6 firms reporting data are believed to account for roughly 25 percent of total shipments of dry toners produced in the United States.

Table 9.—Dry toners: Income-and-loss experience of 6 U.S. producers 1/ on the overall operations of their establishments within which all dry toners are produced, accounting years 1984-86, and interim periods ended Dec. 31, 1985, and Dec. 31, 1986

Item	1984	1985	1986	Interim period ended Dec. 31— 1985	1986
Net sales.....1,000 dollars..	146,051	184,475	193,495	***	***
Cost of goods sold.....do....	121,073	157,814	166,271	***	***
Gross profit.....do....	24,978	26,661	27,224	***	***
General, selling, and administrative expenses 1,000 dollars..	15,015	16,169	19,194	***	***
Operating income.....do....	9,963	10,492	8,030	***	***
Interest expense.....do....	1,651	2,317	3,412	***	***
All other income, net.....do....	1,722	2,931	1,815	***	***
Net income (loss) before income taxes....1,000 dollars..	10,034	11,106	6,433	***	***
Depreciation and amortization expenses.....1,000 dollars..	4,768	5,808	6,673	***	***
Cash flow.....do....	14,802	16,914	13,106	***	***
As a share of net sales:					
Cost of goods sold....percent..	82.9	85.5	85.9	***	***
Gross profit.....do....	17.1	14.5	14.1	***	***
General, selling, and administrative expenses....percent..	10.3	8.8	9.9	***	***
Operating income.....do....	6.8	5.7	4.2	***	***
Net income (loss) before income taxes.....do....	6.9	6.0	3.3	***	***
Number of firms reporting:					
Operating losses.....	2	2	2	***	***
Net losses.....	2	2	2	***	***
Data.....	6	6	6	***	***

1/ The 6 producers are * * *. The operating results for the overall operations of U.S. producers' establishments within which all dry toners are produced are * * * affected by the lack of detailed financial data from * * *. These companies did not fill out most of the financial sections of the questionnaires and indicated that such data are not readily available.

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

The income-and-loss experience of Aunyx and Canon Business Machines as well as other companies is presented in table 11. * * *.

Operations producing electrically resistive monocomponent toner.—The backgrounds of * * * producers of electrically resistive monocomponent toner are discussed below.

* * * * * * *

Table 10.—Dry toners: Income-and-loss experience of 6 U.S. producers 1/ on their operations producing all dry toners, accounting years 1984-86, and interim periods ended Dec. 31, 1985, and Dec. 31, 1986

Item	1984	1985	1986	Interim period ended Dec. 31— 1985	1986
Net sales.....1,000 dollars..	35,009	69,623	76,602	***	***
Cost of goods sold.....do....	27,205	57,589	61,848	***	***
Gross profit.....do....	7,804	12,034	14,754	***	***
General and administrative expenses.....1,000 dollars..	4,771	5,580	6,309	***	***
Selling expenses.....do....	2,826	3,077	4,333	***	***
Operating income.....do....	207	3,377	4,112	***	***
Depreciation and amortization expenses.....1,000 dollars..	2,027	2,513	2,991	***	***
As a share of net sales:					
Cost of goods sold....percent..	77.7	82.7	80.7	***	***
Gross profit 2/.....do....	21.7	17.3	19.3	***	***
General and administrative expenses.....percent..	13.6	8.0	8.2	***	***
Selling expenses.....do....	8.1	4.4	5.7	***	***
Operating income 2/.....do....	1.2	4.9	5.4	***	***
Number of firms reporting:					
Operating losses.....	3	1	3	***	***
Data.....	6	6	6	***	***

1/ The 6 producers are * * *. The operating results for all dry toners are * * * affected by the lack of detailed financial data from * * *. These companies reported * * * in 1986 shipments. They did not fill out most of the financial sections of the questionnaires and indicated that such data are not readily available and would require a significant degree of allocation. The value of their 1986 shipments were as follows (in thousands of dollars):

* * * * * * *

2/ The ratio for 1984 excludes data for * * *.

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

Table 11.—Dry toners: Income-and-loss experience of 6 U.S. producers 1/ on their operations producing all dry toner, by producers, accounting years 1984-86, and interim periods ended Dec. 31, 1985, and Dec. 31, 1986 2/

Item	1984	1985	1986	Interim period ended Dec. 31— 1985	1986
	Value (1,000 dollars)				
Net sales:					
Aunyx	***	***	***	***	***
Canon	***	***	***	***	***
Other producers	***	***	***	***	***
Total	35,009	69,623	76,602	***	***
Gross profit (loss):					
Aunyx	***	***	***	***	***
Canon	***	***	***	***	***
Other producers	***	***	***	***	***
Total	7,804	12,034	14,754	***	***
Operating income (loss):					
Aunyx	***	***	***	***	***
Canon	***	***	***	***	***
Other producers	***	***	***	***	***
Total	207	3,377	4,112	***	***
	Percent of total				
As a share of net sales:					
Gross profit or (loss):					
Aunyx	***	***	***	***	***
Canon	***	***	***	***	***
Other producers	***	***	***	***	***
Weighted average	21.7	17.3	19.3	***	***
Operating income or (loss):					
Aunyx	***	***	***	***	***
Canon	***	***	***	***	***
Other producers	***	***	***	***	***
Weighted average	1.2	4.9	5.4	***	***

1/ The 6 producers are * * *. The operating results for dry toner operations are * * * affected by the lack of detailed financial data from * * *. These companies did not fill out most of the financial sections of the questionnaires and indicated that such data are not readily available and would require a significant degree of allocation.

2/ * * *'s accounting year ends Dec. 31; thus interim period data were not provided.

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

The separate income-and-loss experience of * * * is presented in table 12. * * * were unable to provide income-and-loss data. * * *.

* * * * * * *

Table 12.--Electrically resistive monocomponent toner: Income-and-loss experience of U.S. producers on their operations producing the product, by producers, accounting years 1984-86, and interim periods ended Dec. 31, 1985, and Dec. 31, 1986

* * * * * * *

Investment in productive facilities.--* * * firms, in addition to Aunyx and Canon, supplied data concerning their investment in productive facilities employed in the production of all dry toners and electrically resistive monocomponent toner. Investment in property, plant, and equipment is shown in the following tabulation (in thousands of dollars):

* * * * * * *

Capital expenditures.--* * * firms, including Aunyx and Canon, furnished data relative to their capital expenditures used in the manufacture of all dry toners and electrically resistive monocomponent toner. These expenditures are presented in the following tabulation (in thousands of dollars):

* * * * * * *

Research and development expenses.--The research and development (R&D) activities of the various producers are discussed below.

* * * * * * *

Capital and investment.--The Commission requested U.S. producers to describe and explain the actual and potential negative effects, if any, of imports of electrically resistive monocomponent toner from Japan on their firms' growth, investment, and ability to raise capital. * * * firms provided comments, which are summarized as follows:

* * * * * * *

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

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

A discussion of the rates of increase in imports of electrically resistive monocomponent toner and of the U.S. market penetration of such imports is presented in the section of this report entitled "Consideration of the Causal Relationship Between Alleged Material Injury or the Threat Thereof and Imports Allegedly Sold at LTFV." Information regarding the capacity of foreign producers to generate exports was discussed in the section of this report entitled "The Industry in Japan." The following discussion addresses inventories in the United States of imported electrically resistive monocomponent toner from Japan.

* * * firms, * * *, reported inventories of electrically resistive monocomponent toner imported from Japan. These end-of-period inventories * * *.

* * * reported end-of-period inventories of black powder preparations imported from Japan. * * *.

Consideration of the Causal Relationship Between Alleged Material Injury or the Threat Thereof and Imports Allegedly Sold at LTFV

U.S. imports

U.S. imports of electrically resistive monocomponent toner and black powder preparations therefor covered by this investigation are currently provided for in TSUS item 408.44. This item provides for products classified as benzenoid plastics material and thus includes imports of products other than electrically resistive monocomponent toner. Imports entered under TSUS item 408.44 are presented in table 13.

For the purposes of this report, data on U.S. imports were compiled from responses to the Commission's questionnaires. Data on U.S. shipments of imports of electrically resistive monocomponent toner are presented because fewer firms completed the section of the Commission's questionnaire relating to actual imports than to shipments of imports. 1/

U.S. shipments of imports from Japan of electrically resistive monocomponent toner * * * (table 14). * * *.

1/ * * * firms, believed to account for virtually 100 percent of total imports, provided data on U.S. shipments of imports of electrically resistive monocomponent toner.

Table 13.—Certain plastics materials: U.S. imports for consumption, 1/ 1984–86

Source	1984	1985	1986
	Quantity (1,000 pounds)		
Japan	4,933	4,860	9,473
All other	3,146	3,204	5,354
Total	8,079	8,064	14,826
	Value (1,000 dollars) 2/		
Japan	38,623	38,904	78,905
All other	4,920	5,564	11,086
Total	43,544	44,467	89,991
	Unit value (per pound)		
Japan	$7.83	$8.00	$8.33
All other	1.56	1.74	2.07
Average	5.39	5.51	6.07

1/ Includes all imports entered under TSUS item 408.44, which includes imports of electrically resistive monocomponent toner and black powder preparations therefor.
2/ Import values are c.i.f., duty-paid values.

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

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

Table 14.—Electrically resistive monocomponent toner: U.S. shipments of imports, 1984–86

* * * * * * *

* * *. As shown in the tabulation below, black powder preparations imported from Japan * * *.

	Quantity (1,000 pounds)	Value (1,000 dollars)
1984.....	***	***
1985.....	***	***
1986.....	***	***

Market penetration of imports

Table 15 presents U.S. shipments of electrically resistive monocomponent toner, by source, as a share of total apparent U.S. consumption of such toner. The share held by imports from Japan was * * * percent in 1984, * * * percent in 1985, and * * * percent in 1986. Since black powder preparations are imported from Japan to be used in the production of electrically resistive monocomponent toner and are not sold in the open market, the market penetration of U.S.-produced electrically resistive monocomponent toner made from imported black powder preparations serves to measure the actual impact of such imports. The ratio of these shipments to apparent U.S. consumption of electrically resistive monocomponent toner was * * *.

U.S. shipments of electrically resistive monocomponent toner imported from Japan as a share of total apparent U.S. consumption of all dry toners is presented below (in percent):

	By quantity	By value
1984.....	***	***
1985.....	***	***
1986.....	***	***

Similarly, the ratio of U.S. shipments of electrically resistive monocomponent toner produced from imported black powder preparations to total apparent U.S. consumption of all dry toners is presented below (in percent):

	By quantity	By value
1984.....	***	***
1985.....	***	***
1986.....	***	***

Table 15.--Electrically resistive monocomponent toner: U.S. shipments as a share of apparent U.S. consumption, by sources, 1984-86

* * * * * * *

Prices

Factors affecting prices.--Both U.S. producers and importers sell electrically resistive monocomponent toner primarily on an f.o.b. warehouse basis, although sales to major end-user customers, such as the General Services Administration, are often on a delivered price basis. Transportation costs reported by U.S. producers and importers were from 1 to 4 percent of the delivered price of the toner. Producers and importers offer similar standard credit terms, although * * *. * * *.

The importance of qualitative factors in sales of toner was addressed in the Commission's questionnaires. 1/ Responses were inconsistent and conflicting. Asked whether differences in quality were a significant factor in the firm's sales of electrically resistive monocomponent toner, * * *. * * * reported that the quality of its toner is superior to * * *. * * * reported that a manufacturer of a photocopier, * * *, controls the raw materials necessary for the production of toner used in their photocopiers. * * * alleged that this narrows the quality range within which * * * can produce toner. * * * reports that product quality is a major reason purchasers * * * toner. * * * further states that there are major quality problems with * * * toner, such as * * *. * * * supports this statement with * * *. Although * * * answered "no" to the quality question, it reported that its * * * monocomponent toner sold in * * * had quality problems, which it reported to * * *.

Price data.--The Commission requested U.S. producers and importers to provide quarterly net price data on their largest single sale in each quarter to a distributor for the period January 1984-December 1986. Prices per carton were requested for three product specifications. The first two products, the Canon toners, are electrically resistive monocomponent toners, while the third product, the Xerox toner, is a dualcomponent toner. The three product specifications are as follows:

1. Toner for Canon NP-210 through NP-500 photocopiers, four 200-gram cartridges per carton.

2. Toner for Canon 7000 series photocopiers, two 750-gram cartridges per carton.

3. Toner for Xerox models 9200 through 9400 photocopiers, eight 2-1/2-pound bottles per carton.

1/ Additional information regarding toner quality was collected from purchasers of the product and is presented in the "Lost Sales" section of this report.

Sales of toner for the Canon NP-210 through NP-500 photocopiers account for the majority of sales of electrically resistive monocomponent toner, * * * percent in 1986. The Canon 7000 series photocopier is a relatively new model and sales of toner for it account for * * * percent of total sales of electrically resistive monocomponent toner used in Canon copiers in 1986. Sales of toner for the Xerox models 9200 through 9400 photocopiers reportedly account for a larger share of total sales of dualcomponent toner than toner for any other photocopier.

* * * U.S. producers, Aunyx and * * *, accounting for * * * percent of U.S. shipments of electrically resistive monocomponent toner produced * * * in the United States in 1986, provided price data for sales of electrically resistive monocomponent toner. * * * U.S. producers, * * *, accounting for * * * percent of U.S. shipments of dualcomponent toner in 1986, provided price data for the Xerox model 9200 through 9400 compatible toner.

* * * importers, * * *, 1/ accounted for * * * percent of imports of electrically resistive monocomponent toner in 1986 and provided price data for their sales of electrically resistive monocomponent toner.

Monocomponent toner price trends.--Quarterly prices of U.S.-produced electrically resistive monocomponent toner reported by U.S. producers were very stable while showing some increase over the period January 1984-December 1986 (table 16). * * * reported prices for its U.S.-produced Canon NP-210 through NP-500 compatible toner on * * *. * * *'s price increased from $* * *. * * *'s price for this Canon-compatible toner increased further to $* * *.

* * * reported prices for this Canon-compatible toner beginning in * * *. * * *'s price decreased from $* * *. * * *'s price stayed at the $* * * level through * * *, before regaining its previous $* * * level in * * *. * * * maintained the $* * * price through * * * at exactly the same price level at which it started.

Prices reported by * * * for its imported Japanese electrically resistive monocomponent toner for the Canon NP-210 through NP-500 photocopiers were $* * * and decreased to $* * *. * * *'s price stayed at the $* * * level through * * *, before decreasing * * *. * * *'s price stayed at $* * *. * * * reported prices for its imported Japanese toner for the Canon NP-210 through NP-500 photocopier beginning in * * *. * * *'s prices fluctuated while decreasing from $* * *.

* * * also reported quarterly prices for toner for its 7000 series photocopiers for the period * * *, and * * *. 2/ * * *'s price for toner for its 7000 series photocopier increased * * *, in contrast to * * *'s price for its NP-210 through NP-500 photocopier toner, which fluctuated and ended the period at the level at which it started. * * *'s price for electrically resistive monocomponent toner for the NP-7000 series photocopier was $* * * in * * * and stayed at this level through * * *. * * *'s price increased to $* * * in * * *, where it stayed through * * *.

1/ * * *.

2/ Not shown in tabular form.

Table 16.—Electrically resistive monocomponent toner: F.o.b. prices for U.S. and Japanese toner for Canon NP-210 through NP-500 photocopiers, for the largest single sale in each quarter to a distributor, and margins of overselling, by sources and by quarters, January 1984-December 1986

Period	U.S. product			Japanese product				Margin of overselling	
	* * *	* * *	U.S. average	* * *	* * *	* * *	Import average	Amount	Percent
	Per carton 1/								
1984:									
Jan.-Mar....	$***	$***	$***	$***	$***	$***	$***	$11.07	49.5
Apr.-June...	***	***	***	***	***	***	***	10.61	47.4
July-Sept...	***	***	***	***	***	***	***	11.62	51.9
Oct.-Dec....	***	***	***	***	***	***	***	7.12	31.8
1985:									
Jan.-Mar....	***	***	***	***	***	***	***	6.17	26.5
Apr.-June...	***	***	***	***	***	***	***	6.43	27.9
July-Sept...	***	***	***	***	***	***	***	6.39	27.7
Oct.-Dec....	***	***	***	***	***	***	***	4.03	17.5
1986:									
Jan.-Mar....	***	***	***	***	***	***	***	3.42	14.3
Apr.-June...	***	***	***	***	***	***	***	3.79	16.1
July-Sept...	***	***	***	***	***	***	***	5.20	21.7
Oct.-Dec....	***	***	***	***	***	***	***	4.95	20.7

1/ A carton contains four 200-gram cartridges.

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

Dualcomponent toner price trends.—* * * U.S. producers, but no importers, also reported prices for dualcomponent toner for Xerox models 9200 through 9400 photocopiers (table 17). Similar to prices reported by U.S. producers of the Canon-compatible monocomponent toner, prices for this dualcomponent toner were very stable. * * *, which reported prices for sales to GSA, reported unchanged prices from * * *. * * *'s price to distributors of its U.S.-produced dualcomponent toner was unchanged during * * *, then decreased by * * * and stayed at exactly the same level through * * *. * * * also reported prices for sales to GSA. Prices reported by * * * fluctuated while generally increasing, * * *.

Price comparisons.—The weighted average of prices reported by importers of Japanese electrically resistive monocomponent toner was higher than the weighted average of prices reported by U.S. producers of electrically resistive monocomponent toner in all 12 available comparisons (table 16). 1/ Prices of the imported Canon NP-210 through NP-500

1/ Prices for each firm's largest single sale in each quarter were weighted by the firm's total sales of the particular product in that quarter.

Table 17.--Dualcomponent toner: Prices for U.S.-produced toner for Xerox models 9200 through 9400 photocopiers, by sources and by quarters, January 1984-December 1986

* * * * * * *

photocopier compatible toner were higher than the prices of the U.S.-produced toner by margins ranging from $3.42 per carton, or 14.3 percent, in January-March 1986, to $11.62 per carton, or 51.9 percent, in July-September 1984. Prices of the U.S. product relative to the imported product were lowest in the first three quarters of 1984. The price difference decreased from the end of 1984 through the beginning of 1986 before increasing in the last three quarters of 1986. Changes in relative prices were primarily due to changes in * * *.

Petitioner contends that, on the basis of its experience in producing and selling other types of toner, in order for an independent producer of toner, such as Aunyx, to sell toner, it must price its product at least 20 to 30 percent below prices being offered by an OEM, such as Canon. 1/ Canon contends that a price difference of 9 to 14 percent will secure an order for an independent producer of toner relative to the price offered by the OEM. 2/ To substantiate its contention, * * *. 3/ * * *. Nashua, the largest independent (non-OEM) U.S. producer of toner, contends that the price difference for independents to sell toner relative to the price being offered by the OEM is on the order of 20 percent. 4/

Exchange rates

Quarterly data reported by the International Monetary Fund indicate that during January 1984-December 1986, the quarterly nominal value of the Japanese yen advanced by 44.1 percent against the U.S. dollar (table 18). 5/ After adjustment for the relative inflation rates in Japan and the United States over the 12-quarter period, the real value of Japan's currency appreciated 29.3 percent 6/ relative to the dollar, significantly less than the nominal appreciation of 44.1 percent.

1/ Statement of Robert Langone, president, Aunyx Corp., transcript of the staff conference, p. 42. The staff requested the petitioner to provide a quarterly price series of sales of other types of toner it has produced and sold and contemporaneous prices of the toner being sold by the OEM that manufactured the photocopier, such as Royal, IBM, or Xerox. Transcript of the staff conference, pp. 62-63. * * *.

2/ Statement of Mr. Ed McLaughlin, sales director of national accounts, Canon U.S.A., Inc., transcript of the staff conference, p. 92.

3/ * * *.

4/ Statement of Mr. William J. Price, general manager, office products division, Nashua Corp., transcript of the staff conference, p. 143.

5/ International Financial Statistics, February 1987.

6/ Real Japanese exchange-rate data for October-December 1986, the last quarter of the interval under investigation, is derived from the Japanese Producer Price Index covering October-November only.

Table 18.—U.S.-Japanese exchange rates: 1/ Nominal-exchange-rate equivalents of the Japanese yen in U.S. dollars, real-exchange-rate equivalents, and producer price indicators in the United States and Japan, 2/ indexed by quarters, January 1984-December 1986

Period	U.S. Producer Price Index	Japanese Producer Price Index	Nominal-exchange-rate index	Real-exchange-rate index 3/
			—U.S. dollars per yen—	
1984:				
January-March	100.0	100.0	100.0	100.0
April-June	100.7	100.1	100.6	99.9
July-September	100.4	100.7	94.8	95.2
October-December	100.1	100.4	93.8	94.2
1985:				
January-March	100.0	100.8	89.6	90.4
April-June	100.1	100.1	92.1	92.1
July-September	99.3	99.0	96.8	96.4
October-December	100.0	96.8	111.5	108.0
1986:				
January-March	98.4	94.4	122.8	117.9
April-June	96.6	90.5	135.7	127.2
July-September	96.1	87.9	148.2	135.6
October-December	96.5	4/ 86.5	144.1	4/ 129.2

1/ Exchange rates expressed in U.S. dollars per Japanese yen.
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 indexed real exchange rate represents the nominal exchange rate adjusted for the relative economic movement of each currency as measured here by the Producer Price Index in the United States and Japan. Producer prices in the United States decreased 3.5 percent during January 1984-December 1986 compared with a 13.5-percent decrease in Japanese prices for the same period.
4/ Data are derived from the Japanese Producer Price Index covering October-November only.

Source: International Monetary Fund, International Financial Statistics, February 1987.

Note.—January-March 1984=100.0.

Lost sales

The Commission received lost sales allegations from one U.S. producer, the petitioner, involving 9 firms to which it had allegedly lost sales to imports of electrically resistive monocomponent toner from Japan. The allegations were valued at $* * *, for the period March 1984 through the end of 1986. Some of the allegations were in terms of the monthly toner requirements of the purchaser on an ongoing basis. The Commission contacted all 9 of the purchasers involved in the allegations.

* * *, reported that the superior quality of the imported product was their sole reason for purchasing Japanese toner. * * *, a major importer of electrically resistive monocomponent toner from * * *, was cited in a lost sale allegation of an unspecified value and quantity occurring in * * *. * * * reported that when it decided * * *, it tested the product from several sources. None of the U.S.-produced toner met * * *'s initial qualifications with respect to product quality. * * * reported that it did not discuss price with * * * since their product had not been approved by * * *'s technical staff. * * * reported imports of electrically resistive monocomponent toner from Japan valued at $* * * in * * * and $* * * in * * *. * * * reported that although Canon-compatible toner available from domestic sources is less expensive, the firm purchases toner for use in Canon photocopiers strictly from Canon because of its greater reliability and superior quality. * * * reported that it is willing to pay a higher price for the toner directly from Canon, which * * * reported to be * * * percent higher in price than similar toner available from other sources.

* * * other purchasers, * * *, reported that quality was their primary reason for purchasing Japanese toner, while the * * *. * * * were * * *.

* * * reported that it has purchased only domestic toner for its private-label. * * * reported that it prefers domestic material for its * * *. * * * reported that * * * was not price competitive with * * *. * * * also purchases toner directly from * * *. * * * was cited in a lost sale allegation of * * *.

The remaining * * * purchasers cited in lost sales allegations would not respond to the staff's inquiries regarding their purchases of toner.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-373 (Preliminary)]

Certain Copier Toner From Japan

AGENCY: United States International Trade Commission.

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

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-373 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of

imports from Japan of electrically-resistive monocomponent toner and "black powder" preparations therefor of a kind used with electrostatic copying machines, currently provided for in item 408.44 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by March 20, 1987.

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

EFFECTIVE DATE: February 3, 1987.

FOR FURTHER INFORMATION CONTACT: Ilene Hersher (202-523-4616), 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.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on February 3, 1987, by Aunyx Corp., Hingham, MA.

Participation in the Investigation

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

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR § 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to 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.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on February 25, 1987, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Ilene Hersher (202-523-4616) not later than February 23, 1987, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written Submissions

Any person may submit to the Commission on or before February 27, 1987, a written statement of information pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). 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 § 201.6 of the Commission's rules (19 CFR 201.6).

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

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: February 10, 1987.

[FR Doc. 87-3119 Filed 2-12-87; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-701]

Electrically-Resistive Monocomponent Toner and "Black Powder" Preparations Therefor From Japan; Initiation of Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of electrically-resistive monocomponent toner and "black powder" preparations therefor ("electrically-resistive monocomponent toner") from Japan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, or are materially retarding the establishment of, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before March 20, 1987, and we will make ours on or before July 13, 1987.

EFFECTIVE DATE: March 2, 1987.

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FOR FURTHER INFORMATION CONTACT: John Brinkman, Office of Investigations,

Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 377-3965.

SUPPLEMENTARY INFORMATION:

The Petition

On February 3, 1987, we received a petition filed in proper form by the Aunyx Corporation, on behalf of the U.S. industry producing electrically-resistive monocomponent toner. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of electrically-resistive monocomponent toner from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1980, as amended (the Act), and that these imports materially injure, or threaten material injury to, or are materially retarding the establishment of, a U.S.A. industry.

The petitioner based the United States price on price lists of U.S. distributors, less estimated foreign inland freight, ocean freight, duty, U.S. brokerage fees, handling, port charges, insurance, and U.S. inland freight. Petitioner based foreign market value on Japanese ex-factory price lists. Based on a comparsion of United States prices and foreign market value, petitioner alleges dumping margins ranging from 30.94 to 115.23 percent.

Initiation of Investigation

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

We examined the petition on electrically-resistive monocomponent toner from Japan and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of electrically-resistive monocomponent toner from Japan are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by July 13, 1987.

Scope of Investigation

The product covered by this investigation is electrically-resistive monocomponent toner and "black-powder" preparations therefor of a kind used with electrostatic copying machines, currently provided for under item number 408.44 of the *Tariff Schedules of the United States* (TSUS).

Notification of ITC

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

Preliminary Determination By ITC

The ITC will determine by March 20, 1987, whether there is a reasonable indication that imports of electrically-resistive monocomponent toner from Japan materially injure, or threaten material injury to, or are materially retarding the establishment of a U.S. industry. If its determination is negative the investigation will terminate; otherwise it will proceed according to the statutory and regulatory procedures.

This notice is published pursuant to section 732(c)(2) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

February 24, 1987.

[FR Doc. 87-4303 Filed 2-27-87; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX B

LIST OF WITNESSES APPEARING AT THE PUBLIC CONFERENCE

CALENDAR OF PUBLIC CONFERENCE

Investigation No. 731-TA-373 (Preliminary)

CERTAIN COPIER TONER FROM JAPAN

Those listed below appeared as witnesses at the United States International Trade Commission's conference held in connection with the subject investigation at 9:30 a.m. on February 25, 1987, in the Hearing Room of the U.S. International Trade Commission, 701 E Street, NW, Washington, DC.

In support of the petition:

Patton, Boggs & Blow
Washington, DC
on behalf of

Aunyx Corp.

Robert Langone, President, Aunyx Corp.

Richard Thompson, Vice President, Research and Development, Aunyx Corp.

John Pickett, Production Manager, Aunyx Corp.

Bart S. Fisher)
Kevin B. Dwyer) ---OF COUNSEL

In opposition to the petition:

Covington & Burling
Washington, DC
Delson & Gorden
New York, NY
on behalf of

Canon Inc.
Canon U.S.A., Inc.
Canon Business Machines, Inc.

William A. Joseph, Manager of Marketing Administration,
Copier Products Division, Canon U.S.A., Inc.

Edward McLaughlin, Sales Director of National Accounts,
Copier Products Division, Canon U.S.A., Inc.

Harvey M. Applebaum)
David R. Grace) ---OF COUNSEL, Covington & Burling
Eric S. Koenig)

Norman Moloshok) ---OF COUNSEL, Delson & Gorden

In opposition to the petition:

Crowell & Moring
Washington, DC
on behalf of

Nashua Corp.

William J. Price, General Manager, Office Products Division,
Nashua Corp.

Albert W. Leclair, Corporate Research and Development, Nashua Corp.

Donald L. Flexner)
Alan W.H. Gourley) —OF COUNSEL