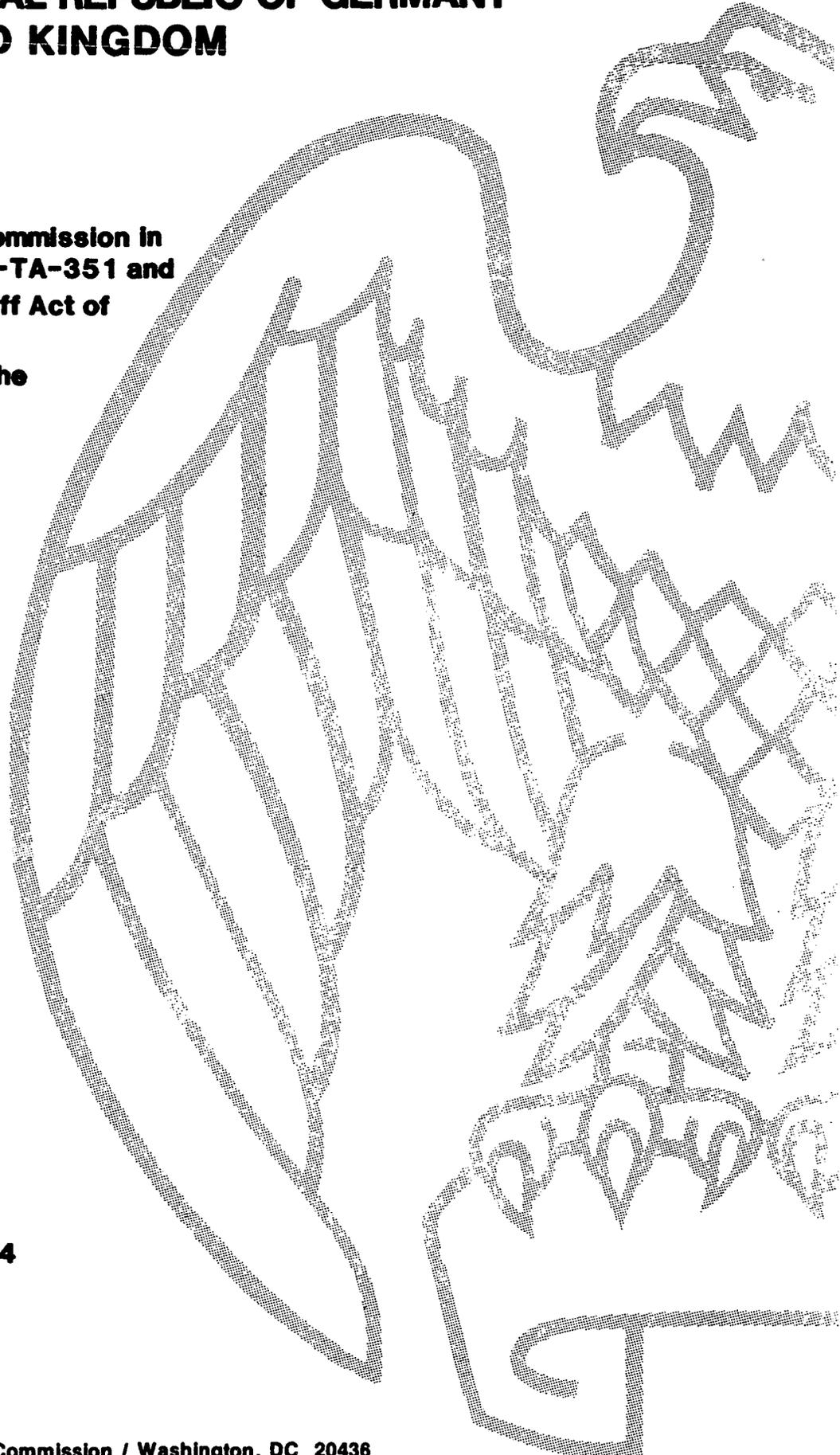


CERTAIN FORGED STEEL CRANKSHAFTS FROM THE FEDERAL REPUBLIC OF GERMANY AND THE UNITED KINGDOM

**Determinations of the Commission in
Investigations Nos. 731-TA-351 and
53 (Final) Under the Tariff Act of
1930, Together With the
Information Obtained in the
Investigations**



ITC PUBLICATION 2014

SEPTEMBER 1987

UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONERS

Susan Liebeler, Chairman
Anne E. Brunsdale, Vice Chairman
Alfred E. Eckes
Seeley G. Lodwick
David B. Rohr

Staff Assigned

Diane Mazur, Office of Investigations
Catherine Beyer, Office of Economics
Dennis Rapkins, Office of Industries
Jerald Tepper, Office of Investigations
Charles Nalls, Office of the General Counsel
Mary White, Office of the General Counsel

Robert Eninger, Supervisory Investigator

Address all communications to
Kenneth R. Mason, Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

C O N T E N T S

	<u>Page</u>
Determinations-----	1
Views of the Commission-----	3
Additional views of Vice Chairman Anne E. Brunsdale-----	25
Additional and dissenting views of Chairman Liebeler-----	35
Information obtained in the investigations:	
Introduction-----	A-1
Previous and related investigations-----	A-2
The product:	
Description and uses-----	A-3
Product description-----	A-3
Physical characteristics-----	A-5
Manufacturing considerations:	
Machinery and equipment-----	A-7
Forging operations-----	A-7
Machining operations-----	A-8
Manufacturing processes-----	A-8
Forging process-----	A-8
Machining process-----	A-9
Like products:	
Cast versus forged-----	A-9
Unmachined versus machined-----	A-10
Weight range-----	A-10
Sales activity-----	A-13
End uses-----	A-14
Unique product-----	A-14
U.S. tariff treatment-----	A-16
Nature and extent of subsidies and sales at LTFV-----	A-16
Brazil-----	A-16
Federal Republic of Germany-----	A-17
United Kingdom-----	A-17
The U.S. market:	
U.S. producers-----	A-18
Unmachined crankshafts-----	A-18
Machined crankshafts-----	A-19
U.S. importers-----	A-19
Channels of distribution-----	A-20
Market factors-----	A-20
Apparent U.S. consumption-----	A-23
Trends in apparent consumption-----	A-23
U.S. producers share of apparent consumption-----	A-23
Consideration of alleged material injury-----	A-24
U.S. production, capacity, and capacity utilization-----	A-24
U.S. producers' domestic shipments-----	A-25
U.S. exports-----	A-26
U.S. producers' inventories-----	A-26
U.S. producers' employment and wages-----	A-26
Financial experience of U.S. producers-----	A-27
Operations of the Wyman-Gordon Co-----	A-27
Overall establishment operations-----	A-28
Forged steel crankshaft operations-----	A-28
Value added analysis-----	A-30
Other producers-----	A-30
Investment in productive facilities-----	A-30
Capital expenditures-----	A-30
Research and development-----	A-31
Capital and investment-----	A-31

CONTENTS

	<u>Page</u>
Information obtained in the investigation--continued	
Consideration of the question of threat of material injury-----	A-31
Foreign Production, capacity, and capacity utilization-----	A-33
Brazil-----	A-33
United Kingdom-----	A-33
West Germany-----	A-33
Purchasers' inventories-----	A-34
Consideration of the causal relationship between subsidized and/or LTFV imports and the alleged material injury or threat thereof:	
U.S. imports-----	A-35
Overall imports-----	A-35
Brazil-----	A-37
United Kingdom-----	A-37
West Germany-----	A-37
Market penetration of imports-----	A-37
Overall market-----	A-37
Brazil-----	A-37
United Kingdom-----	A-37
West Germany-----	A-37
Prices-----	A-38
Domestic price trends-----	A-39
Brazilian price trends and comparisons-----	A-42
Japanese price trends and comparisons-----	A-43
West German price trends and comparisons-----	A-43
United Kingdom price trends and comparisons-----	A-44
Purchasing responses-----	A-45
Contract negotiations-----	A-45
Quality/Certification programs-----	A-46
Lost sales and lost revenue-----	A-47
Exchange rates-----	A-49
Appendix A. Chronology of actions-----	A-51
Appendix B. Copies of Commission's and Commerce's notices-----	A-53
Appendix C. List of witnesses-----	A-93
Appendix D. U.S. imports by purchaser and country-----	A-99

Tables

1. Unmachined forged steel crankshafts: Rejection rates for U.S. products and foreign-supplied products, 1984-86, January-March 1986, and January-March 1987-----	A-6
2. Unmachined forged steel crankshafts: Domestic shipments and share of U.S. producers and imports by U.S. purchasers, by weight ranges, 1984-86, and January-March 1986 and 1987-----	A-13
3. Unmachined forged steel crankshafts: Customers and end uses by weight ranges, 1986-----	A-15
4. Machined forged steel crankshafts: Customer and end uses by weight ranges, 1986-----	A-16
5. Forged steel crankshafts: End-use of engines containing U.S. product and imports, by types of market, 1984-86-----	A-21
6. Diesel engines: Shipments by function and by type of market, 1979-86-----	A-21

CONTENTS

	<u>Page</u>
7. Forged steel crankshafts: U.S. producers' domestic shipments, imports, and apparent consumption, by types and weight ranges, 1984-86, January-March 1986, and January-March 1987-----	A-23
8. Forged steel crankshafts: U.S. production, end-of-period capacity, and capacity utilization, by types, 1984-86, January-March 1986, and January-March 1987-----	A-24
9. Forged steel crankshafts: U.S. producers' domestic shipments, by types, 1984-86, January-March 1986, and January-March 1987-----	A-25
10. Forged steel crankshafts: U.S. producers' end-of-period inventories, by types, 1984-86, January-March 1986, and January-March 1987-----	A-26
11. Employment statistics for U.S. establishments in which forged steel crankshafts are produced: Average number of employees, hours worked, wages, hourly wages, and labor productivity, 1984-86, January-March 1986, and January-March 1987-----	A-27
12. Income-and-loss experience of Wyman-Gordon on the overall operations of its establishments within which forged steel crankshafts subject to investigation are produced, accounting years 1984-86 and interim periods ended March 31, 1986, and March 31, 1987-----	A-29
13. Income-and-loss experience of Wyman-Gordon on its operations producing forged steel crankshafts, accounting years 1984-86 and interim periods ended March 31, 1986, and March 31, 1987-----	A-29
14. Income-and-loss experience of Wyman-Gordon on its operations producing forged steel crankshafts, by locations, accounting years 1984-86 and interim periods ended March 31, 1986, and March 31, 1987-----	A-29
15. Forged steel crankshafts: U.S. producers' end-of-period valuation of fixed assets, accounting years 1984-86 and interim periods ended March 31, 1986, and March 31, 1987-----	A-30
16. Forged steel crankshafts: U.S. producers' capital expenditures, accounting years 1984-86 and interim periods ended March 31, 1986, and March 31, 1987-----	A-31
17. Forged steel crankshafts: Research and development expenses, accounting years 1984-86 and interim periods ended March 31, 1986, and March 31, 1987-----	A-31
18. Forged steel crankshafts: Brazilian production, capacity, and total shipments, 1984-86, January-March 1986, and January-March 1987-----	A-33
19. Forged steel crankshafts: Shipments by UEF of the United Kingdom, 1984-86, January-March 1986, and January-March 1987-----	A-34
20. Forged steel crankshafts: Shipments by Thyssen of West Germany, 1984-86, January-March 1986, and January-March 1987-----	A-34
21. Forged steel crankshafts: Shipments by Gerlach of West Germany, 1984-86, January-March 1986, and January-March 1987-----	A-34
22. Forged steel crankshafts: U.S. importers' inventories, by principal sources, 1984-86, January-March 1986, and January-March 1987-----	A-34
23. Unmachined forged steel crankshafts: U.S. imports by weight ranges, 1984-86, January-March 1986, and January-March 1987-----	A-35
24. Machined forged steel crankshafts: U.S. imports by weight ranges, 1984-86, January-March 1986, and January-March 1987-----	A-35

CONTENTS

	<u>Page</u>
25. Forged steel crankshafts: Us.S. imports by countries, 1984-86, January-March 1986, and January-March 1987-----	A-36
26. Unmachined forged steel crankshafts: Apparent U.S. consumption, 1984-86, January-March 1986, and January-March 1987-----	A-38
27. Machined forged steel crankshafts: Apparent U.S. consumption, 1984-86, January-March 1986, and January-March 1987-----	A-38
28. Forged steel crankshafts: Apparent U.S. consumption, 1984-86, January-March 1986, and January-March 1987-----	A-68
29. Forged steel crankshaft: U.S. producers' price (per unit) reported by Wyman-Gordon Company, by quarters, January 1984-March 1987-----	A-40
30. Forged steel crankshafts: U.S.-producer prices (per unit) asreported by Ladish Co., Inc., by quarters, January 1984-March 1987-----	A-40
31. Forged steel crankshafts: U.S. producers' prices (per unit) asreported by Park Drop Forge, by quarters, January 1984-March 1987-----	A-40
32. Forged steel crankshafts: Prices for U.S. and Brazilian * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987-----	A-40
33. Forged steel crankshafts: Prices for U.S. and Brazilian * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987-----	A-40
34. Forged steel crankshafts: Prices for U.S. and Japanese * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987-----	A-40
35. Forged steel crankshafts: Prices for U.S. and Japanese * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987-----	A-41
36. Forged steel crankshafts: Prices for U.S. and Japanese * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987-----	A-41
37. Forged steel crankshafts: Prices for U.S. and Japanese * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987-----	A-41
38. Forged steel crankshafts: Prices for U.S. and Japanese * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987-----	A-41
39. Forged steel crankshafts: Prices for U.S. and Japanese * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987-----	A-41

CONTENTS

	<u>Page</u>
40. Forged steel crankshafts: Prices for U.S. and West German * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987-----	A-41
41. Forged steel crankshafts: Prices for U.S. and United Kingdom * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987-----	A-42
42. Forged steel crankshafts: Prices for U.S. and United Kingdom * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987-----	A-42
43. Forged steel crankshafts: Prices for U.S. and United Kingdom * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987-----	A-42
44. Forged steel crankshafts: Prices for U.S. and United Kingdom * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987-----	A-42
45. Forged steel crankshafts: Purchase prices for unmachined crankshafts from the United Kingdom by * * *, by quarters, January 1984-March 1987-----	A-42
46. Exchange rates: Nominal-exchange-rate equivalents of selected currencies in U.S. dollars, real-exchange-rate equivalents, and producer price indicators in specified countries, indexed by quarters, January 1984-March 1987-----	A-50

Figures

1. Crankshaft terminology-----	A-4
2. Schematic representation of grain structures in forging, bar stock, and casting-----	A-11
3. Diesel engines shipped-----	A-22
4. Nonautomotive diesel engines-----	A-22

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

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigations No. 731-TA-351 and 353 (Final)

CERTAIN FORGED STEEL CRANKSHAFTS FROM THE FEDERAL REPUBLIC OF
GERMANY AND THE UNITED KINGDOM

Determinations

On the basis of the record 1/ developed in the subject investigations, the Commission determines, 2/ pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)), that an industry in the United States is materially injured by reason of imports from the Federal Republic of Germany and the United Kingdom of certain forged steel crankshafts, 3/ provided for in items 660.67 and 660.71 of the Tariff Schedules of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective May 13, 1987, following preliminary determinations by the Department of Commerce that imports of certain forged steel crankshafts from the Federal Republic of Germany and the United Kingdom were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. § 1673). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of June 3, 1987, (52 F.R. 20790). The hearing was held in Washington, DC, on August 4, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

2/ Chairman Liebelier dissenting.

3/ The crankshafts subject to these investigations are forged carbon or alloy steel crankshafts with a shipping weight of between 40 and 750 pounds, whether machined or unmachined.

VIEWS OF THE COMMISSION ^{1/}

We determine that an industry in the United States is materially injured by reason of imports of forged steel crankshafts from the Federal Republic of Germany (West Germany) and the United Kingdom (U.K.) that were sold at less than fair value (LTFV). Our determinations are based on the poor condition of the domestic industry producing forged steel crankshafts as evidenced by production, shipments, employment, and financial indicators, as well as underselling and increased market penetration by imports at a time when the U.S. market for forged steel crankshafts as a whole was shrinking.

Like Product

As a threshold inquiry, the Commission must identify the domestic industry to be examined for the purpose of making an assessment of material injury. Section 771(4)(A) of the Tariff Act of 1930 defines "industry" as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." ^{2/} It goes on to define "like

^{1/} Chairman Liebeler makes a negative determination. She joins with the majority on the definitions of like product and domestic industry, and with their discussion of cumulation and the condition of the industry.

^{2/} 19 U.S.C. §1677(4)(A).

product" 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"^{3/}

The imports that are the subject of these investigations are forged steel crankshafts, machined and unmachined, weighing between 40 and 750 pounds.^{4/} Forged steel crankshafts in this weight range are primarily used in vehicle engines, whereas forged crankshafts outside this weight range are primarily incorporated in engines with other than vehicular applications. The crankshafts in question here are used in internal combustion engines to transform the reciprocal action of the engine's pistons into rotational energy or torque. More specifically, they are used in diesel engines and, to a lesser extent, in large gasoline engines for class 6, 7, and 8 on-highway trucks and tractors. Other end uses include diesel engines for off-road equipment, farm machinery and equipment, military vehicles, certain aircraft, and automobiles.^{5/}

^{3/} 19 U.S.C. §1677(10). The legislative history of title VII makes it clear that "[t]he requirement that a product be 'like' the imported article should not be interpreted in such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under investigation." S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

^{4/} The "article subject to an investigation" is defined by the scope of the Department of Commerce's (Commerce) investigation. Commerce has continued to define the scope of these investigations as "forged carbon or alloy steel crankshafts with a shipping weight between 40 and 750 pounds, whether machined or unmachined." 52 Fed. Reg. 28170, 28171 (July 28, 1987).

^{5/} Report of the Commission ("Report") at A-3.

In reaching its like product definition, the Commission examines 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. ^{6/} In our preliminary determination, we found a single like product encompassing all forged steel crankshafts, whether machined or unmachined, in the 40-750 pound range. ^{7/} For the reasons stated below, we adopt the same definition in these final investigations.

Machined v. Unmachined. Respondents and importers argued that machined and unmachined crankshafts are not "like" each other within the statutory definition of the term and should be treated as separate like products. ^{8/} This argument raises the issue of the circumstances in which an article at one stage of a multi-stage production process is like an article at a later or final stage in that process. The Commission has considered such arguments on numerous occasions and concluded that the issue must be resolved on the facts

^{6/} See, e.g., Certain Radio Paging and Alerting Receiving Devices from Japan, Inv. No. 731-TA-102 (Final), USITC Pub. 1410 at 8-9 (Aug. 1983).

^{7/} Certain Forged Steel Crankshafts from Brazil, the Federal Republic of Germany, Japan, and the United Kingdom, Invs. Nos. 701-TA-282 ("Preliminary Determination") and 731-TA-351 through 353 (Preliminary), USITC Pub. 1917 (Nov. 1986) at 7-9.

^{8/} See, e.g., Pre-Hearing Brief of J. I. Case/Consolidated Diesel at 5-13.

of each case. ^{9/} Among the factors we have considered in determining whether finished and unfinished products are the same or different like products are the degree to which the different stages impart essential characteristics to the final product, the existence of separate markets for the finished and unfinished products, and the costs and value of the different production stages. ^{10/}

In these investigations, it is clear that the principal function of the machining process is to remove excess material so as to bring the crankshaft

^{9/} See Nylon Impression Fabric from Japan, Inv. No. 731-TA-269 (Preliminary), USITC Pub. 1726 (July 1985) (Commission determined that slit and unslit nylon impression fabric constitute a single like product); Photo Albums and Photo Album Filler Pages from Hong Kong and the Republic of Korea, Invs. Nos. 731-TA-240 and 241 (Preliminary), USITC Pub. 1660 (Mar. 1985) (Commission determined that photo albums and photo album filler pages are one like product).

^{10/} See, e.g., Butt-Weld Pipe Fittings from Brazil and Taiwan, Invs. Nos. 731-TA-308 and 310 (Final), USITC Pub. 1918 (Dec. 1986) and Butt-Weld Pipe Fittings from Japan, 731-TA-309 (Final), USITC Pub. 1943 (Jan. 1987) (finished and unfinished fittings found to constitute one like product because unfinished fittings had no use or market other than manufacture into finished fittings, finishing operations did not alter essential characteristics of fittings, and weighted-average cost of finishing was only 14 percent of total production cost); Certain Stainless Steel Butt-Weld Pipe Fittings from Japan, Inv. No. 731-TA-376 (Preliminary), USITC Pub. 1978 (May 1987) (finished and unfinished fittings found to constitute one like product because fittings cannot be used for their intended purposes unless completely finished, and finishing does not alter essential function of fitting); and Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers from Hungary, the People's Republic of China, and Romania, Invs. Nos. 731-TA-341, 344 and 345 (Final), USITC Pub. 1983 (June 1987) ("Tapered Roller Bearings") (finished and unfinished tapered roller bearings found to constitute one like product because unfinished bearing cannot perform key function without extensive finishing, unfinished bearings have no independent use or market, and differences in operations performed on finished and unfinished products is significant).

into conformity with extremely tight tolerances. Machining can be performed by either producers or end users and appears to be part of the integrated process that results in fully formed machined forged steel crankshafts. ^{11/} Furthermore, forged steel crankshafts cannot serve their intended function until they have been machined, and unmachined crankshafts have no independent use or market. ^{12/} Finally, while the value added by machining appears to be significant, this factor is not decisive. ^{13/}

Because the record reflects only one possible use for an unmachined crankshaft--further processing into a machined crankshaft--and because machining, whether done by producers or end users, is part of a continuous process, the relatively high costs attributable to machining do not indicate different characteristics, uses or markets for machined and unmachined crankshafts. If anything, these costs reflect the necessity of conforming the finished product to very tight tolerances so that it can perform its basic function. ^{14/} For these reasons, we determine that machined and unmachined forged steel crankshafts do not constitute separate like products.

^{11/} Report at A-9. The purpose of the forging process is to produce a "machinable" crankshaft; Report of the Commission at A-5.

^{12/} Hearing Transcript ("Tr.") at 262-263.

^{13/} Data in the record suggest that machining accounts for roughly two-thirds of the cost of production of a finished crankshaft. Report at A-30.

^{14/} J. I. Case/Consolidated Diesel argues that because machining constitutes a "substantial transformation" of the product under Customs law, machined and unmachined crankshafts should be treated as separate like products. Customs rulings do not control the Commission's like product determinations.

Weight Ranges. The parties in these investigations proposed several variations of the like product based on weight ranges. Petitioner favored one like product encompassing the 40-750 pound range, arguing that this range reflects common characteristics and end uses better than would a larger or narrower definition of the like product. ^{15/}

In response, Sumitomo proposed three separate like products based on three weight ranges. ^{16/} It also contended that Wyman-Gordon does not have the capacity to manufacture lower-weight crankshafts efficiently on the two 16,000 ton presses at its Danville plant. ^{17/}

After considering the record, we find that the definition proffered by petitioner best delineates the like product in terms of characteristics, end uses, and facilities needed to make the product. All forged steel crankshafts in the 40-750 pound range have the same basic physical characteristics and serve the same essential function: transforming the reciprocal action of an engine's pistons into rotational energy. Further, crankshafts within that weight range are used primarily in vehicle engines, whereas crankshafts outside this range are not. ^{18/} Forged steel crankshafts in the 40-750

^{15/} Petitioner's Post-Hearing Brief at 2.

^{16/} Sumitomo Pre-Hearing Brief at 1-10. Sumitomo's weight ranges are 40-110 pounds, 111-480 pounds, and 480-750 pounds.

^{17/} Id. at 6.

^{18/} Report at A-3. Data show that the sub-markets espoused by respondent all overlap in characteristics and end-uses, supporting a single like product.

pound range are all produced using the same forging and machining process. ^{19/}

With respect to size ranges, we further note that while forged steel crankshafts are manufactured in many sizes for use in engines having different applications, crankshafts of all weights share the same physical characteristics and serve the same function. The variations in size do not change these characteristics or functions. Moreover, data collected from purchasers reveal no clear correlation between a crankshaft's weight and its end use. ^{20/} Accordingly, we do not conclude that there are appropriate dividing lines based on crankshaft size in these investigations. ^{21/}

Finally, we turn to respondents' argument that petitioner does not make the full range of 40-to-750 pound forged steel crankshafts and cannot do so efficiently. We find that petitioner manufactures crankshafts in the 60-600 pound range, ^{22/} and that other domestic producers manufacture forged steel

^{19/} Id. at A-8-A-9.

^{20/} Id. at A-15.

^{21/} See Tapered Roller Bearings, supra note 10, at 5-7. Where the Commission has considered this argument in the past, it has usually concluded that there is one like product, viewing the product in terms of a continuum. See, e.g., Certain Steel Wire Nails from the Republic of Korea, Inv. No. 701-TA-145 (Preliminary), USITC Pub. 1223 at 4 (1982); Carton-Closing Staples and Nonautomatic Carton-Closing Staple Machines from Sweden, Invs. Nos. 731-TA-116 and 117 (Preliminary), USITC Pub. 1341 at 7 n.13 (Jan. 1983); Certain Steel Wire Nails from Japan, the Republic of Korea, and Yugoslavia, Invs. Nos. 731-TA-45 through 47 (Preliminary), USITC Pub. 1175 at 12 (Aug. 1981) (Additional Views of Chairman Alberger).

^{22/} Tr. at 63-65; Petitioner's Post-Hearing Brief at 2.

crankshafts weighing under 60 pounds and over 600 pounds. ^{23/}

For the above reasons, we determine that all forged steel crankshafts weighing 40-750 pounds, whether machined or unmachined, constitute a single like product. ^{24/} Accordingly, we determine that there is one domestic industry that produces that product.

Condition of the Domestic Industry

In determining the condition of the domestic industry, the Commission considers, among other factors, domestic consumption, U.S. production, capacity, capacity utilization, shipments, inventories, employment, and financial performance. ^{25/} Examination of all these factors reveals an industry in increasingly poor condition.

^{23/} Report at A-8, A-13, and A-15. Sumitomo argues that cast crankshafts compete directly with forged crankshafts in the weight range up to 110 pounds, and therefore forged crankshafts in this weight range should be treated as a distinct product from the heavier crankshafts. Tr. at 197-98. Although cast and forged crankshafts may be used in the same engine, the strength requirements of the application will dictate the choice. For example, the record discloses that a major crankshaft purchaser which uses both forged and cast crankshafts selected a forged crankshaft for one of its products, a medium-duty truck, because this application required a stronger crankshaft. Report at A-16. In our opinion this evidence does not warrant establishing a separate like product in the 40-110 pound weight range.

^{24/} Thyssen Industries A.G., a producer of forged steel crankshafts in West Germany, argues that its L-10 crankshaft is unique and should be excluded from the Commission's investigations. The basis for Thyssen's argument was that U.S. producers would not have the capacity to produce a crankshaft as sophisticated as the L-10 for several years. However, Wyman-Gordon has recently secured participation in the L-10 contract. Report at A-14. For this reason, we do not view the L-10 as unique. Moreover, the L-10 performs the same functions as the other forged steel crankshafts under investigation. Therefore, we have included the L-10 in our investigations.

^{25/} 19 U.S.C. § 1677(7)(C)(iii).

Production of all forged steel crankshafts dropped severely from 1984 to 1985, continued to decline in 1986, ^{26/} and fell sharply again in January-March 1987 compared to January-March 1986. ^{27/} End-of-period capacity for machined crankshafts remained stable during the period of investigation and capacity for unmachined crankshafts increased; ^{28/} however, capacity utilization for both machined and unmachined crankshafts declined. ^{29/}

U.S. producers' domestic shipments of all forged steel crankshafts followed a similar trend, decreasing from 1984 to 1985, falling off slightly in 1986, and then plummeting in interim 1987. ^{30/} Total inventories rose between 1984 and 1986, after falling from 1984 to 1985. While inventories measured by quantity dropped slightly in interim 1987, ^{31/} inventories

^{26/} Report at A-24, table 8. Because there is only one major domestic producer, the data in this opinion are necessarily discussed in general terms.

^{27/} Id.

^{28/} Id.

^{29/} Capacity utilization for unmachined crankshafts dropped sharply in 1985, continued to decline in 1986, and decreased substantially in interim 1987 compared with interim 1986. Capacity utilization for machined crankshafts also decreased sharply in 1985 and in interim 1987 as compared with interim 1986. While capacity utilization for machined crankshafts rebounded slightly in 1986, the data indicate an overall downward trend in capacity utilization. Id.

^{30/} Id. at A-25, table 9. Value data indicated a similar trend, dropping dramatically from 1984 to 1985, holding steady in 1986, and dropping rapidly in interim 1987 when compared with interim 1986.

^{31/} Id. at A-26, table 10.

measured as a share of domestic producers' total domestic shipments, in terms of weight and units, increased in interim 1987 compared with interim 1986. ^{32/}

The average number of production and related workers employed in the manufacture of forged steel crankshafts decreased steadily from 1984 through 1986, and declined in January-March 1987 compared to the same period in 1986. ^{33/} Hours worked by production and related workers showed a similar pattern except that the decline in hours worked in the 1986-1987 interim comparison was greater. ^{34/}

Net sales on operations producing forged steel crankshafts dropped from 1984 to 1985 and declined again slightly in 1986. ^{35/} Operating losses occurred in 1985, 1986, and interim 1987. Operating loss margins as a ratio to net sales persisted from 1985 through March 31, 1987. ^{36/} The domestic industry's financial performance declined in 1985, leveled off in 1986, and declined again during January-March 1987. Accordingly, we determine that the domestic forged steel crankshaft industry is materially injured.

^{32/} Id. Inventories measured by weight also increased in 1985 and again in 1986, whereas inventories measured in units declined only slightly in 1986.

^{33/} Id. at A-27, table 11.

^{34/} Id.

^{35/} Id. at A-29, table 13. While the interim data appear to indicate an increase in net sales in interim 1987 when compared with interim 1986, we note that a single quarter is generally too short a period to provide a reliable picture of financial indicators. Here, the downward trend in all financial indicators is readily apparent.

^{36/} Id.

Cumulation

The Commission is required to cumulatively assess the volume and effect of imports subject to investigation from two or more countries if the imports (1) compete with other imports and with the domestic like product, (2) are subject to investigation, and (3) are marketed within a reasonably coincident period. ^{37/}

In our preliminary determination we found that imports from Japan, Brazil, West Germany, and the U.K. met the statutory requirements for cumulation. ^{38/} Since that determination, the Department of Commerce has issued a negative preliminary antidumping determination on crankshafts from Japan and has extended the date for its final determination in that case to September 25, 1987. ^{39/} In addition, the countervailing duty investigation concerning crankshafts from Brazil, which is now the subject of a suspension agreement, ^{40/} has been continued at the request of the Brazilian Government. ^{41/} These events raise the question whether imports from Brazil and Japan are "subject to investigation."

Section 704(g) of the Tariff Act of 1930 provides that, on the request of an interested party to a suspended countervailing duty investigation, the

^{37/} 19 U.S.C. §1677(7)(C)(iv); H.R. Rep. No. 1156, 98th Cong., 2d Sess. 173 (1984).

^{38/} Preliminary Determination, *supra* note 7, at 13-14.

^{39/} 52 Fed. Reg. 17999 (May 13, 1987); 52 Fed. Reg. 23707 (June 24, 1987).

^{40/} 52 Fed. Reg. 28177 (July 28, 1987).

^{41/} 19 U.S.C. §1671c(g).

Department of Commerce and the Commission shall continue the investigation. Therefore, imports of the subject merchandise from Brazil are clearly subject to investigation. ^{42/} With respect to the imports from Japan, respondents argued that the Commission is precluded from cumulating because the "best information available" at this time is that those imports are fairly traded. ^{43/} We are not persuaded by this argument. Imports of crankshafts from Japan are subject to an ongoing investigation by the Department of Commerce which may (or may not) result in a final determination of LTFV sales and, accordingly, are subject to investigation within the meaning of the statute. ^{44/} For the above reasons, we determine that crankshaft imports from Brazil and Japan are subject to investigation and therefore the volume and effect of imports should be cumulatively assessed if the remaining statutory criteria for cumulation are met.

^{42/} Id. The statute further provides that in making a final determination in a case which has been continued pursuant to section 704(g), the Commission "shall consider all of the merchandise which is the subject of the investigation, without regard to the effect of any agreement" to suspend the investigation. 19 U.S.C. §1671c(j).

The Court of Appeals has recently held that section 771(7)(C)(iv) mandates cumulation of imports across statutes where the criteria of that provision are met. Bingham & Taylor Division, Virginia Industries, Inc. v. United States, 815 F.2d 1482 (1987), affirming 627 F.Supp. 793 (C.I.T. 1986).

^{43/} Post-Hearing Briefs of UEF at 3, Thyssen at 3-4, and J. I. Case/Consolidated Diesel at 6-8.

^{44/} 19 U.S.C. §1677(7)(C)(iv). See also H.R. Rep. No. 1156, 98th Cong., 2d Sess. 173 (1984); Certain Fresh Cut Flowers from Canada, Chile, Colombia, Costa Rica, Ecuador, Israel and the Netherlands, Invs. Nos. 701-TA-275 through 278 (Final) and 731-TA-327 through 331 (Final), USITC Pub. 1956 (Mar. 1987) at 20.

Based on our examination of the record, we determine that imports from Japan and Brazil, as well as the imports from West Germany and the U.K. that are under investigation, satisfy the remaining criteria for cumulative analysis. ^{45/} Imports from all four countries were present in the U.S. market throughout the period under investigation. Moreover, since producers and importers ship forged steel crankshafts almost exclusively to original equipment manufacturers, imports and domestic like products move through similar channels of distribution. ^{46/}

None of the parties questioned the existence of sales or offers to sell imported crankshafts within the same geographical markets. As to the fungibility of the imported and domestic products, we note that while individual crankshafts are generally produced to customer specifications on a job-order basis, crankshafts of the same design produced by different

^{45/} In determining whether imports of the subject merchandise compete with each other and with the like product in the United States market and whether the marketing of imports is reasonably coincident, we have considered the following factors: (1) the degree of fungibility between imports from the different exporting countries and the domestic like product, including evidence of specific customer requirements and other quality-related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution of imports from different countries and the domestic like product; and (4) whether the imports are simultaneously present in the market. See, e.g., Iron Construction Castings from Canada, Inv. No. 731-TA-263 (Final), USITC Pub. 1811 (1986).

^{46/} Report at A-20-A-21, A-35-A-37 and Appendix C.

manufacturers are generally interchangeable. ^{47/} For these reasons, we have cumulated the LTFV imports of forged steel crankshafts from Japan, Brazil, West Germany, and the U.K. for the purpose of assessing their effects.

Material injury by reason of LTFV imports ^{48/}

In making final determinations in antidumping and countervailing duty cases, the Commission must ascertain whether any injury being suffered by the domestic industry is "by reason of" the imports under investigation. ^{49/} Although we may consider information indicating that harm is caused by factors other than subsidized or LTFV imports, we must not weigh causes. ^{50/} The statute directs the Commission to consider, among other factors, (1) the volume of imports of the merchandise that is the subject of the investigation, (2) the effect of imports of that merchandise on prices in the United States for the like products, and (3) the impact of imports of such merchandise on

^{47/} Id. at A-3. UEF and Thyssen argue that the crankshafts they export to the United States should not be cumulated because they did not compete with each other for any contracts during the period under investigation. Post-Hearing Briefs of UEF at 3-4, Thyssen at 4. It is clear from the record that imports from UEF and Thyssen were simultaneously present in the U.S. market throughout the period under investigation. Further, there is some overlap in the end uses for which Thyssen's and UEF's crankshafts are sold in the United States. Report at A-15. Finally, neither party has questioned the interchangeability of crankshafts from West Germany and the U.K.

^{48/} Chairman Liebeler does not join this portion of the opinion.

^{49/} 19 U.S.C. §§1671d(b), 1673d(b).

^{50/} See S. Rep. No. 249, 96th Cong., 1st Sess. 57-58, 75 (1979); H.R. Rep. No. 317, 96th Cong., 1st Sess. 7 (1979).

domestic producers of like products. ^{51/}

The volume of imports from Japan, Brazil, West Germany, and the U.K. was significant throughout the period of investigation, accounting for the vast majority of imports from 1984 through interim 1987. Imports of all forged steel crankshafts increased from 336,000 units valued at \$70.4 million in 1984 to 346,000 units valued at \$62.8 million in 1985, or an increase of 2.8 percent in quantity and a decrease of 10.8 percent in value. Imports further increased to 357,000 units valued at \$57.1 million in 1986, representing an increase in quantity of 3.2 percent and a decrease in value of 10.1 percent. Finally, imports during January-March 1987 amounted to 117,000 units valued at \$17.0 million, an increase over interim 1986 of 17.1 percent in quantity and

^{51/} 19 U.S.C. §1677(7)(B).

UEF argues that the Commission should abandon its standard methodology in assessing causation, and should instead examine each sales transaction which Commerce found to be at LTFV to determine why the ultimately successful bidder was awarded the contract. UEF contends that because the number of such sales is relatively small and each imported crankshaft is unique to the engine for which it was designed, only a contract-by-contract analysis will produce reliable results. UEF Pre-Hearing Brief at 10-14.

As to UEF's argument that the Commission should abandon its standard methodology, we examined the entire record in arriving at our determination, including data on individual purchases and prices of individual crankshafts. However, we also examined aggregate indicators of the volume and effects of the imports under investigation, because the record reflects that many sales contracts for imported crankshafts are not strictly binding and can be modified, or in some cases terminated, due to quality or delivery problems or changes in the exchange rate. Report at A-38, A-45-A-46. Moreover, some purchasers dual-source their crankshafts. *Id.* at A-45, A-48. In addition, while crankshafts are usually produced to customer specifications on a job-order basis, crankshafts of the same design produced by different manufacturers are generally interchangeable. *Id.* at A-3. As to the argument that the Commission should examine only those sales that Commerce found to be at LTFV, we are not required to limit our analysis to those particular imports that Commerce has found to be at LTFV.

9.3 percent in value. ^{52/} On these facts, we conclude that the volume of imports is significant, particularly in light of the sharp increase in the number of units imported during the interim period. ^{53/}

Market penetration of forged steel crankshafts from the four countries displayed a similar trend. Measured by value, market penetration rose sharply in 1985, leveled off in 1986, and then increased dramatically in interim 1987 as compared with interim 1986 and each of the preceding years. Measured by units, penetration also rose rapidly in 1985, continued to rise in 1986, and then increased very sharply in interim 1987. ^{54/} Thus, imports constituted a significant and increasing presence in the U.S. market at a time when the market as a whole was shrinking.

Pricing information on imported crankshafts indicated significant underselling. ^{55/} U.S. producers and importers/purchasers provided quarterly price data on their largest sales or purchases of four different crankshafts for the period of investigation. These data show both producer and purchaser prices generally decreasing during the period of investigation. Moreover, price comparisons indicate that imports from the four countries consistently undersold prices for domestically produced crankshafts. ^{56/} Based on this analysis, we conclude that material injury exists by reason of the imports under investigation.

^{52/} Report at A-35-A-37.

^{53/} See Additional Views of Vice Chairman Brunsdale.

^{54/} Report at A-37-A-38.

^{55/} Vice Chairman Brunsdale did not find the underselling evidence in this case convincing and did not rely on this evidence in making her determination. See her Additional Views, *infra*.

^{56/} Report at A-38-A-43.

In the alternative, we would find material injury due solely to unfair imports from West Germany and the U.K. ^{57/} The combined unit volume of unfair imports from these two countries essentially doubled from 1984 to 1986, and increased sharply again during interim 1987. ^{58/} With apparent consumption declining, the market penetration of these imports grew even more rapidly, from 1984 to 1986, and in the first quarter of 1987. ^{59/} These are significant penetrations. Information on pricing indicate aggressive importer behavior. Imports from the U.K. in particular were priced substantially below domestic prices, and displaced domestic material. ^{60/} Respondents claim that they sell crankshafts that are of much higher quality than the domestic product. Were this true, one would expect these crankshafts to be sold at a premium. However, the record reflects significant underselling by crankshafts from the U.K.

Foreign producers and several purchasers of forged steel crankshafts that oppose the petition contended that any injury being suffered by petitioner resulted from factors other than imports, most notably quality deficiencies in petitioner's crankshafts. ^{61/ 62/} In reply, petitioner argued that while

^{57/} Vice Chairman Brunsdale does not find material injury solely on the basis of imports from the U.K. and West Germany. She does not join in this paragraph of the majority opinion.

^{58/} Report at A-35, table 23.

^{59/} *Id.* at A-38; table 28.

^{60/} *Id.* at A-42, tables, 41-44.

^{61/} *See, e.g.*, Tr. at 267-275 (quality problems); Caterpillar Pre-Hearing Brief at 8 and Post-Hearing Brief at 2 (quality and delivery problems); Cummins Post-Hearing Brief at 1-2 (quality and delivery problems, exchange rate); UEF Pre-Hearing Brief at 35-36 (quality problems, chronic excess capacity, inefficient production, new technology).

^{62/} Vice Chairman Brunsdale found the question of whether considerations of quality rendered price effects immaterial to be the dispositive issue in this case. *See* her Additional Views, *infra*.

it had experienced quality problems in the late 1970s and early 1980s, these problems were corrected so that its crankshafts are now comparable in quality to the imports. Petitioner also stated that it had received good quality ratings from several of its customers right up to the time those customers began sourcing overseas. ^{63/}

In addressing the issue of quality, we have examined a variety of data, both objective and subjective, concerning the quality of petitioner's products as well as differences in quality between the foreign and domestic products. The objective data include evidence of purchasers' rejection rates for imported and domestic crankshafts; ^{64/} certain conditions in the crankshafts that do not justify rejection but do increase purchasers' costs, ^{65/} purchasers' quality certification programs, ^{66/} and the cost of reworking rejected crankshafts. ^{67/} The subjective data include extensive testimony from purchasers concerning how their perceptions of quality affected their purchasing decisions during the period under investigation. ^{68/} In addition, we have scrutinized Wyman-Gordon's testimony on its quality problems

^{63/} Petitioner's Post-Hearing Brief at 8-9. In response to these arguments, the staff has provided information on several aspects of quality including machinability of crankshafts, rejection rates, and lost sales. Report at A-5-A-7, A-47-A-49.

^{64/} Id. at A-5-A-7. These data reflect the value of returned or scrapped crankshafts compared to the total value of crankshafts received in a given period.

^{65/} Id. at A-5-A-6. Such "non-rejective" conditions include poor trim conditions that cause interrupted cuts and tool breakage, poor balance characteristics that increase balancing time and require a more costly rework process, and leading and excessive variability of stock that causes reduced tool life and increased cycle times.

^{66/} Id. at A-46-A-47.

^{67/} See, e.g., Tr. at 222, 223, 22, 230, and 280.

^{68/} See generally Tr. at 233-279; See also Report at A-96-A-100.

and its willingness to address them. ^{69/}

Given the long-term contract nature of the forged steel crankshaft market, purchaser decisions to choose suppliers other than Wyman-Gordon in the early 1980s may have continued to affect that firm's operations into the period of investigation. For this reason, we examined Wyman-Gordon's quality problems before and during the period of investigation to determine whether they were the cause of current injury to the domestic industry. The record reveals that Wyman-Gordon experienced quality problems during the 1970s and early 1980s -- problems that the company admittedly did not start trying to resolve until about 1984. ^{70/} While the quality of Wyman-Gordon's crankshafts appears to have improved after 1984, several purchasers still express continuing concerns about these quality problems. ^{71/} However, data on rejection rates for Wyman-Gordon crankshafts and imported crankshafts show that the petitioner's crankshafts are of substantially the same quality as most of the subject imports. ^{72/} Further, evidence of quality ratings for the past three years indicates that Wyman-Gordon's quality has generally

^{69/} See Petitioner's Post-Hearing Brief at 8-9 and Appendices C-F (correspondence concerning quality ratings by five purchasers); Tr. at 22, 56, 150, 186, 246 and 277.

^{70/} Tr. at 22, 56.

^{71/} Petitioner's Post-Hearing Brief at 8; Report at A-5.

^{72/} Report at A-6-A-7. While one purchaser experienced consistently high rejection rates for petitioner's product, another presented data indicating consistently low rejection rates for petitioner's crankshafts. In any case, rejection data for Wyman-Gordon do not differ significantly from rejection rates for foreign suppliers when viewed in the aggregate.

remained acceptable during the period of investigation. ^{73/} Finally, a recent contract with Cummins to supply a portion of its requirements for the L-10 crankshaft indicates that some end users are more comfortable with the quality of Wyman-Gordon crankshafts which have previously been sourced exclusively in West Germany.

As to the effect of perceived quality problems on purchaser decisions to buy Wyman-Gordon crankshafts, the record as a whole indicates that quality, while equal to or even more important than price in affecting purchasing decisions during the period of investigation, was not the only factor. Whereas some purchasers indicated that foreign-sourced crankshafts were better than domestic crankshafts, others stated that the petitioner's product was as good as the imported crankshafts. ^{74/} The record contains evidence of some lost sales due solely to purchasers' perceptions of the quality of Wyman-Gordon's crankshafts. ^{75/} However, there is also evidence of lost sales on the basis of both quality and price. ^{76/} Further, petitioner has presented evidence that it recaptured some sales by underselling imported crankshafts by a small margin. ^{77/}

^{73/} Petitioner's Post-Hearing Brief at 9 and Appendices A-F. The Commission notes that although the quality ratings provided by petitioner may pertain to only low levels of purchases for certain customers, in the aggregate the quality ratings reflect acceptability for the majority of Wyman-Gordon sales.

^{74/} Report at A-45.

^{75/} *Id.* at A-48.

^{76/} *Id.* at A-48-A-49.

^{77/} Petitioner's Post-Hearing Brief at 8.

Based upon the foregoing considerations, we are unable to conclude that quality problems are the cause of the injury experienced by the domestic forged steel crankshaft industry.

Finally, various purchasers also contended that the injury to the domestic industry was caused by the long-term decline in demand for diesel engines using forged steel crankshafts. ^{78/} At the hearing several purchasers testified that this drop in demand forced them to reduce costs by seeking lower priced, higher-quality crankshafts. ^{79/} Although the apparent consumption data do indicate that demand fell, imports increased market share at the expense of domestic producers.

Accordingly, we conclude that the domestic industry that produces forged steel crankshafts is materially injured by reason of LTFV imports from the U.K. and West Germany.

^{78/} See, e.g., Cummins Post-Hearing Brief at 18.

^{79/} Tr. at 211, 269.

ADDITIONAL VIEWS OF VICE CHAIRMAN ANNE E. BRUNSDALE

Certain Forged Steel Crankshafts from the
Federal Republic of Germany and the United Kingdom
Inv. No. 731-TA-351 and 353 (Final)

September 9, 1987

In these very difficult investigations, the Commission received a great deal of conflicting evidence that clouded the issue of causation. This was especially true with respect to the role of product quality. In a case of this kind, I believe causation cannot be properly resolved until the Commission determines whether or not quality is of such great importance to purchasers that it outweighs their concerns about price. If quality is that important, then imports could not harm the domestic industry by reason of dumping.¹ The domestic industry in this case would lose sales to imports because of higher quality, not because of any price advantage resulting from dumping.²

¹ That is especially true in this case where the weighted average margin of unfair trading was only 4.2 percent.

² More precisely, quality and price are both obviously important to consumers but the key issue is the degree to which consumers will substitute (at the margin) between domestic and
(Footnote continued on next page)

The evidence in these investigations did not unequivocally indicate that quality was much more important to purchasers than price. Thus, price must have been somewhat significant. That being the case, the cumulative effect of dumping by the West Germans and British, as well as the alleged subsidization by the Brazilians and the presence of the Japanese products under investigation, had a material effect on the U.S. industry. Therefore, I make an affirmative decision in this case. Because the emphasis of my analysis on the quality issue is somewhat different from that of my colleagues, and because I do not rely on the pricing evidence gathered in these investigations, I write these additional views.

The Quality Evidence

One of the difficulties in analyzing causation in this case was the role of quality in purchasing decisions. All parties stressed the importance of a quality product to both producers and purchasers of crankshafts.³ However, the evidence

(Footnote continued from previous page)
imported products in response to a change in the relative price of the two products.

3

Petitioners stated their commitment to producing quality crankshafts and the improved quality of their crankshafts in
(Footnote continued on next page)

presented on this issue conflicted sharply. It left me with two basic questions -- whether quality was so overwhelmingly important that sales at less than fair value were not a material factor in the crankshaft customer's purchase decision, and whether the domestic crankshafts were actually of lower quality than the imported product.

Consumers agreed that quality is particularly important in selecting crankshaft suppliers because of increased competition from imported engines and vehicles.⁴ Engine manufacturers stressed that, in their effort to remain competitive internationally,⁵ they had committed themselves to improving quality and cutting costs. They measured quality in several ways, one being the rejection rate -- that is, the number of crankshafts rejected as a percentage of total deliveries.⁶ However, firms measured quality in a number of other ways, and

(Footnote continued from previous page)
 the last several years. See, e.g., Transcript at 22-24 (Wyman-Gordon). Respondents claimed that the only reason they were increasing sales in the United States was that they had a higher quality product than the petitioners. See, e.g., id. at 171-72 (Thyssen). Consumers testified before the Commission that their crankshaft purchases were made on the basis of quality. See, e.g., id. at 241-42 (Cummins).

⁴ See id. at 211.

⁵ See, e.g., id. at 241-42.

⁶ Id. at 247, 249.

cautioned the Commission that total quality is a more accurate⁷ reflection of a producer's quality than the rejection rate.

Caterpillar defined a quality forging as one that required machining of minimal difficulty and expense and delivered maximum⁸ efficiency. Total quality can be measured by looking at the technology employed by the manufacturer, the machineability of the forging, the quality of the steel used in the forging, and⁹ the closeness of the tolerance of the forging. The higher the quality, the less time and effort required to install the¹⁰ crankshaft in the engine. Obviously then, improved quality is one way in which consumers hope to improve the performance of their engines.

The Commission received a great deal of evidence indicating that foreign crankshafts are higher quality products and that foreign manufacturers are more committed to quality production than domestic producers. Parties stated that foreign

⁷
Id. at 229. See also id. at 231.

⁸
Id. at 231.

⁹
Id. at 247-48, 229, 211.

¹⁰
Id. at 229-30.

manufacturers use state-of-the-art technology,¹¹ and superior manufacturing processes as well.¹² Consumers also stated that foreign manufacturers were more willing to accommodate customers' needs than the domestic industry.¹³

The Commission also received much evidence on Wyman-Gordon's inability to meet the quality standards of its customers. According to one end-user, Wyman-Gordon's products were of unacceptably low quality¹⁴ and were inconsistent as well, meaning that they exhibited differences in length, out-of-round diameter features,¹⁵ and uneven stock distribution. In addition, Wyman-Gordon allegedly had trouble meeting delivery

11

See Cummins Prehearing Brief at 4, Transcript at 239 (Cummins), 169-70 (Thyssen's claim that it has state-of-the-art technology in both forging and steelmaking processes).

12

See Cummins Prehearing Brief at 4; Transcript at 170 (Thyssen claiming that its manufacturing process for crankshafts is superior to Wyman-Gordon's).

13

See Caterpillar Prehearing Brief at 14-15 (discussing the willingness of foreign manufacturers to work with Caterpillar on its needs for fast delivery).

14

See id. at 9.

15

Id. at 11. Caterpillar complained that Wyman-Gordon products had problems with the trim line, counterweight contours at extreme tolerance ranges, and lack of details between features with minimal dimensional differences.

16
schedules. Other parties testified that Wyman-Gordon
17
products tested poorly. Finally, customers testified that
Wyman-Gordon could not correct problems even when notified of
18
their severity, and seemed unwilling to work with customers
19
to improve quality.

On the other hand, the Commission received a great deal of
evidence indicating that the domestic industry's product quality
was similar to that of the imports. One of the respondents
admitted that every producer has quality problems from time to
20
time, and that Wyman-Gordon's increased sales may indicate
21
that it has resolved some of its quality problems. The
Commission staff collected evidence that Wyman-Gordon's rejection
rate for crankshafts was no worse than that of the importers over

16
Id. at 14.

17
Transcript at 240.

18
Id. at 272. John Deere had placed Wyman-Gordon on
probation for one year before de-certifying them as a
supplier. Wyman-Gordon still could not improve its quality and
was de-certified. Id.

19
See id. at 271 (Deere reported that Wyman-Gordon did not
respond to requests for forgings with closer tolerances and
improved steel), 212 (Caterpillar stated that it had attempted
to work with Wyman-Gordon, but without success).

20
Id. at 152 (Statement of UEF).

21
Id. at 148.

the period of investigation.²² In addition, one respondent noted that rejection rates are as much a function of the age of the crankshaft design as the quality of the producer.²³ Finally, a number of producers and end users admitted at the hearing that quality differences between the domestic and imported products were not so great.²⁴ These statements tend to cast doubt on the certainty of the statement that the domestic quality is lower.

In addition, Wyman-Gordon supplied considerable information on the quality issue.²⁵ The firm admitted that it had had some quality problems several years ago while breaking in its Danville facility. It argued that the situation had improved in the last several years, however, and listed a number of steps taken to bring about the improvement.²⁶

22

Staff Report at A-6 (Table 1). One exception was Caterpillar. In 1985, the rate for Wyman-Gordon was substantially higher than the rate for imports. The exact figures are confidential. Id.

23

See Transcript at 157 (Thyssen).

24

See Transcript at 150(UEF), 186 (Thyssen), 246 (Cummins), 277 (Deere).

25

See, e.g., Wyman-Gordon Prehearing Brief at 40 (listing the quality awards won by Wyman-Gordon); Wyman-Gordon Postconference Brief, Table 6.

26

See Statement of Michael Curtis, Wyman-Gordon Submitted at the Commission Hearing at 2. Curtis discusses a three-point program Wyman-Gordon has implemented to improve quality. This program includes a Statistical Process Control quality control program, employee involvement programs and productivity teams, and installation of state-of-the-art design, manufacturing, and testing equipment.

On balance, the evidence did not indicate to me that quality concerns make the price of crankshafts unimportant for purchasers. In addition, I am not persuaded that there were sufficient quality differences to vitiate fully the competitive price advantage that would flow from the dumping in this case. I therefore agree with my colleagues that dumped imports were a material cause of injury to the domestic industry in this case.

The Price Evidence

The price information gathered in this investigation is difficult to assess because of the nature of transactions between buyers and sellers. First, domestic engine manufacturers normally award a contract to supply a new crankshaft based not only on price, but also on the supplier's technological ability, past working relationships, and a host of other factors. Thus, a higher price may win a contract because of non-price factors that make the supplier attractive to the purchaser.²⁷ In addition, after a particular crankshaft has been designed, engine manufacturers like to "dual-source" their procurements, if the volume of crankshafts purchased permits, so as to guarantee themselves a steady supply. Thus, even though a supplier may not offer a purchaser the lowest price, the price may fall into an acceptable range for a purchaser seeking a second source for a crankshaft.

27

See Transcript at 170-72 (Thyssen describing the procedure used in developing the Cummins' L-10 crankshaft).

Finally, purchasers may pay a higher price for crankshafts from a manufacturer if they believe, based on past performance, testing, or industry reputation, that crankshafts from that manufacturer will require less machining by the purchaser. The closer a manufacturer can produce a crankshaft to the specifications of a purchaser, the lower the cost to purchaser of installing the crankshaft.²⁸ None of these factors relates to dumping, but all can help explain price differences between crankshafts.

The price data reported by the staff in these investigations are not adjusted for these factors. Indeed, it would be enormously difficult for Commission staff to make these kind of adjustments and they did not attempt to do so. Because the price data have not been adjusted, I do not believe they provide the degree of accuracy the Commission needs to decide these cases. Thus, I do not find the price comparisons reported by staff helpful in determining whether material injury was caused by unfair imports in this case.

The Role of Margins in These Investigations

I have also considered the weighted average margin for cumulated imports. While it is low in this case (4.2 percent), the cumulated market share is very high, thus amplifying any revenue effect resulting from unfair imports. Although this is a close case, I nonetheless conclude, on balance, that unfairly traded imports caused material injury.

²⁸

See, e.g., id. at 274 (Deere).

ADDITIONAL AND DISSENTING VIEWS OF CHAIRMAN LIEBELER

Certain Forged Steel Crankshafts
from the Federal Republic of Germany and
the United Kingdom
Invs. Nos. 731-TA-351 and 353

(Final)

I determine that a domestic industry is not materially injured or threatened with material injury by reason of imports of certain forged steel crankshafts from the Federal Republic of Germany, and the United Kingdom, which are allegedly being sold at less than fair value.^{1/}

I concur with the majority's definitions of the like product and domestic industry, and with their discussion of cumulation and the condition of the industry. Because my views on causation differ from those of the majority, I offer these additional and dissenting views.

Material Injury by Reason of Imports

In order for a domestic industry to prevail in a final investigation, the Commission must determine that dumped imports cause or threaten to cause material injury

^{1/} As there is an established domestic industry, "material retardation" was not raised as an issue in these investigations and will not be discussed further.

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

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

The statutory language used for both parts of the analysis is ambiguous. "Material injury" is defined as "harm which is not inconsequential, immaterial, or

^{2/} Sands, Sutherland Statutory Construction § 45.02 (4th Ed.).

unimportant."^{3/} As for the causation test, "by reason of" lends itself to no easy interpretation, and has been the subject of much debate by past and present commissioners. Clearly, well-informed persons may differ as to the interpretation of the causation and material injury sections of title VII. Therefore, the legislative history becomes helpful in interpreting title VII.

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

But the legislative history shows that the mere presence of LTFV imports is not sufficient to establish

^{3/} 19 U.S.C. § 1977(7)(A) (1980).

causation. In the legislative history to the Trade Agreements Acts of 1979, Congress stated:

[T]he ITC will consider information which indicates that harm is caused by factors other than the less-than-fair-value imports.^{4/}

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

The Senate Finance Committee acknowledged that the causation analysis would not be easy: "The determination of the ITC with respect to causation, is under current law, and will be, under section 735, complex and difficult, and is a matter for the judgment of the ITC."^{6/} Since the domestic industry is no doubt worse off by the presence of any imports (whether LTFV or fairly traded) and Congress has directed that this is not enough upon which to base an affirmative determination, the

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

^{5/} Id.

^{6/} Id.

Commission must delve further to find what condition Congress has attempted to remedy.

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

This Act is not a 'protectionist' statute designed to bar or restrict U.S. imports; rather, it is a statute designed to free U.S. imports from unfair price discrimination practices. * * * The Antidumping Act is designed to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a United States industry.^{7/}

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

[T]he Antidumping Act does not proscribe transactions which involve selling an imported product at a price which is not lower than that needed to make the product competitive in the U.S. market, even though the price of the imported product is lower than its home market price.^{8/}

This "complex and difficult" judgment by the Commission is aided greatly by the use of financial and

^{7/} Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

^{8/} Id.

economic analysis. One of the most important assumptions of traditional microeconomic theory is that firms attempt to maximize profits.^{9/} Congress was obviously familiar with the economist's tools: "[I]mporters as prudent businessmen dealing fairly would be interested in maximizing profits by selling at prices as high as the U.S. market would bear."^{10/}

An assertion of unfair price discrimination should be accompanied by a factual record that can support such a conclusion. In accord with economic theory and the legislative history, foreign firms should be presumed to behave rationally. Therefore, if the factual setting in which the unfair imports occur does not support any gain to be had by unfair price discrimination, it is reasonable to conclude that any injury or threat of injury to the domestic industry is not "by reason of" such imports.

In many cases unfair price discrimination by a competitor would be irrational. In general, it is not

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

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

rational to charge a price below that necessary to sell one's product. In certain circumstances, a firm may try to capture a sufficient market share to be able to raise its price in the future. To move from a position where the firm has no market power to a position where the firm has such power, the firm may lower its price below that which is necessary to meet competition. It is this condition which Congress must have meant when it charged us "to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a United States industry."^{11/}

In Certain Red Raspberries from Canada, I set forth a framework for examining what factual setting would merit an affirmative finding under the law interpreted in light of the cited legislative history.^{12/}

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

^{11/} Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

^{12/} Inv. No. 731-TA-196 (Final), USITC Pub. 1680, at 11-19 (1985) (Additional Views of Vice Chairman Liebeler).

elasticity of supply of other imports).^{13/}

The statute requires the Commission to examine the volume of imports, the effect of imports on prices, and the general impact of imports on domestic producers.^{14/} The legislative history provides some guidance for applying these criteria. The factors incorporate both the statutory criteria and the guidance provided by the legislative history. Each of these factors will be discussed in turn

Causation analysis

Let us start with import penetration data. A large market share is a necessary condition for a seller to obtain or enhance market power through unfair price discrimination. Penetration of imports from the United Kingdom, West Germany, Brazil and Japan increased during the course of the investigation. Market penetration of imports is relatively high and is increasing

^{13/} Id. at 16.

^{14/} 19 U.S.C. § 1677(7)(B)-(C) (1980 & cum. supp. 1985).

moderately.^{15/} This is consistent with an affirmative determination.

The second factor is the margin of dumping. The higher the margin, ceteris paribus, the more likely it is that the product is being sold below the competitive price^{16/} and the more likely it is that the domestic producers will be adversely affected. The margin of dumping is determined by the Department of Commerce. In this case, the weighted-average margin is 4.16%, which is very low. Thus, this factor is not consistent with an affirmative determination.

The third factor is the homogeneity of the products. The more homogeneous the products, the greater will be the effect of any allegedly unfair practice on domestic producers.

There is considerable evidence indicating that purchasers find the quality of the domestic product inferior to that of the imported product. In judging the overall quality of forged steel crankshafts, purchasers

^{15/} A more precise description of import penetration cannot be given here because the data is confidential.

^{16/} See text accompanying note 8, supra.

look at such factors as rejection rates, delivery performance, and the producer's commitment to developing new technologies which might lower costs. In each of these aspects there is substantial evidence that the domestic product is inferior to the imported product.^{17/}

In a statement representative of the views expressed by other purchasers, one end user testified that historically it had found the quality of foreign crankshaft suppliers higher than that of petitioner.^{18/} Representatives of petitioner appearing as witnesses admitted the inferior quality of their crankshafts.^{19/} Despite the general recognition of these quality problems, purchasers testified that petitioners have been unwilling to work with end users to improve the quality of the domestic product.^{20/}

Purchasers testified that increased competition in a shrinking market for the downstream product has forced them to place a high priority on cost containment.^{21/} Because poor quality crankshafts lead to increased

^{17/} Hearing Transcript at 223, 271, 241, 242, 248.

^{18/} Id. at 281.

^{19/} Id. at 22.

^{20/} Id. at 213, 271.

^{21/} Id. at 211, 242.

machining and inventory costs, quality is a very important consideration in sourcing decisions.^{22/}

Although much of the testimony regarding quality problems referred to a period prior to the period of this investigation, end users testified that, due to the fact that crankshafts are sold on a long-term contract basis, the length of time necessary to ascertain the quality of crankshaft suppliers, and petitioner's lack of long-term commitment to quality, quality problems continued to affect their sourcing decisions during the period of the investigation.^{23/}

Thus, the imported and domestic products are not perceived by purchasers as homogeneous. This factor is consistent with a negative determination.

As to the fourth factor, evidence of declining domestic prices, ceteris paribus, might indicate that domestic producers were lowering their prices to maintain market share. Domestic prices for forged steel crankshafts

^{22/} Id. at 222, 229, 230, 248, 274. The overwhelming importance of quality is well illustrated by the testimony of one domestic end user that, regardless of price, it would not purchase domestic crankshafts if superior quality supply were available from imports. Id. at 214.

^{23/} Id. at 272, 285, 286.

generally declined slightly from 1984 to 1985 and remained stable thereafter.^{24/} The pricing information in this case is inconclusive.

The fifth factor is foreign supply elasticity (barriers to entry). If there is low foreign elasticity of supply (or barriers to entry) it is more likely that a producer can gain market power. Gerlach, a West German producer, is the only major producer of machined forged steel crankshafts other than those subject to title VII investigations.^{25/} During the period of the investigation, this producer had significant sales in the U.S. market.^{26/} This suggests that the potential supply response is relatively elastic. This factor is not consistent with an affirmative determination.

These factors must be balanced in each case to reach a sound determination. Although market penetration is quite high, the pricing data is inconclusive and none of the other factors support an affirmative determination. The

^{24/} Report at A-40- A-42, Tables 29, 30, 32, 33, 39, 40, 41.

^{25/} Report at A-37-A-38, Tables 26, 27, 28.

^{26/} Id.

margins of dumping are extremely low. Purchasers regard quality as extremely important and view the domestic product as inferior to the imported product. Domestic prices have stabilized. There are no significant barriers to entry. In this case I have analyzed and weighed each of these factors and reached a negative determination.

THREAT

A finding that the domestic industry is threatened with material injury requires evidence that the threat is real and actual injury is imminent.^{27/} Market penetration is high but there is no indication that it will increase. United States producers' inventories of forged steel crankshafts, measured in units, increased from 1984 to 1985, decreased in 1986, and further decreased in interim 1987 as compared with interim 1986.^{28/} Inventories of foreign producers are relatively stable.^{29/} Also, major exporters are operating at high capacity utilization

^{27/} 19 U.S.C. sec. 1677(7)(f)(ii)(supp.III 1985).

^{28/} Report at A-26, Table 10. Inventories measured in pounds decreased between 1984 and 1985, increased in 1986, and decreased in interim 1987, as compared with interim 1986.

^{29/} Report at A-33-A-34, Tables, 18, 19, 20.

rates, ^{30/} and there is no evidence that they intend to increase their sales to the United States. Pricing information in this case is inconclusive. ^{31/} The domestic industry is not threatened with material injury from the subject imports.

Conclusion

Therefore, I determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of forged steel crankshafts from the Federal Republic of Germany and the United Kingdom.

^{30/} Id. at A-33-A-34, Tables 18, 19, 20.

^{31/} The potential for product-shifting is not at issue in this case because there are no outstanding orders on other products made by the crankshaft producers under investigation.

INFORMATION OBTAINED IN THE INVESTIGATIONS

Introduction

On October 9, 1986, petitions were filed with the U.S. International Trade Commission and the U.S. Department of Commerce by counsel on behalf of Wyman-Gordon Company, Worcester, MA. The petitions alleged that imports of certain forged steel crankshafts from Brazil are being subsidized by the Government of Brazil; that imports of certain forged steel crankshafts from Brazil, the Federal Republic of Germany (West Germany), Japan, and the United Kingdom are being sold in the United States at less than fair value (LTFV); and that an industry in the United States is materially injured and threatened with material injury by reason of such imports.

Accordingly, effective October 9, 1986, the Commission instituted preliminary countervailing duty investigation No. 701-TA-282 (Preliminary) and preliminary antidumping investigations Nos. 731-TA-350 through 353 (Preliminary) ^{1/} under the applicable provisions of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports of such merchandise into the United States. On November 24, 1986, the Commission notified Commerce of its affirmative determinations with respect to its preliminary investigations (51 F.R. 44537, Dec. 10, 1986).

On January 8, 1987, Commerce published notice in the Federal Register (52 F.R. 17999) of its preliminary determination that benefits that constitute subsidies are being provided to manufacturers, producers, or exporters of certain forged steel crankshafts in Brazil. Accordingly, the Commission instituted investigation No. 701-TA-282 (Final) under the applicable provisions of the Tariff Act of 1930 to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports of the subject products into the United States (52 F.R. 5200). On July 28, 1987, Commerce suspended the countervailing duty investigation involving Brazil, on the basis of an agreement to eliminate completely all benefits provided by the Government of Brazil that were found to constitute subsidies (52 F.R. 28177). However, in a letter to the Commission dated August 17, 1987, counsel for the Brazilian producers requested a continuation of the investigation concerning forged steel crankshafts from Brazil. The request for continuation was also made of Commerce on the same date on behalf of the Government of Brazil.

On May 13, 1987, Commerce published notices in the Federal Register (52 F.R. 17999) of its preliminary determinations that certain forged steel crankshafts from West Germany and the United Kingdom are being sold in the

^{1/} On Oct. 30, 1986, the petitioner advised the Commission that the anti-dumping petition with respect to Brazil had been voluntarily withdrawn from Commerce on Oct. 29, 1986. Therefore, the Commission issued a notice of withdrawal of petition and termination of its investigation No. 731-TA-350 (Preliminary) (51 F.R. 41163).

United States at LTFV. 1/ Accordingly, effective May 13, 1987, the Commission instituted investigations Nos. 731-TA-351 and 353 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded by reason of imports of such merchandise.

On June 24, 1987, Commerce published a notice in the Federal Register (52 F.R. 23708) postponing the date for making its final LTFV determination in its investigation involving imports from the United Kingdom. Commerce made its determination in this case on August 26, 1987. 2/ Commerce's affirmative final LTFV determination in its investigation concerning imports from West Germany was published in the Federal Register of July 28, 1987.

A summary of Commerce's actions on the subject investigations is presented below: 3/

<u>Country</u>	<u>Type of investigation</u>	<u>Date of Commerce's preliminary determination</u>	<u>Date of Commerce's final determination</u>
Brazil	Countervailing duty	January 8, 1987	<u>1/</u>
West Germany	Antidumping	May 13, 1987	July 28, 1987
United Kingdom	Antidumping	May 13, 1987	August 26, 1987

1/ Because of the 20-day suspension, Commerce has not yet rendered its final determination in this investigation; it was to have been made by July 21, 1987.

The Commission's public hearing held in connection with the instant investigations took place on August 4, 1987. 4/ The briefing and votes are scheduled for September 3, 1987.

Previous and Related Investigations

In April 1986, the Commission completed an investigation under section 332 of the act entitled A Competitive Assessment of the U.S. Forging Industry (Investigation No. 332-216, USITC Publication 1833). Forged steel crankshafts were a product group selected for study in that investigation. The Commission has conducted no other investigations of forged steel crankshafts.

1/ At the same time, Commerce made a negative preliminary determination in its antidumping investigation concerning such imports from Japan.

2/ Also on June 24, 1987, Commerce postponed the date for making its final determination in its antidumping investigation concerning imports from Japan. Commerce will now make its determination in this case by Sept. 25, 1987.

3/ A chronology of actions on the subject investigations is presented in app. A. Copies of the Commission's and Commerce's Federal Register notices are presented in app. B.

4/ A list of witnesses appearing at the hearing is presented in app. C. As indicated, witnesses for the Japanese respondents also presented testimony.

The Products

Description and uses

Product description.--The products that are the subject of these investigations are forged carbon or alloy steel crankshafts with a net shipping weight of between 40 and 750 pounds, whether machined or unmachined. Cast crankshafts or forged crankshafts with a net shipping weight less than 40 pounds or greater than 750 pounds are not subject to these investigations.

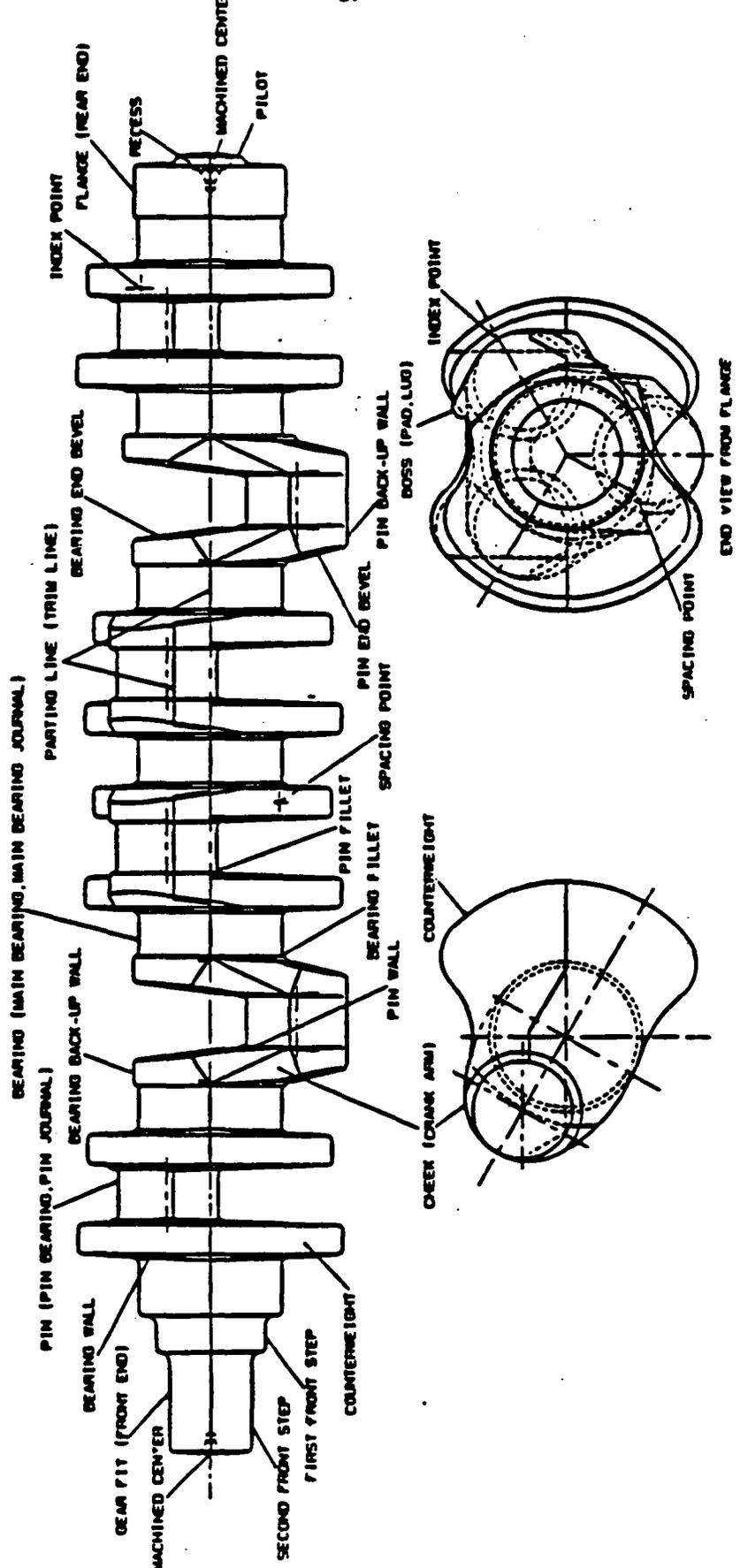
Forged crankshafts between 40 and 750 pounds in weight are primarily used in engines with vehicular applications, whereas forged crankshafts outside this weight range are primarily incorporated in engines with other than vehicular applications. The crankshafts subject to investigation are used principally in diesel (and to a lesser extent, large gasoline) engines for on-highway trucks and tractors (e.g., class 6, 7, and 8 trucks). Other end uses are diesel engines for off-road equipment (construction, mining and material handling, and stationary power equipment); farm machinery and equipment; military vehicles (both track and wheel varieties, such as tanks, personnel carriers, systems carriers, and other ground vehicles); certain aircraft engines; smaller diesel marine engines; and diesel engines for automobiles.

Crankshafts are used in internal combustion engines to transform the reciprocal action of the engine's pistons (connected to the crankshaft itself with connecting rods) into rotational energy or torque. In vehicles, the crankshaft is connected to the transmission and driveshaft, which ultimately power the wheels of the vehicle. Each crankshaft is generally produced to customer specifications on a job-order basis, but crankshafts of the same design produced by different manufacturers are generally interchangeable.

The two principal components of a crankshaft are the main bearings and the pin bearings (a diagram of a representative crankshaft is presented in fig. 1). The main bearings rotate on center in the engine block; the pin bearings, which are attached to the connecting rods (which are in turn attached to the engine's pistons), revolve off center in a planetary manner around the axis of the main bearings. During the power stroke of a 2- or 4-cycle engine, the piston and its attached connecting rod are forced downward, causing the pin bearings to revolve around the main bearing axis. As each revolution of the axis is completed, the piston is forced back to the top of the cylinder, thereby compressing the air/fuel mixture in the cylinder in preparation for ignition and the subsequent down stroke. The pin bearings of the crankshaft are positioned to ensure that one or more pistons in the power stroke will reciprocally drive the remaining piston or pistons through the compression stroke.

The pin bearings of the crankshaft are secured to the main bearings by crank arms that are positioned perpendicularly to the axis of the crankshaft. The crank arms may be designed with counterweights, depending upon the particular specifications. The weight and placement of these counterweights are carefully designed to ensure that the crankshaft is balanced during engine operation. Furthermore, the rear end of the crankshaft typically will be designed with a flange, which will be secured to the engine flywheel; finally, a second flange often will be designed into the crankshaft's front end to facilitate connection with the engine's timing gear.

Figure 1.-- Crankshaft Terminology



Physical characteristics.--In the manufacturing of crankshafts, the forging process provides the finished product with certain physical characteristics: directional strength (uni-directional grain flow); structural integrity (no internal gas pockets or voids); impact strength (greater resistance to impact and fatigue); and uniformity (die impressions exert positive control over all contours). In addition, hardness and strength are controlled by composition and heat treatment. 1/

The extent to which an unmachined crankshaft (raw forging) is machineable depends upon the dimensional accuracy of the forging. 2/ Allowable deviations (tolerances) that affect machineability are specified in dimensional drawings for crankshafts and include the following: 3/

- Selection of the parting line
- Finish allowance
- Draft, corner, and fillet radii tolerances
- Minimum section thickness and maximum rib heights
- Die closure/thickness tolerances
- Length and width/die wear tolerances
- Match/mismatch tolerances
- Out-of-roundness deviation
- Allowable concentricity

Machineability is essential and suppliers and purchasers have worked cooperatively to develop quality control programs. 4/ Throughout these investigations both Wyman-Gordon and its U.S. customers have acknowledged that quality problems have occurred with certain domestic and foreign products, but principally with Wyman-Gordon's products; they differed, however, as to magnitude and timing. Wyman-Gordon acknowledges that it had quality problems in the late 1970's and early 1980's, due to the start-up of its Danville, IL, facility, but claims that these problems have been resolved. However, respondents testified that quality problems persist with Wyman-Gordon crankshafts.

In order to assess the difference in quality between the domestic and the foreign product, a comparison of rejection rates as one measure of quality for U.S. products and foreign supplied products is presented in table 1. Data reflect the value of returned or scrapped crankshafts compared to the total value of crankshafts received in a given period. Other differences in quality have been identified in "non-rejective" conditions such as poor trim conditions that cause interrupted cuts and tool breakage; poor balance characteristics

1/ Forging Handbook, Forging Industry Association, Cleveland, OH; pp. 8 and 9.

2/ Machineability is the relative ease with which materials can be shaped by cutting, drilling, or other chip-forming processes (Ibid., p. 5).

3/ Ibid., pp. 68 and 69.

4/ As an example, Cummins Engine has established a cost management program that requires quality agreements with its suppliers. The agreements specify Cummins' requirements, supplier process controls, systems, and detailed agreements reached on quality controls ("Supplier Linking", Cummins pamphlet).

Table 1

Unmachined forged steel crankshafts: Rejection rates for U.S. products and foreign-supplied products, 1984-86, January-March 1986, and January-March 1987

* * * * *

that increase balancing time and require a more costly rework process; and leading and excessive variability of stock that causes reduced tool life and increased cycle times. 1/

The share of total Wyman-Gordon sales of unmachined forged steel crankshafts, and the share of U.S. purchases of total purchases accounted for by the four purchasers reporting quality experience, are listed in the following tabulation (in percent):

* * * * *

As indicated by the figures and documented by internal memos, Caterpillar generally experienced higher rejection rates with Wyman-Gordon crankshafts than with those of its other suppliers. This was especially the case in 1985, when Caterpillar rejected *** percent of its shipments from Wyman-Gordon, because of dimensional nonconformance (excess out-of-roundness) resulting in machining problems. 2/ Wyman-Gordon "reworked" the crankshafts to bring them into specification ranges, and considered the problem to be due to the old and poor quality steel that Caterpillar asked Wyman-Gordon to use in production (Caterpillar purchases the raw material steel for its crankshaft suppliers). 3/ In 1986, Caterpillar experienced machining problems with its purchases of crankshafts from * * *, resulting in the fourth highest rejection rate for all suppliers recorded during the period of investigation. In response to a question as to the correlation between high rejection rates and the age of the product, UEF has indicated that there is no consistent pattern between the age of a crankshaft model and the experience of rejections. 4/

The * * * experience compares the rejection rates of the three suppliers for * * *. During 1984-86, Wyman-Gordon's rates were below *** percent. * * * registered higher rates than Wyman-Gordon in the same period, which resulted when * * *. 5/ * * * crankshafts consistently registered lower rates than either Wyman-Gordon or * * * in 1984-86; however, * * *. 6/

Among its crankshaft suppliers, Navistar experienced the greatest levels of rejections with * * *. In quantitatively assessing its suppliers,

1/ *** questionnaire response, exhibit 34A, June 25, 1987.

2/ Caterpillar internal memo, Mar. 5, 1984; postconference brief, attachment.

3/ Ibid.; and July 10, 1987, telephone interview with * * *.

4/ Aug. 17, 1987, telephone interview with David Birenbaum, counsel for UEF, responding to Commissioner Brunsdale's question at the hearing (TR, pp. 159-160).

5/ * * *.

6/ Nov. 4, 1986, confidential submission by Cummins Engine and subsequent telephone interviews with * * * (Nov. 7, 1986).

Navistar's QA70 program requires a supplier to meet certain quality capabilities, and suppliers are rated into one of the following six categories:

X	Non-producing
0	Unsatisfactory
1	Marginal
2	Conditional
3	Meets minimum expectations
4	Exceeds expectations

Ratings for Navistar's suppliers of its two high-volume crankshafts are as follows:

* * * * * * *

Deere & Co. reported significant rejection rates for Wyman-Gordon crankshafts, ranging from a low of *** percent to a high of *** percent, with the highest rates occurring in 1986 and January-March 1987. Deere was the only other purchaser that supplied information to quantitatively measure supplier quality. Deere does not have a formal program for rating forging suppliers, but it has rated UEF's facilities as part of a supplier facility audit. UEF's facilities were rated at *** and *** on a scale of 10, with 10 being the highest rating.

Manufacturing Considerations

Machinery and equipment

Certain machine tools used in the forging industry, such as lathes, drill presses, grinders, and milling machines, are common to many metalworking industries. Forging equipment involving deformation by impact has no counterpart. 1/

Forging operations.--A brief description of hammers and presses, the two main pieces of forging equipment used by both domestic and foreign forgers, follows.

Hammers.--In operating a forging hammer, a heavy ram containing the upper die is raised and then driven or allowed to fall on the workpiece, which is placed on the bottom die. The usual ratio of anvil-to-ram weight is 20:1 (the anvil extends underground and serves as a massive inertia block). Hammers are rated by falling weight and range from 20,000 to 35,000 pounds. 2/

Presses.--Hydraulic forging presses are operated by large pistons driven by high-pressure hydraulic or hydropneumatic systems, which apply pressure by squeezing rather than by impact. Hydraulic presses have a variable stroke that can be adjusted to predetermined speeds, pressures, and dwell time. Usually the forging is struck only once in each die impression, which provides for consistent forging results with high productivity and

1/ Forging Handbook, p. 195.

2/ Ibid., p. 197.

accuracy. The maximum pressure at the bottom of the work stroke and the estimated load at this point is the basis for rating press capacity. 1/

In a screw press, the forging load is transmitted through the slide, screw, and bed to the press frame. The available load at any given stroke position is supplied by energy stored in the flywheel. At the end of the forging stroke, the flywheel and screw come to a standstill before reversing the direction of rotation. The modern screw press is equipped with an energy-metering device that controls the flywheel velocity and regulates the total amount of energy required for operation. 2/

During these investigations questions have arisen as to the capability of the domestic industry to produce forged steel crankshafts in the range of 40 to 750 pounds. Data have been compiled on machinery and equipment used by U.S. manufacturers to produce the subject crankshafts, as to type and capability, and are presented in the following tabulation:

* * * * * * *

Machining operations.--Machinery and equipment used in finishing a forged steel crankshaft include milling machines, lathes, hardening (heat treatment) systems, grinders, lappers/polishers, and measuring equipment (* * *). Wyman-Gordon's lathes have the capability of machining crankshafts from *** to *** pounds and from *** to *** inches. 3/ Certain equipment such as * * * can be adapted to machine cast or light-weight forged crankshafts, while other equipment either cannot be used or, if used, requires reduced speeds. 4/

Manufacturing processes

Forging process.--Crankshafts are generally made of either carbon or alloy steel, with the particular material reflecting the engineering requirements and service life of the engine in which the crankshaft is to be used. The metal may be formed into its desired configuration through either casting or forging.

These investigations concern forged crankshafts only. The forging process involves the heating and reshaping of metal under impact or intense pressure. The combination of heat and pressure strengthens and improves the metallurgical characteristics of the finished part. Forging is used to produce crankshafts for engines with high compression ratios and/or heavy duty service requirements.

The crankshaft forging process generally involves the following steps: carbon or alloy steel billets are cut to size, heated, placed in a closed die, and then shaped by a series of impressions under extreme pressure, either by a

1/ Ibid., p. 199.

2/ Forging Handbook, p. 200.

3/ * * *.

4/ Ibid.

mechanical press or hammers. The crankshaft is then trimmed of excess metal and may be twisted in order to move the throws to their final positions if the design so requires. The crankshaft may then receive any of several heat treatment procedures (e.g., annealing, normalizing, or quenching) and is cleaned of scale through a shot blasting procedure. Finally, the crankshaft must be machined to exact specifications. Machining is most commonly performed by the end user; however, certain U.S. producers are also capable of performing such operations.

Machining process.--The processing of a forged steel crankshaft from a forged to a finished state requires multiple stages of machining. The following stages in the machining process have been detailed by Wyman-Gordon's Jackson facility:

* * * * *

The machining process will remove approximately 10 to 15 percent of steel and will add value 1.5 to 2 times that of the raw forging.

Like Products

A number of like product issues have been raised during these investigations, and each of the issues is discussed below.

Cast versus forged

A crankshaft may be formed into its desired configuration through either casting or forging. Casting creates a fabricated piece by pouring molten metal into molds. This process produces a crankshaft of relatively less strength that is suitable for engines (generally gasoline powered) with lower compression ratios and shorter service lives.

The petitioner contends that forged and cast crankshafts are not substitutable. Counsel for the petitioner indicated that the two types of crankshafts have different physical characteristics (forged having greater strength), different manufacturing processes (requiring different machinery), different skills requirements for the respective workers, and different channels of distribution for different end uses. 1/ Figure 2 provides a graphic presentation of the physical differences between forged and cast products.

During these investigations, counsel for Sumitomo, the principal supplier of Japanese crankshafts, contended that there is "Direct competition between forged and cast crankshafts below the 110 pound level." 2/ For example, crankshafts for light trucks can be either forged or cast, as Sumitomo * * *. 3/ Therefore, counsel for Sumitomo argued that crankshafts weighing

1/ Petitioner's post conference brief, p. 4.

2/ Sumitomo's post conference brief, pp. 12-13.

3/ * * *.

between 40 and 110 pounds constitute a separate like product, because they are regularly sold to customers requiring different applications when compared to the crankshaft specified in the petition.

Unmachined versus machined

The petition recommends that both unmachined and machined crankshafts be covered in the scope of the investigations, because of similarities in physical characteristics and end uses. The petitioner states that "Prior to machining, the forged crankshaft possesses its essential configuration and all basic metallurgical and engineering characteristics required in engine performance. None of the value added during machining consists of materials or other physical additions to the forged product. 1/ An unmachined crankshaft is irrevocably destined for machining and use in an engine; it has no other end use." Petitioner also states that there is no independent crankshaft machining industry, as the machining of crankshafts is performed for captive consumption by U.S. engine makers themselves or their affiliated firms. Wyman-Gordon is the only U.S. manufacturer of forged crankshafts (within the specified product range) that is integrated into machining. 2/

Counsel for the two major Brazilian producers asserts that unmachined and machined crankshafts have different characteristics, uses, customers, channels of distribution, manufacturing processes and machinery, and different employees. Counsel argues that the two products do not compete for the same sales because they are not interchangeable and have no substitutability. 3/

Counsel representing two purchasers of imports of forged steel crankshafts has argued that there are substantial differences between forged and machined crankshafts with respect to physical characteristics, production processes, and channels of distribution. In addition, the machining process will add 1.3 to 2.2 times the value of the raw forging. It is, therefore, argued that these differences necessitate the examination of two separate industries producing two like products. 4/

Information on unmachined and machined crankshafts is presented separately in the staff report wherever possible in order to facilitate consideration of the issue.

Weight range

Petitioner asserts that the 40-750 pound weight range delineating imported crankshafts corresponds with production capabilities of two 16,000-metric ton percussion screw presses at Wyman-Gordon's Danville plant. In testimony before the Commission Wyman-Gordon stated that Danville's

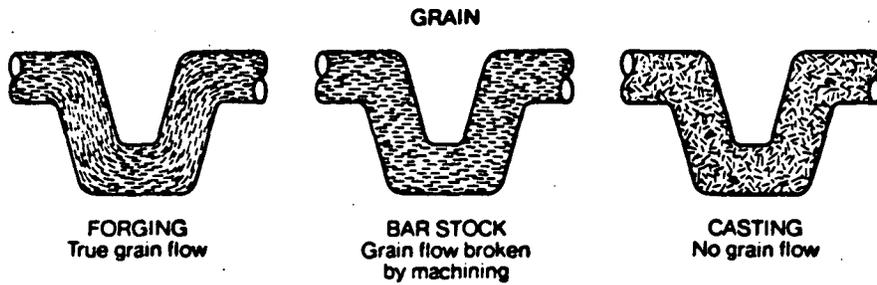
1/ The U.S. Customs Service considers value added to be only one factor in determining the country of origin for forged crankshafts. Substantial transformation of the physical characteristics of the product is the overriding consideration (Nov. 7, 1986, telephone interview with Arthur Schiffelin, Office of Regulations and Rulings).

2/ Wyman-Gordon post-conference submission; pp. 12, 14, and 15.

3/ Post conference submission for Sifco and KMCL, pp. 12 and 15.

4/ Prehearing brief of J.I. Case and Consolidated Diesel, pp. 6-10.

FIGURE 2. Schematic representation of grain structure in forging, bar stock, and casting



SOURCE: Forging Handbook, Forging Industry Association, p. 8.

capability could be more realistically within a 60 to 600 pound range. 1/ With respect to smaller size crankshafts, Wyman-Gordon has indicated that it will be able to produce smaller pieces at Danville by equipping the 16,000-ton presses with special holders that permit use of multiple die impressions. Danville's large presses are flexible in that energy requirements can be reduced by adjusting the force of the presses, as well as by reducing the energy input into induction heaters. 2/ With respect to larger crankshafts, Danville's second 16,000-ton press has a greater "foot-pound" capability, which enables Wyman-Gordon to produce heavier crankshafts than was possible on the first 16,000-ton press.

During the preliminary phase of these investigations counsel for the Brazilian producers suggested that the investigation should encompass three like products by weight, based on product characteristics, end uses, production equipment, and manufacturing process. Accordingly, the Brazilians argued that product categories should include the following:

- 40-120 pounds -- primarily used in car and light-duty truck engines; utilizing a 8,000-metric-ton press
- 120-180 pounds -- used for medium- to heavy-duty trucks; utilizing a 12,000-metric-ton press
- 180-750 pounds -- used for construction and agricultural machinery; utilizing a 16,000-metric-ton press

Counsel for the Japanese producer, Sumitomo, has also argued that there are at least three distinct, but different, product groups within the 40-750 pound weight range, with crankshafts in each of these product groupings being similar in physical, end-use, and production-process characteristics. 3/ The groups of like products as espoused by Sumitomo include:

- 40-110 pounds -- used for automobiles, light-duty trucks and small marine engines; can be replaced by a cast crankshaft; made on 6,000-ton, or occasionally 11,000-ton presses
- 111-480 pounds -- used for heavy-duty trucks, earth moving and construction equipment, and agricultural machinery; cannot be substituted with cast crankshafts; made on 11,000-ton or 16,000-ton presses
- Over 480 pounds -- overlap with medium-range, but also used in large commercial ships, industrial power plants, and large-scale agricultural equipment; outside range of 16,000-ton press

Counsel for UEF, the producer of forged steel crankshafts in the United Kingdom, has testified to the difficulty of making a like product analysis and separating out three separate industries because "the break points are very

1/ Counsel for Sumitomo asserts that * * *.

2/ Wyman-Gordon's post conference submission, p. 9.

3/ Sumitomo's prehearing brief, p. 5. Although not subject to these investigations, Sumitomo has entered its appearance as a related party and testified at the Commission's August 4th hearing.

difficult to draw with any great precision." ^{1/} UEF accepts the product range of the investigations as one large industry, but suggests that the Commission analyze actual market segments in addressing the issues of cumulation and causation.

Sales activity.--In order to facilitate consideration of like products based on weight ranges, information has been compiled on total sales activity within each range, as well as customers and end use. A discussion of the data follows.

The Commission has collected information concerning U.S. producers' domestic shipments and U.S. purchases of imports of unmachined forged crankshafts by weight range. Fourteen U.S. purchasers, accounting for all of reported unmachined imports of forged crankshafts in 1986, provided useable data (table 2). The findings are summarized below.

The share of U.S. producers' total shipments accounted for by 40-110 pound crankshafts increased from *** percent in 1984 to *** percent in 1985 and 1986, and then fell to *** percent during January-March 1987. From 1984 to 1986 Wyman-Gordon produced *** of its crankshafts in this weight range at the Harvey plant, which ceased manufacturing in October 1986. The comparable share for imports increased consistently from *** percent in 1984 to *** percent during January-March 1987.

Respective shares of sales in the 111-330 pound range, were *** percent for U.S. producers and *** percent for importers in 1984. By 1986, the share of producers' shipments in this range had decreased by *** percentage points, and the share of imports decreased by *** points.

U.S. producers reported *** percent of shipment activity in the 331-550 pound weight range in 1984, decreasing to *** percent in 1986, and then increasing to *** percent during January-March 1987. Imported crankshafts in this range were *** percent of total imports in 1984, declined to *** percent in 1986, and fell to *** percent during January-March 1987.

Approximately *** percent or less of shipments of forged crankshafts for both U.S. producers and importers were over 550 pounds in 1986. Wyman-Gordon produced * * * of these crankshafts at Harvey.

Table 2
Unmachined forged steel crankshafts: U.S. producers' domestic shipments and imports by U.S. purchasers, by weight ranges, 1984-86, and January-March 1986 and 1987

* * * * *

^{1/} TR, pp. 159-160.

End uses.--Information concerning the end uses of and customers for forged steel crankshafts weighing between 40 and 750 pounds is presented in tables 3 and 4. Data were obtained from purchaser responses to Commission questionnaires and internal Wyman-Gordon documents obtained in a verification visit. With respect to unmachined crankshafts, Wyman-Gordon and foreign suppliers compete in similar markets, in both gasoline and diesel engines, in a range of horsepower, and in all weight ranges (see table 3). Competition in the machined forged steel crankshafts is more limited, centers on the range between 70 and 200 pounds, and involves one major customer, General Motors, Detroit Diesel-Allison division (see table 4).

Unique product

In 1979, Cummins solicited bids for price quotes on a new engine design (the "L-10") from all qualified suppliers (including Wyman-Gordon). The engine was to be light in weight with the most economical fuel consumption of any engine then available in the U.S. market in that category. The crankshaft had to be over 30 percent lighter in weight than the NH crankshaft, yet provide the engine with a higher power/weight ratio. It would have to be forged to critical tolerances: counterweights had to be so tightly forged to tolerance that they would not have to undergo any machining; and cranks had to be forged in position, requiring exactness of preform and tooling design. Thyssen Industries was selected to design the prototype crankshaft for the L-10 engine. Thyssen retains sole right to its design documents and tooling technology. During the preliminary phase of these investigations, counsel for Thyssen contended that a U.S. manufacturer was 2 or perhaps 3 years away from producing a like or similar article, and therefore, this product should be excluded from the scope of the investigations. 1/

* * *, Wyman-Gordon secured a *** percent participation in Cummins' requirements for the L-10 crankshaft in 1987, and a minimum *** percent participation in requirements for 1988 and 1989. 2/

1/ Postconference submission for Thyssen Industries, pp. 11-13.

2/ Wyman-Gordon questionnaire response, letter of Mar. 5, 1987 (attachment 1).

Table 3
Unmachined forged steel crankshafts: Customers and end uses, by weight ranges, 1986

Weight range and producer	Customer	End use		
		Application	Engine type	Engine power Horsepower
<u>40-110 pounds:</u>				
***	***	Truck	Gasoline	450
		Truck	Diesel	101-150
		Truck	Gasoline	201-250
		Stationary	Gas & diesel	71-100
		Agriculture	Diesel	0-100
		Aircraft	Gasoline	251-300
		Construction	Gas & diesel	0-100
		Automotive	Gasoline	251-300
		Truck	Gasoline	101-150
		Truck	Diesel	101-150
		Construction	Diesel	0-100
		Truck & agriculture		
<u>111-330 pounds:</u>				
***	***	Truck & stationary	Diesel	
		Truck	Diesel	251-300
		Agriculture	Diesel	0-200
		Construction	Gas & diesel	0-300
		Aircraft	Gasoline	351-400
		Truck	Diesel	201-250
		Ag. & construction	Diesel	151-350
		Agriculture	Diesel	101-150
		Agriculture	Diesel	101-150
		Truck	Diesel	201-250
		Construction	Diesel	101-150
		Truck & construction	Diesel	
		Truck	Diesel	151-200
		Truck	Diesel	151-200
<u>331-550 pounds:</u>				
***	***	Construct., stationary & marine	Diesel	251-600
		Miscellaneous	Diesel	Over 600
		Truck	Diesel	351-400
		Truck	Diesel	351-400
		Truck	Diesel	301-350
		Truck	Diesel	301-350
		Truck	Diesel	351-400
<u>550-750 pounds:</u>				
***	***	Construction	Diesel	351-400
		Construction	Diesel	501-550
		Construction	Diesel	501-550
		Construction	Diesel	501-550

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission, and internal documents of Wyman-Gordon.

Table 4

Machined forged steel crankshafts: Customer and end uses by weight ranges, 1986

* * * * *

U.S. tariff treatment

Crankshafts, whether cast or forged, and whether unmachined or machined, are classified in schedule 6 of the Tariff Schedules of the United States (TSUS), as follows (in percent ad valorem):

TSUS item No.	Description	Staged col. 1 rates of duty effective with respect to articles entered on or after January 1--					Col. 2 rate of duty
		1983	1984	1985	1986	1987	
660.67A	Parts of piston-type engines other than compression-ignition engines.	3.6%	3.4%	3.3%	3.2%	3.1%	35%
660.71A	Parts of compression-ignition piston-type engines.	4.4%	4.2%	4%	3.9%	3.7%	35%

1/ The designation "A" indicates that the articles classified in the item are currently designated as eligible articles for duty-free treatment under the Generalized System of Preferences (GSP), and that all beneficiary developing countries are eligible for the GSP.

Nature and Extent of Subsidies and Sales at LTFV

Determinations of the U.S. Department of Commerce regarding subsidies and sales at less than fair value are summarized below by country.

Brazil

Commerce has preliminarily determined that benefits which constitute subsidies are being provided to manufacturers, producers, or exporters in Brazil through the following programs:

Preferential Working Capital Financing for Exports
Income Tax Exemption for Export Earnings

Commerce determined the net subsidy to be 4.96 percent ad valorem. The review period for measuring subsidization was calendar year 1985.

Federal Republic of Germany

Commerce compared the purchase price of U.S. sales with foreign market value based on home-market sales or, where appropriate, constructed value. In order to capture sales based on long-term contract requirements, the period of investigation was extended to encompass the 20 months from March 1, 1985, to October 31, 1986. The weighted-average dumping margins (in percent ad valorem) and the quantity and value of sales at LTFV (in percent) calculated by Commerce are as follows:

<u>Company</u>	<u>Margin</u>	<u>Sales at LTFV</u>	
		<u>Quantity</u>	<u>Value</u>
Gerlach-Werke.....	De minimis	<u>1/</u>	<u>1/</u>
Thyssen.....	2.02	***	***
All others.....	2.02	<u>1/</u>	<u>1/</u>

1/ Not applicable.

The LTFV margins on the individual sales examined by Commerce ranged from *** percent to *** percent.

United Kingdom

Commerce compared the purchase price of U.S. sales with foreign market value based on delivered prices in the home market. In order to capture sales based on long-term contract requirements, the period of investigation was extended to encompass the 13 months from October 1, 1985, to October 31, 1986. The weighted-average dumping margins (in percent ad valorem), and the quantity and value of sales at LTFV (in percent) calculated by Commerce are as follows:

<u>Company</u>	<u>Margin</u>	<u>Sales at LTFV</u>	
		<u>Quantity</u>	<u>Value</u>
United Engineering & Forging....	14.67	***	***
All others.....	14.67	<u>1/</u>	<u>1/</u>

1/ Not applicable.

The LTFV margins on the individual sales examined by Commerce ranged from *** percent to *** percent.

The U.S. Market

U.S. producers

Unmachined crankshafts.--There are over 25 known U.S. manufacturers of forged steel products, of which only 6 firms are believed to be producers of forged steel crankshafts within the 40-750 pound weight range. The six firms are Federal Forge, Lansing, MI; Interstate Drop Forge, Milwaukee, WI; Ladish Company, Cudahy, WI; Louisville Forge and Gear Works, Louisville, KY; Park Drop Forge, Cleveland, OH; and Wyman-Gordon, Worcester, MA.

The Commission sent questionnaires to all six of these producers and received completed responses from five firms, including the largest producer, Wyman-Gordon. The one firm that did not respond to the questionnaire is believed to have accounted for less than *** percent of production in 1986. The following tabulation shows U.S. manufacturers' production levels for forged unmachined steel crankshafts in 1986 and their shares of production (in percent):

* * * * *

Wyman-Gordon in Worcester, MA, is the largest independent forging company in the United States. Its Eastern Division produces technically advanced forgings for aerospace applications. Wyman-Gordon produces forged steel crankshafts in its Western Division, with production centered in the forging plant at Danville, IL, and a crankshaft-machining facility in Jackson, MI. In late October 1986, Wyman-Gordon ceased operations at its Harvey, IL, forging plant.

On April 15, 1985, International Harvester sold its forging operations to Louisville Forge and Gear Works, * * *. ^{1/} Louisville Forge accounted for approximately *** percent of total U.S. production of unmachined forged steel crankshafts in 1986.

Federal Forge and Interstate Drop Forge manufacture limited quantities of forged crankshafts in the relevant size range. Ladish is primarily a manufacturer of aerospace forgings and also a producer of forged pipe fittings, flanges, and other forgings. Park Drop Forge has manufactured only small amounts of crankshafts within the relevant size range since approximately 1980.

All five reporting firms, representing at least an estimated *** percent of total U.S. production, are in support of the petitions in these investigations.

^{1/} * * *.

Machined crankshafts.--All unmachined crankshafts, or raw forgings, must be machined in order to be used in the assembly of an engine. Approximately 70 to 80 percent of such machining is undertaken by original equipment manufacturers for captive consumption. Petitioner and purchasers have identified the following six firms as commercial (non-captive) crankshaft machining companies:

Wyman-Gordon.....	Jackson, MI
Atlas Crankshaft.....	Fostoria, OH
(Cummins Engine subsidiary)	
Norton Manufacturing Co.....	Fostoria, OH
Kellogg Crankshaft Co.....	Jackson, MI
Modern Machine Works.....	Cudahy, WI
Atlas Industries.....	Woodville, OH

Questionnaires were sent to all six firms, but usable data were provided by only Wyman-Gordon's Jackson facility. It is estimated that Wyman-Gordon accounts for approximately *** percent of the commercial market for machined crankshafts. Wyman-Gordon's principal machining customer is ***, which accounted for approximately *** percent of sales in 1984 and *** percent in 1986.

U.S. importers

Imported forged crankshafts are included in so-called "basket" categories of crankshafts for internal combustion engines. Such categories include cast crankshafts, as well as crankshafts that do not fall within the specified weight range. Information identifying importers and purchasers of imported forged crankshafts in the subject weight range was provided by counsel for the petitioner, and was verified against files provided by the U.S. Customs Service. The Commission sent questionnaires to 22 importers and purchasers, which included all the known major importers/purchasers of forged steel crankshafts. The 22 importers/purchasers are believed to account for more than 95 percent of total imports of forged steel crankshafts from the countries subject to these investigations.

Fourteen U.S. purchasers, accounting for approximately 95 percent of total imports in 1986, provided usable data on their imports/purchases of forged steel crankshafts from the subject countries. The following tabulation presents information on the major purchasers of imports, their locations, 1986 purchase levels, and each purchaser's share of total imports of forged steel crankshafts:

* * * * *

Wyman-Gordon imports.--* * *, a sales agreement was negotiated between Wyman-Gordon and * * * Brazil, for an unmachined forged steel crankshaft weighing *** pounds and having a purchase price of \$*** per unit. The agreement called for estimated annual requirements of *** units, with shipments to begin * * *. By the end of the period of these investigations, Wyman-Gordon had imported * * *. 1/

Channels of distribution

Forging producers and importers ship crankshafts almost exclusively to original-equipment manufacturers (OEMs). The OEM customers for forged steel crankshafts are engine manufacturers, whose engines are destined primarily for the motor-vehicle market.

In response to Commission questionnaires, 2 U.S. producers (accounting for *** percent of production) and 11 U.S. purchasers (accounting for *** percent of total imports of forged crankshafts) provided information on shipments of unmachined crankshafts by type of market, based on the end use of the assembled engine within which the crankshafts would be used. These data, based on units, are presented in table 5. Such information indicates that U.S. producers' principal customers are concentrated in the truck and bus market, with *** percent of its shipments going to such OEMs in 1984, *** percent in 1985, and *** percent in 1986.

In terms of the end use of engines, purchases of imports of forged crankshafts were used increasingly in the truck and bus market (*** percent of imports in 1984, increasing to *** percent in 1986). Purchases of imports in the farm-machinery and equipment market accounted for *** percent in 1984 and declined to *** percent in 1986.

For both U.S. producers and purchasers of imports, the use of forged crankshafts for gasoline engines has been increasing. Significant purchases of domestically produced forged crankshafts by * * * for use in trucks with greater than 450 horsepower accounted for the increase of purchases in U.S. produced crankshafts.

Market factors

The demand for forged steel crankshafts is derived principally from the demand for diesel engines, in that approximately 80 to 90 percent of the forged steel crankshafts subject to investigation are used in diesel-engine applications. Data on shipments of diesel engines by automotive and nonautomotive function are presented in table 6. The cyclical nature of the

1/ July 10, 1987, letter from counsel for Wyman-Gordon.

Table -

Forged steel crankshafts: End uses of engines containing U.S. product and imports, by types of market, 1984-86

* * * * *

market for diesel engines is graphically depicted in figures 3 and 4. From 1979 to 1984, shipments of automotive diesel engines increased irregularly by 34.3 percent, influenced by the demand for trucks and buses. During the same period, shipments in the nonautomotive diesel-engine market decreased irregularly by 47.7 percent, which was attributed principally to decreases in the shipments of engines in the agriculture vehicular market.

From 1984 to 1986, automotive diesel-engine shipments declined by 26.8 percent, as the market for trucks and buses softened. During the same period, shipments of nonautomotive diesel engines continued to decline, by 23.8 percent, again influenced by declines in the market for agricultural vehicles.

Table 6

Diesel engines.—Shipments by function and by type of market, 1979-86 1/ 2/

Item	1979	1980	1981	1982	1983	1984	1985	1986
By function:								
Automotive.....	420,205	559,250	626,448	443,345	422,085	564,286	501,113	413,079
Nonautomotive.....	403,769	344,119	349,262	209,496	169,552	211,019	173,401	160,755
Total.....	823,974	903,369	975,710	652,841	591,637	775,305	674,514	573,834
Nonautomotive engines								
by type of market: <u>3/</u>								
Agriculture.....	160,159	104,523	128,397	85,143	59,186	50,568	30,994	24,637
General industrial...	90,439	90,483	93,606	56,412	42,272	57,337	57,814	<u>4/</u>
Construction and marine.....	122,136	120,467	94,555	47,041	46,933	74,515	70,390	<u>4/</u>

1/ Represents engines shipped or produced and incorporated into products at the same establishment.

2/ Except outboard, nondiesel automotive and aircraft.

3/ Other applications not itemized include generator sets and motive power type railroad.

4/ Not available.

Source: Current Industrial Reports—Internal Combustion Engines, U.S. Department of Commerce, Bureau of the Census, various years.

Figure 3.-- DIESEL ENGINES PRODUCED
(quantity in units)

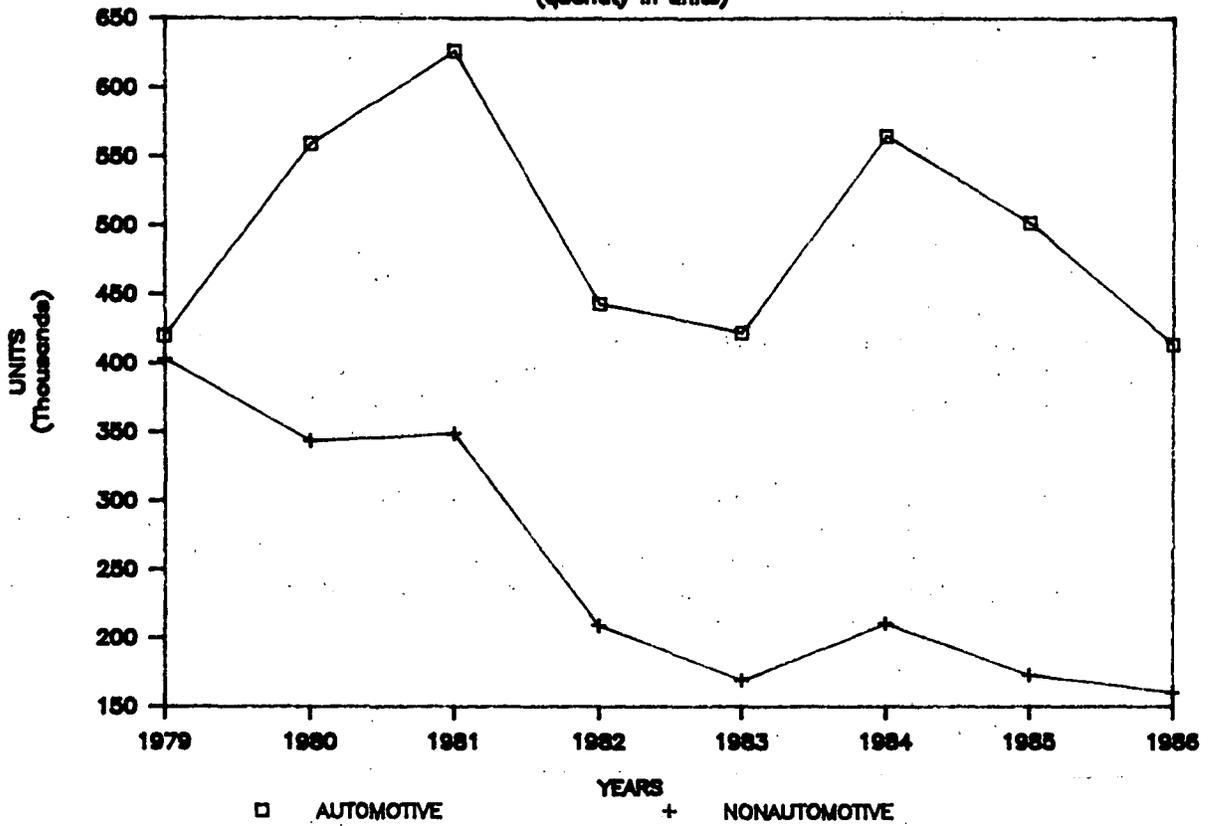
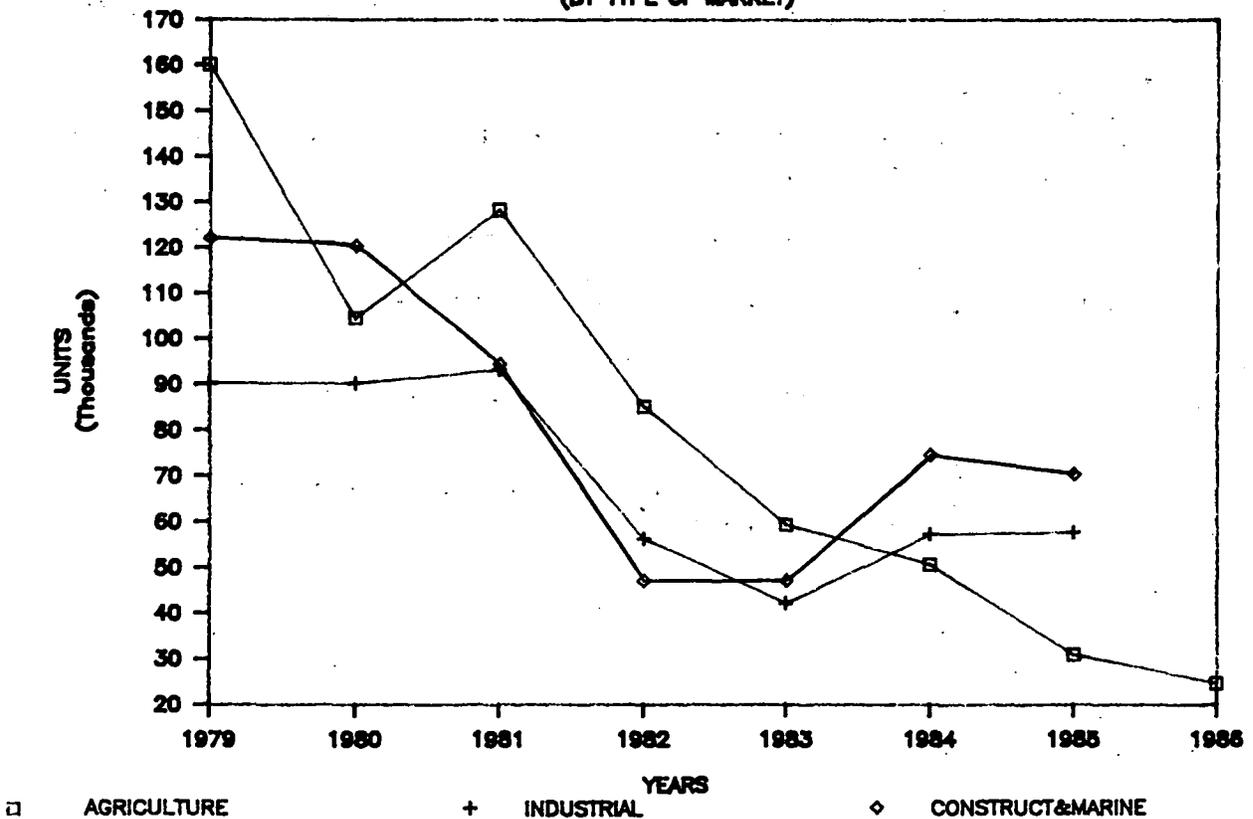


Figure 4.--NONAUTOMOTIVE DIESEL ENGINES
(BY TYPE OF MARKET)



Source: Table 4.

Apparent U.S. consumption

The data on apparent U.S. consumption by type of forged steel crankshaft have been provided in response to Commission questionnaires (table 7), and consist of the following:

- Unmachined--U.S. producers' domestic shipments (including intra-company transfers at market value) and imports of unmachined crankshafts
- Machined--U.S. producers' domestic shipments (excluding crankshafts machined for captive consumption by U.S. original equipment manufacturers) and imports of machined crankshafts
- Total--U.S. producers' domestic shipments of unmachined crankshafts (including intra-company transfers), and imports of unmachined and machined crankshafts

Table 7

Forged steel crankshafts: U.S. producers' domestic shipments, imports, and apparent consumption, by types and weight ranges, 1984-86, January-March 1986, and January-March 1987

* * * * *

Trends in apparent consumption.--Total market sales of unmachined forged steel crankshafts decreased from *** units in 1984 to *** units in 1985, or by *** percent, and then increased to *** units in 1986, or by *** percent. Sales of these forged crankshafts were *** units during January-March 1987, or *** percent less than sales during the corresponding period of 1986.

From 1984 to 1986, total market sales of machined forged steel crankshafts decreased consistently, from *** units to *** units, or by *** percent. The January-March 1987 period continued to show a decrease in apparent consumption, from *** units to *** units, or by *** percent from the same period in 1986.

Total market sales of all forged steel crankshafts decreased from *** units in 1984 to *** units in 1985, or by *** percent, and then increased to *** units in 1986, or by *** percent. Sales of these forged crankshafts were *** units during January-March 1987, or *** percent less than sales during the corresponding period of 1986.

U.S. producers' share of apparent consumption.--From 1984 to 1986, U.S. producers' share of total apparent consumption of the subject forged steel crankshafts decreased steadily, from *** percent to *** percent. When compared with the corresponding period of 1986, the U.S. producers' share of total apparent consumption during January-March 1987 showed a drop to *** percent from *** percent.

Consideration of Alleged Material Injury

The information in this section of the report was compiled from responses to questionnaires of the U.S. International Trade Commission. The five producers that provided questionnaire responses are believed to account for over 95 percent of total U.S. production of forged steel crankshafts. 1/

U.S. production, capacity, and capacity utilization

Data on reported U.S. production, end-of-period capacity, and capacity utilization of forged steel crankshafts are presented in table 8. Production of all forged steel crankshafts decreased from *** pounds in 1984 to *** pounds in 1985, or by *** percent. Production declined in 1986 to *** pounds, or by *** percent. Production during January-March 1987 amounted to *** pounds, a decrease of *** percent compared with the level of production in the corresponding period of 1986. This decline coincides with the closing of Wyman-Gordon's Harvey facility.

Table 8

Forged steel crankshafts: U.S. production, end-of-period capacity, and capacity utilization, by types, 1984-86, January-March 1986, and January-March 1987

* * * * *

Capacity to produce unmachined forged crankshafts remained relatively stable from 1984 to 1986, with an increase of approximately *** percent in 1985 as a result of * * *. Capacity to produce machined forged steel crankshafts increased from *** pounds in 1984 to *** pounds in 1985, or by *** percent, then increased further in 1986 to *** pounds, or by *** percent, and remained constant during the interim periods of 1986 and 1987.

Capacity utilization for unmachined crankshafts was *** percent in 1984, decreased to *** percent in 1985, and fell to *** percent in 1986. During January-March 1987, the rate decreased to *** percent from *** percent in

1/ Changes in data from the prehearing report have resulted from verification visits by Commission staff to Wyman-Gordon's forging and machining facilities.

the comparable period of 1986. ^{1/} Capacity utilization rates for Wyman-Gordon and its two forging facilities, and all other U.S. producers are presented below (in percent):

* * * * * * *

Capacity utilization for machined crankshafts was *** percent in 1984, decreased to *** percent in 1985, and then increased to *** percent in 1986. During January-March 1987, the rate of capacity utilization dropped to *** percent, which has been attributed to * * *. ^{2/}

U.S. producers' domestic shipments

Data on U.S. producers' domestic shipments of forged steel crankshafts are presented in table 9. U.S. producers' domestic shipments of all forged steel crankshafts decreased from *** units 1984 to *** units in 1985, or by *** percent, and decreased slightly, by *** percent, to *** units from 1985 to 1986. Shipments in January-March 1987 amounted to *** units, a decrease of *** percent compared with the level of domestic shipments in the corresponding period of 1986.

Table 9
Forged steel crankshafts: U.S. producers' domestic shipments, by types, 1984-86, January-March 1986, and January-March 1987

* * * * * * *

The value of U.S. producers' domestic shipments of all forged steel crankshafts decreased from \$*** in 1984 to \$*** in 1985, or by *** percent, and then increased by *** percent to \$*** in 1986. During January-March 1987 shipments amounted to \$***, a decrease of *** percent compared with the level in the corresponding period of 1986.

The unit value of U.S. producers' domestic shipments of unmachined forged steel crankshafts decreased from \$*** per piece in 1984 to \$*** per piece in 1985, and then rose to \$*** per piece in 1986; the unit value during January-March 1987 was \$***, a decrease compared with the unit value of \$*** during January-March 1986. The unit value of U.S. producers' domestic shipments of machined forged steel crankshafts decreased from \$*** per piece

^{1/} Respondent from the United Kingdom argues that underutilized capacity is due to Wyman-Gordon's investment in a second 16,000 ton "back-up" press in 1981, as the market for crankshafts declined (UEF prehearing brief, p. 35). Petitioner argues that the investment decisions regarding expansion at both Danville and Harvey were made during 1978-80 as demand was high, and were urged by customers planning further expansions in their engine assembly business (Petitioner's posthearing brief, p. 2, and Wyman-Gordon * * *); with one 16,000 ton press Danville was at near capacity in 1979 (petitioner's posthearing brief, p. 2).

^{2/} July 6, 1987, telephone interview with * * *.

in 1984 to \$*** per piece in 1985 and \$*** in 1986; unit value during January-March 1987 was \$***, an increase compared with the unit value of \$*** during January-March 1986.

As shown in table 7, the unit value of domestic shipments of machined crankshafts is substantially higher than that of unmachined crankshafts. The ratio of the unit value of machined crankshafts to the unit value of unmachined crankshafts was *** to 1 in 1984, *** to 1 in 1985, *** to 1 in 1986, and *** to 1 during January-March 1987.

U.S. exports

Only one U.S. producer (* * *) reported exports of forged steel crankshafts, * * *. The information obtained in response to the Commission's questionnaire is presented in the following tabulation:

* * * * *

U.S. producers' inventories

U.S. producers' inventories of all forged steel crankshafts increased from *** units as of December 31, 1984, to *** units as of December 31, 1985, or by *** percent (table 10). Inventories decreased to *** units as of December 31, 1986, or by *** percent. Inventories on March 31, 1987, amounted to *** units, a decrease of *** percent compared with the level of inventories on March 31, 1987.

Table 10
Forged steel crankshafts: U.S. producers' end-of-period inventories, by types, 1984-86, January-March 1986, and January-March 1987

* * * * *

As a share of U.S. producers' total domestic shipments (based on units) during the preceding year, inventories increased from *** percent as of December 31, 1984, to *** percent as of December 31, 1985, and then decreased to *** percent as of December 31, 1986. On the basis of annualized shipments, the ratio was *** percent as of March 31, 1986, increasing to *** percent as of March 31, 1987. The relatively high level of inventories compared with domestic shipments is consistent with the fact that reported inventories include "work-in-process".

U.S. producers' employment and wages

The average number of production and related workers producing all forged crankshafts for the 5 producers that provided employment data decreased from *** in 1984 to *** in 1985, or by *** percent, and continued to decrease in

1986 to *** employees, or by *** percent (table 11). The number of workers in January-March 1987 was ***, representing a decrease of *** percent from the *** workers in the corresponding period of 1986. 1/ The number of hours worked by production and related workers producing all forged crankshafts decreased from *** to *** during 1984-86. The number of hours worked in January-March 1987 was ***, representing a decrease of *** percent from the number worked in the corresponding period of 1986.

Table 11

Employment statistics for U.S. establishments in which forged steel crankshafts are produced: Average number of employees, hours worked, wages, hourly wages, and labor productivity, 1984-86, January-March 1986, and January-March 1987

* * * * *

Almost all of the production and related workers producing forged crankshafts at most of the reporting producers are represented by unions. 2/ Unions that have represented Wyman-Gordon workers during the period of investigation are listed below:

Danville -- United Auto Workers
 Harvey -- United Steel Workers of America
 International Brotherhood of Boilermakers
 International Association of Machinists
 International Brotherhood of Electrical Workers
 International Die Sinkers Conference
 Jackson -- United Auto Workers

Financial experience of U.S. producers

Wyman-Gordon accounted for approximately *** percent of total U.S. forged steel crankshaft production between 40 and 750 pounds in 1986. Data for Wyman-Gordon are discussed below. Financial data for other producers are presented in a subsequent section.

Operations of the Wyman-Gordon Co. -- The company had three plants that produced the subject products during the period covered by the investigations. The Harvey, IL, plant (closed in October 1986) and the Danville, IL, plant produced unmachined crankshafts. The Jackson, MI, plant machines unfinished crankshafts, and Wyman-Gordon transfers a portion of its unmachined production

1/ During the last 6 months of 1985 Wyman-Gordon began transferring personnel out of its Harvey facility in anticipation of that plant's closing. During 1986 Harvey production was phased out, resulting in layoffs of support personnel. Forging operations ceased by October 1986 except for minimal orders, and by March 1987 all manufacturing operations at Harvey had ceased. (July 13, 1987, telephone interview with * * *.)

2/ * * *

to its operations at Jackson. These intracompany transfers accounted for ***, ***, and *** percent of the firm's total shipments (in pounds) in 1984, 1985, and 1986, respectively. Transfer pricing policy is based on market value.

The following excerpt from Wyman-Gordon's 1985 annual report discusses its crankshaft operations and the decision to close the Harvey, IL, plant. 1/

"Since the start-up of our very productive facility in Danville, IL, which is targeted at the mid-size, high-volume diesel engine crankshaft market, the Harvey plant has concentrated on more specialized, lower-volume segments of that market. Its scheduled closure is a reflection of the continuing depression in the market as well as severe...foreign competition. This competition has led to reduced volume, extreme pressure on prices and a major erosion of profitability which adversely affected the 1985 earnings of the entire Midwest division. Future crankshaft operations will be concentrated at our Danville forging plant and at Jackson, MI, our specialized crankshaft machining operation.

The subject products accounted for *** percent of total establishment sales in 1986. A summary of each plant's subject product/total establishment sales is shown below (in percentages):

* * * * *

Overall establishment operations.--Net sales declined *** percent from \$*** in 1984 to \$*** in 1986 (table 12). * * *. 2/ Sales for the interim period ended March 31, 1987, were \$***, an increase of *** percent from sales of \$*** in interim 1986. * * *. 3/

Forged steel crankshaft operations.--Wyman-Gordon produces crankshafts that are uniquely designed for each purchaser. The type and price of material and labor hours are not comparable for similarly sized items. Production costs for raw materials and direct labor constitute approximately *** percent of the cost of production. Other factory overhead is a significant factor in production costs, consisting primarily of indirect labor, machine supplies, and depreciation. The indirect labor costs consist of personnel engaged in tasks such as processing (set-up), repair, maintenance, crane operations, etc.

1/ Wyman-Gordon 1985 Annual Report, pp. 3-4.

2/ * * *.

3/ * * *.

Table 12

Income-and-loss experience of Wyman-Gordon on the overall operations of its establishments within which forged steel crankshafts subject to investigation are produced, accounting years 1984-86 and interim periods ended March 31, 1986, and March 31, 1987

* * * * *

The uniqueness of production and the stress placed on the machinery required continuous usage of these labor categories. In addition, items such as tools, screws, bolts, nuts, and other machine parts are expended in large quantities. The company capitalizes (depreciates) items costing over \$***. The production employees are represented by major unions and fringe benefit costs are high. The Harvey plant that closed had higher labor costs than the Danville unmachined plant. The Jackson machining plant has higher labor costs than the Danville plant. Before its closing, the Harvey plant workers had a higher level of seniority than those at Danville.

A summary of selected factory cost data is shown below:

* * * * *

The consolidated income-and-loss experience of Wyman-Gordon for forged steel crankshafts is presented in table 13. 1/ Net sales declined *** percent from \$*** in 1984 to \$*** in 1986. * * *. * * *. For the interim period ended March 31, 1987, sales were \$*** compared with sales of \$*** in the 1986 interim period. * * *.

Table 13

Consolidated income-and-loss experience of Wyman-Gordon on its operations producing forged steel crankshafts, accounting years 1984-86 and interim periods ended March 31, 1986, and March 31, 1987

* * * * *

An unconsolidated income-and-loss summary is presented in table 14. Trends were similar to the consolidated statement.

Table 14

Unconsolidated income-and-loss experience of Wyman-Gordon on its operations producing forged steel crankshafts, by locations, accounting years 1984-86 and interim periods ended March 31, 1986, and March 31, 1987

* * * * *

1/ Consolidated, eliminating intracompany transfers.

Value added analysis.--The value added to the intracompany transfers at the Jackson machining plant is summarized below (in thousands of dollars):

* * * * *

The increasing ratio of value added to transfer cost is a reflection of changes in volume and product mix.

Other producers.--Only one other producer supplied usable income-and-loss data. * * *. Its data are shown in the following tabulation (in thousands of dollars):

* * * * *

These data combined with the operations of Wyman-Gordon (WG) are shown in the following tabulation (in thousands of dollars):

* * * * *

Investment in productive facilities.--U.S. producers' investments in productive facilities for their overall establishments (primarily forged steel crankshafts for Wyman-Gordon) are shown in table 15. The investment in such facilities, valued at cost, was \$*** as of the end of 1984 and rose to \$*** as of the end of 1986. The book value of the assets was \$*** as of December 31, 1986. For the interim period ended March 31, 1987, the cost of investments was \$***. The book value at the end of the period was \$***. The 1987 interim period data reflect the closing of the Harvey plant. Separate data for machined and unmachined forged steel crankshafts are also included in the table.

Table 15

Forged steel crankshafts: U.S. producers' end-of-period valuation of fixed assets, accounting years 1984-86 and interim periods ended March 31, 1986, and March 31, 1987

* * * * *

Capital expenditures.--The capital expenditures made by U.S. producers are shown in table 16. Their overall outlays were \$*** in 1984, \$*** in 1985, and \$*** in 1986. For the 1987 interim period expenditures were \$*** compared with \$*** in the 1986 interim period. The overall expenditures by Wyman-Gordon declined from \$*** in 1984 to \$*** in 1986. Their expenditures rose from \$*** in interim 1986 to \$*** in interim 1987. In addition to expenditures for forged steel crankshafts, Wyman-Gordon spent over \$*** for the * * * project between 1984 to 1986.

Table 16

Forged steel crankshafts: U.S. producers' capital expenditures, accounting years 1984-86 and interim periods ended March 31, 1986, and March 31, 1987

* * * * *

Overall expenditures by other producers were \$*** in 1984, \$*** in 1985, and \$*** in 1986. In interim 1987 these expenditures were \$*** compared with \$*** in interim 1986. * * *.

Research and development.--Only Wyman-Gordon provided data for research and development expenses incurred in the production of forged steel crankshafts (table 17). These expenses rose from \$*** in 1984 to \$*** in 1986. For the interim periods ended March 31, 1986, and March 31, 1987, expenditures were \$***. The data provided are only estimates, since Wyman-Gordon does not maintain research and development departments at its plants. The firm's machining research and development efforts are devoted to prototypes and its unmachined research and development consists of studies on cad/cam equipment.

Table 17

Forged steel crankshafts: Research and development expenses, accounting years 1984-86 and interim periods ended March 31, 1986, and March 31, 1987

* * * * *

Capital and investment.--The Commission requested U.S. producers to describe any actual or potential negative effects, if any, of imports of the subject products from Brazil, West Germany, or the United Kingdom. None of the firms issued statements relating specifically to imports of forged steel crankshafts from those three countries.

Consideration of the Question of Threat of Material Injury

Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. { 1677(7)(F)(i)) provides that--

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant factors 1/--

1/ Section 771(7)(F)(ii) of the act (19 U.S.C. { 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

- (I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),
- (II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,
- (III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,
- (IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,
- (V) any substantial increase in inventories of the merchandise in the United States,
- (VI) the presence of underutilized capacity for producing the merchandise in the exporting country,
- (VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury, and
- (VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 736, are also used to produce the merchandise under investigation.

The available information on the nature of the subsidies found by the Department of Commerce (item (I) above) is presented in the section of this report entitled "Nature and Extent of Subsidies;" information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the causal relationship between imports of the subject merchandise and the alleged injury"; and the available data on foreign producers' operations (items (II) and (VI) above), U.S. inventories of the subject products (item (V)), and on the potential for "product-shifting" (item VIII) follows.

Most information in this section of the report was received by the Commission from counsels for the foreign producers. Additional information provided by U.S. embassies in the subject countries is also presented and noted.

Foreign production, capacity, and capacity utilization

Brazil.--There are two major manufacturers of forged steel crankshafts in Brazil that export to the United States--Sifco and Krupp Metalurgica Campo Limpo Ltda. (KMCL). Based on information provided by counsel for the two Brazilian companies, exports to the United States comprised approximately *** percent of total shipments in 1984, decreasing to *** percent in 1985 and further decreasing to *** percent in 1986. Information on the Brazilian industry's production, capacity, and total shipments is presented in table 18.

Table 18
Forged steel crankshafts: Brazilian production, capacity, and total shipments, 1984-86, January-March 1986, and January-March 1987 1/

* * * * *

With respect to KMCL, counsel reports that * * *. 1/

With respect to Sifco, counsel reports that * * *. 2/

United Kingdom.--Information on shipments of forged steel crankshafts was provided by counsel for United Engineering & Forging (UEF) (formerly GKN Specialty Steels), the principal British producer. UEF's exports of unmachined forged crankshafts to the United States accounted for approximately *** percent of total shipments in 1984, increasing to *** percent in 1985, and further increasing to *** percent in 1986. Data for UEF are presented in table 19.

West Germany.--There are two major German producers that export forged steel crankshafts to the United States 3/--Thyssen Industries and Gerlach-Werke/Krupp. 4/ Information on shipments was received from both producers and is presented in tables 20 and 21. Thyssen exported *** percent of its shipments of forged steel crankshafts to the United States in 1984, decreasing to *** percent in 1985, and then increasing to *** percent in 1986. The company also reported * * *. 5/

1/ Letter to the Commission staff, Nov. 7, 1986, pp. 1 and 2.

2/ Id., Table B-1.

3/ In response to a question raised at the hearing, Thyssen identified three additional producers of the subject forged steel crankshafts (Aug. 13, 1987 telephone conversation with Ned Marshak, counsel for Thyssen). The U.S. embassy in Bonn reported that it could not locate one of the firms and a second firm did not produce the subject crankshafts. In 1986, a third firm accounted for approximately *** percent of known German production, operated at *** percent capacity utilization, exported *** percent of its production to the U.S., and its U.S. exports accounted for *** percent of total U.S. purchases of the subject crankshafts from West Germany (Aug. 27, 1987, cable; U.S. embassy, Bonn).

4/ Information has been supplied by Gerlach, although it is no longer subject to investigation.

5/ Letter to Commission staff, Nov. 7, 1986.

Table 19

Forged steel crankshafts: Shipments by UEF of the United Kingdom, 1984-86, January-March 1986, and January-March 1987

* * * * *

Table 20

Forged steel crankshafts: Shipments by Thyssen of West Germany, 1984-86, January-March 1986, and January-March 1987

* * * * *

Table 21

Forged steel crankshafts: Shipments by Gerlach of West Germany, 1984-86, January-March 1986, and January-March 1987

* * * * *

Importers' inventories

The available data on U.S. importers' inventories of imports of forged steel crankshafts from the subject countries, as reported by two firms (accounting for *** percent of total reported imports in 1986) in response to the Commission's questionnaires, are presented in table 22. Thyssen, the importer of forged steel crankshafts from West Germany, did not report inventories because it supplies inventory on consignment to its only U.S. customer, Cummins Engine; at the customer's plant for "just in time delivery"; a 30-day supply is the usual requirement.

Table 22

Forged steel crankshafts: U.S. importers' inventories, by principal sources, 1984-86, January-March 1986, and January-March 1987

* * * * *

U.S. importers' reported inventories of forged crankshafts increased consistently from *** units on December 31, 1984, to *** units on December 31, 1986, or by *** percent. Inventories on March 31, 1987, amounted to *** units, an increase of *** percent compared with the level of inventories on March 31, 1986. As a share of total imports, inventories increased irregularly from *** percent in 1984 to *** percent in 1986, and increased by *** points to *** percent during January-March 1987 when compared with those during the corresponding period of 1986.

Consideration of the Causal Relationship Between Subsidized and/or LTFV Imports and the Alleged Material Injury or Threat Thereof

U.S. imports

Data on U.S. imports of forged steel crankshafts from the subject countries are presented in tables 23-25. ^{1/} The data presented in the tables were compiled from responses to the Commission questionnaire by 14 U.S. purchasers that accounted for more than 95 percent of total imports in 1986.

Overall imports.--U.S. purchases of imports of all forged steel crankshafts increased from 336,000 units, valued at \$70.4 million in 1984, to 346,000 units, valued at \$62.8 million in 1985, or an increase of 2.8 percent in quantity and a decrease of 10.8 percent in value (table 25). Imports increased to 357,000 units, valued at \$57.1 million in 1986, which represented an increase in quantity of 3.2 percent but a decrease in value of 10.1 percent. Purchases of imports of forged crankshafts during January-March 1987 amounted to 117,000 units, valued at \$17.0 million, an increase of 17.1 percent in quantity and an increase of 9.3 percent in value compared with the amount and value of imports in the corresponding period of 1986.

Table 23

Unmachined forged steel crankshafts: U.S. imports by weight ranges, 1984-86, January-March 1986, and January-March 1987

* * * * *

Table 24

Machined forged steel crankshafts: U.S. imports by weight ranges, 1984-86, January-March 1986, and January-March 1987

* * * * *

The unit value (per piece) of U.S. purchases of imports of forged crankshafts was \$209 in 1984, falling to \$182 in 1985, and falling further to \$160 in 1986. The unit value was \$145 during January-March 1987, a decrease of 6.5 percent from the unit value of \$155 during the corresponding period of 1986.

U.S. purchases of imports of unmachined forged steel crankshafts accounted for approximately *** percent of total imports in 1984 and increased steadily throughout the period of investigation, to *** percent during January-March 1987.

^{1/} Data on imports by purchaser and country are presented in app. D.

Table 25
 Forged steel crankshafts: U.S. imports by sources, 1984-86,
 January-March 1986, and January-March 1987

Source	1984	1985	1986	Interim period ended Mar. 31--	
				1986	1987
Quantity (units)					
Brazil.....					
FRG:					
Gerlach 1/.....	***	***	***	***	***
Thyssen.....	***	***	***	***	***
Total FRG.....	***	***	***	***	***
Japan.....	***	***	***	***	***
UK.....	***	***	***	***	***
All others.....	***	***	***	***	***
Total.....	336,412	345,784	356,951	100,296	117,400
Value (1,000 dollars)					
Brazil.....	***	***	***	***	***
FRG:					
Gerlach 1/.....	***	***	***	***	***
Thyssen.....	***	***	***	***	***
Total FRG.....	***	***	***	***	***
Japan.....	***	***	***	***	***
UK.....	***	***	***	***	***
All others.....	***	***	***	***	***
Total.....	70,445	62,830	57,081	15,535	16,981
Unit value (dollars)					
Brazil.....	\$ 237	\$ 206	\$ 217	\$ 247	259
FRG:					
Gerlach 1/.....	***	***	***	***	***
Thyssen.....	***	***	***	***	***
Total FRG.....	***	***	***	***	***
Japan.....	***	***	***	***	***
UK.....	***	***	***	***	***
All others.....	***	***	***	***	***
Total.....	209	182	160	155	145
Share of total quantity (percent)					
Brazil.....					
FRG:					
Gerlach 1/.....	***	***	***	***	***
Thyssen.....	***	***	***	***	***
Total FRG.....	***	***	***	***	***
Japan.....	***	***	***	***	***
UK.....	***	***	***	***	***
All others.....	***	***	***	***	***
Total.....	100.0	100.0	100.0	100.0	100.0
Share of total value (percent)					
Brazil.....	***	***	***	***	***
FRG:					
Gerlach 1/.....	***	***	***	***	***
Thyssen.....	***	***	***	***	***
Total FRG.....	***	***	***	***	***
Japan.....	***	***	***	***	***
UK.....	***	***	***	***	***
All others.....	***	***	***	***	***
Total.....	100.0	100.0	100.0	100.0	100.0

1/ Gerlach was the sole U.S. supplier of machined forged steel crankshafts from the Federal Republic of West Germany, and was found to have de minimis dumping margins.

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

Brazil.--Purchases of imports of forged crankshafts from Brazil were generally the lowest share of total imports during the period of investigation, but Brazil was a major source of machined crankshafts (* * *). In 1984 total imports of crankshafts from Brazil accounted for *** percent of all imports based on units, and decreased irregularly to a level during January-March 1987 of *** percent, with all 1987 purchases accounted for by * * *.

United Kingdom.--Purchases of imports of forged crankshafts from the United Kingdom accounted for the third largest share of all imports during the period of investigation. In 1984, imports of all subject crankshafts from the United Kingdom accounted for *** percent of imports tripling to *** percent in 1986. During January-March 1987 imports from the United Kingdom accounted for *** percent of total purchases of imports, representing a decrease of *** percentage points from the corresponding period of 1986; * * *.

West Germany.--Purchases of imports of forged crankshafts from West Germany accounted for the largest share of imports, with levels showing a slight decline during the period of investigation. In 1984, LTFV imports of forged crankshafts from West Germany (i.e., Thyssen) accounted for *** percent of all imports, increasing to *** percent during January-March 1987. Purchases of imports of machined crankshafts from West Germany were significant during most of the period of investigation, but these crankshafts were supplied by Gerlach and have been found to be fairly traded.

Market penetration of imports

Shares of apparent consumption accounted for by imports of forged steel crankshafts are presented in tables 26-28. The data presented in the tables were compiled from purchasers' responses to the Commission's questionnaires.

Overall market.--Purchases of imports of all forged steel crankshafts rose from *** percent of the U.S. market in 1984 to *** percent in 1985, increased to *** percent in 1986, and continued to increase to *** percent during January-March 1987 when compared with the corresponding period of 1986.

Brazil.--Imports of forged steel crankshafts from Brazil declined irregularly over the period of investigation. From *** percent of apparent consumption in 1984, purchases rose to *** percent in 1985, declined to *** percent in 1986, and then decreased to *** percent during January-March 1987.

United Kingdom.--Purchases of imports of forged steel crankshafts from the United Kingdom accounted for *** percent of apparent consumption in 1984, increased to *** percent in 1985, and rose to *** percent in 1986; the trend from January-March 1986 to the corresponding period of 1987 is upward, from *** percent to *** percent, as a result of * * *.

West Germany.--Purchases of LTFV imports of forged steel crankshafts from West Germany (Thyssen) were *** percent of apparent consumption in 1984. They rose to *** percent in 1985 and remained stable at *** percent in 1986. Purchases increased to *** percent during January-March 1987 from *** percent during the corresponding period of 1986.

Table 26

Unmachined forged steel crankshafts: Apparent U.S. consumption, 1984-86, January-March 1986, and January-March 1987

* * * * *

Table 27

Machined forged steel crankshafts: Apparent U.S. consumption, 1984-86, January-March 1986, and January-March 1987

* * * * *

Table 28

Forged steel crankshafts: Apparent U.S. consumption, 1984-86, January-March 1986, and January-March 1987

* * * * *

Prices

Forged steel crankshafts are produced to customer specifications, with a different crankshaft configuration required for each type of engine that is produced. These crankshafts are sold directly to the end user--original equipment engine manufacturers. They are priced on a per unit basis and sold on a contract basis, with the length of the contract running from 1 to 3 years. Prior to awarding the contract, the purchaser solicits bids from several suppliers and often splits its large volume orders between two suppliers. ^{1/} The unit price of the crankshaft is negotiated and finalized at the onset of the contract. Although the price usually remains effective for the duration of the contract, occasionally the terms are renegotiated. Reasons given for contract renegotiations during the period of investigation included: producer's inability to supply (e.g., plant strike or plant shutdown), large and unexpected changes in prices of raw materials, and changes in exchange rates. The majority of producers and importers/purchasers stated that contract terms contain warranties and/or guarantees that protect the customer from defective products and/or those that are not made to specification. Defective crankshafts are either repaired, replaced, or refunded by the producer.

Although some purchasers claim that tooling costs are paid by the supplier and then added to the unit price of the crankshaft, it is more common for customers to pay these costs at the onset of a forging job. This cost is negotiated and billed separately from the unit price of the crankshaft. This practice is followed by both domestic and foreign producers of forged steel

^{1/} For a specific discussion of contracts by purchaser, see section on purchasers' responses.

crankshafts. The purchaser retains exclusive rights to the dies while the supplier actually owns and maintains the dies and may include a charge for maintenance in the unit price of the crankshafts. The cost of tooling is relatively insignificant for large volume crankshaft production, although it increases in importance as the production volume decreases.

Forged steel crankshafts are typically sold f.o.b. U.S. point of shipment. The primary U.S. producer, the petitioner, has located its manufacturing plant in close proximity to most U.S. purchasers. Similarly, importers either warehouse crankshafts near their U.S. customers or enter the imported crankshafts through ports near the major consuming areas, for example, Chicago and Detroit. Therefore, inland transportation costs are relatively unimportant, usually accounting for less than 3 percent of the delivered price of the crankshafts.

The Commission asked U.S. producers and importers/purchasers to provide quarterly price data on their largest sales or purchases of four different crankshafts for the period of investigation. Because the crankshafts are proprietary to each purchaser, the producers were requested to provide price data and product specifications for their largest selling crankshafts. ^{1/} Purchasers were requested to provide price data and product specifications for four crankshafts that were purchased from both a domestic producer and one or more of the subject countries. As a result of the small number of transactions involved, individual contract negotiations for crankshafts purchased from Brazil, West Germany and the United Kingdom are discussed. Three U.S. producers accounting for 95 percent of U.S. production in 1986 provided price data. Eight U.S. purchasers of the products subject to investigation provided price data for U.S.-produced and imported crankshafts. In 1986, these importers/purchasers accounted for *** imports from Brazil, *** percent from Japan, *** percent from the United Kingdom, and *** percent from West Germany.

Domestic price trends.--Quarterly prices for U.S. producers and purchasers of forged steel crankshafts generally decreased during the period of investigation, January 1984-March 1987 (tables 29-45). U.S. producers' prices decreased for 9 of the 13 available price series that had discernible trends. Prices reported by Wyman-Gordon, for both machined and unmachined crankshafts, showed decreases ranging from 1 to 12 percent.

On the other hand, of the 8 price series reported by two other U.S. producers, 2 decreased, 4 showed increasing trends, and 2 series remained unchanged over the period. Price decreases ranged from 2 to 24 percent and increases ranged from 4 to 34 percent. Prices reported by U.S. purchasers of domestically produced crankshafts showed decreasing trends for 4 of the 13 series; these series showed decreases of 2, 4, 6, and 12 percent, ^{2/} during the period of investigation. Of the remaining 9 series reported by U.S. purchasers, one had an overall increase of 9 percent, and 8 series showed no change during the period of investigation.

^{1/} Because of the proprietary nature of forged steel crankshafts, specific representative products could not be identified by the staff, and averaging prices of different types of crankshafts would not be appropriate for price comparisons.

^{2/} * * *.

Table 29

Forged steel crankshafts: U.S. producers' price (per unit) reported by Wyman-Gordon Company, by quarters, January 1984-March 1987

* * * * *

Table 30

Forged steel crankshafts: U.S.-producer prices (per unit) as reported by Ladish Co., Inc., by quarters, January 1984-March 1987

* * * * *

Table 31

Forged steel crankshafts: U.S. producers' prices (per unit) as reported by Park Drop Forge, by quarters, January 1984-March 1987

* * * * *

Table 32

Forged steel crankshafts: Prices for U.S. and Brazilian * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987.

* * * * *

Table 33

Forged steel crankshafts: Prices for U.S. and Brazilian * * * crankshafts and margins (per unit) by which imports undersold or (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987

* * * * *

Table 34

Forged steel crankshafts: Prices for U.S. and Japanese * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987

* * * * *

Table 35

Forged steel crankshafts: Prices for U.S. and Japanese * * * crankshafts and margins (per unit) by which imports undersold or (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987

* * * * *

Table 36

Forged steel crankshafts: Prices for U.S. and Japanese * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987

* * * * *

Table 37

Forged steel crankshafts: Prices for U.S. and Japanese * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987

* * * * *

Table 38

Forged steel crankshafts: Prices for U.S. and Japanese * * * crankshafts and margins (per unit) by which imports undersold or (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987

* * * * *

Table 39

Forged steel crankshafts: Prices for U.S. and Japanese * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987

* * * * *

Table 40

Forged steel crankshafts: Prices for U.S. and West German * * * crankshafts and margins (per unit) by which imports undersold or (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987

* * * * *

Table 41

Forged steel crankshafts: Prices for U.S. and United Kingdom * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987

* * * * *

Table 42

Forged steel crankshafts: Prices for U.S. and United Kingdom * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987

* * * * *

Table 43

Forged steel crankshafts: Prices for U.S. and United Kingdom * * * crankshafts and margins (per unit) by which imports undersold or (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987

* * * * *

Table 44

Forged steel crankshafts: Prices for U.S. and United Kingdom * * * crankshafts and margins (per unit) by which imports undersold (oversold) the U.S. product, as reported by U.S. purchasers, by quarters, January 1984-March 1987

* * * * *

Table 45

Forged steel crankshafts: Purchase prices for unmachined crankshafts from the United Kingdom by * * *, by quarters, January 1984-March 1987

* * * * *

Brazilian price trends and comparisons -- Prices reported by U.S. purchasers of Brazilian crankshafts showed decreasing trends during the period of investigation. Prices reported by * * * decreased 6.4 and 8 percent, respectively. In both of these series, the Brazilian crankshafts were priced below the domestic product in all quarters in which comparisons were possible, with margins ranging from 8 to 24 percent.

Contract negotiations.--Prior to contract negotiations, * * * evaluates potential suppliers on their ability to produce and deliver according to * * * 's requirements. During the period of investigation, * * * purchased this * * * crankshaft from domestic, Brazilian, and Japanese suppliers. * * * stopped purchasing from Wyman-Gordon by the middle of 1985 and then purchased Brazilian crankshafts until * * *. However, * * * was not satisfied with the quality of the Brazilian crankshaft and at the beginning of * * * began to purchase from Japanese suppliers.

During the period of investigation, although * * * purchased crankshafts from Wyman-Gordon, its primary supplier for its * * * crankshaft was * * *, the Brazilian supplier. * * *, a spokesman for * * *, stated that several suppliers contacted * * * but the company had a set pattern with Brazilian suppliers. Since * * * had no problems with delivery from Brazilian suppliers and the company likes to purchase its crankshafts from a single source, there was no need to purchase crankshafts from any of these other suppliers.

Japanese price trends and comparisons.-- Four of the six price series reported by U.S. purchasers of Japanese crankshafts had discernable trends during the period of investigation. Two series had overall decreases of *** and *** percent, while the other two reported by * * *, had overall increases of *** and *** percent. * * *. Prices for Japanese crankshafts were lower than U.S.-produced crankshafts in all of the 28 quarters where comparisons were possible, with margins ranging from 5 to 45 percent.

West German price trends and comparisons. 1/--One company, Cummins Engine Company, purchases crankshafts from Thyssen Umformtechnik (Thyssen). Cummins purchases its NH crankshaft from both Thyssen and Wyman-Gordon; the other crankshaft, the L-10, was purchased solely from Thyssen during the period of investigation. 2/ West German prices for the NH crankshaft, * * * crankshaft, decreased *** percent during the period of investigation.

* * * * *

Contract negotiations.--During contract negotiations for the NH crankshaft, Cummins notified potential suppliers of the target price that had to be met. For the years 1984-87, Wyman-Gordon, Thyssen, and Sumitomo submitted quotations for the NH crankshaft. * * *. 3/ *** percent of Cummins' requirements for the NH crankshaft was awarded to Wyman-Gordon and the other *** percent went to Thyssen. During the period of investigation, both Thyssen and Wyman-Gordon maintained *** percent of Cummins requirements for this crankshaft. * * * stated that the downward trend of pricing during the period of investigation is a product of the company's cost-reduction plan.

1/ Commerce determined a de minimis margin for Gerlach; therefore, this section refers only to crankshafts produced by Thyssen.

2/ Petitioner obtained *** percent of Cummins requirements of the L-10 crankshaft in 1987 and *** percent in 1988 and 1989 (Cummins prehearing brief, p. 14).

3/ Cummins prehearing brief, Exhibit A.

United Kingdom price trends and comparisons.--Of the seven price series for British crankshafts, 3 represent purchases by * * *. * * *. Prices for two of the three crankshafts purchased by * * * decreased slightly during the period of investigation, by *** and *** percent, respectively. The third price series for * * * increased irregularly throughout the period, rising by *** percent. Of the other four series, three were reported by * * * and showed no change during the period of investigation. The other series of crankshafts purchased by * * *, showed an overall increase of *** percent. * * *. Prices for the British crankshafts were lower than those for U.S.-produced crankshafts in all of the 13 quarters in which comparisons were possible, with margins ranging from 9 to 36 percent.

Contract negotiations.--Although * * * only purchased crankshafts from British suppliers during the period of investigation, * * * solicited some quotes from other suppliers. * * *, stated that although Wyman-Gordon may have submitted initial quotations to * * *, they did not actively pursue * * *'s business with follow-up letters and/or visits. Wyman-Gordon, on the other hand, submitted to the staff a letter addressed to * * * providing initial price quotations in 1983 for 3 types of crankshafts and forging quotations in response to a 'request for quotation' from * * * in 1986 for these same 3 crankshafts. * * * stated that Wyman-Gordon followed up these initial quotations with both visits and telephone calls.

According to the letter, the quotations for 1983 for * * *'s crankshafts * * *, were \$***, \$***, and \$*** respectively. The respective quotations for 1984 were \$***, \$***, and \$***. 1/ These initial quotations were higher than the prices at which * * * actually purchased crankshafts from United Kingdom suppliers. However, it is common in the crankshaft industry for negotiations to take place after the initial quotations have been made and the final price is often lower than the initial bid. Therefore, these initial quotations and * * *'s purchase prices from the British are not entirely comparable.

Three of these four series display purchase prices of * * *. 2/ Prior to 1984, * * * purchased all of its crankshafts from Wyman-Gordon but then decided to investigate other sources. Because of strikes at Wyman-Gordon's Harvey plant, * * * was uncertain of Wyman-Gordon's ability to be a stable supplier. During 1984, * * * solicited bids from Sumitomo, Gerlach, and United Engineering and Forging (UEF), as well as Wyman-Gordon, for its crankshafts. * * * asked for written quotations that discussed the producer's ability to supply, length of agreement, and delivery terms. * * * selected UEF to supply them with all crankshafts. Wyman-Gordon did submit proposals after * * * stopped purchasing from them in 1984-85. * * * chose not to purchase from Wyman-Gordon for several reasons but emphasized that the decision was based on the uncertainty of supply. 3/ In addition, * * * also commented that the prices of Wyman's crankshafts were not competitive.

1/ This letter also contained initial quotations for these three crankshafts, if they were made with micro-alloy steel, which were lower.

2/ The * * * representative did not discuss contract information on a per contract basis, but stated that this information applies to all crankshafts.

3/ * * * alleged that Wyman-Gordon did not submit proposals for * * *'s smaller crankshafts to be produced at Harvey, thus giving them more reason to be skeptical about Wyman-Gordon's ability to supply.

The fourth series represents a crankshaft purchased by * * * from both the domestic producer, * * *, and the United Kingdom supplier, UEF. Although * * * purchased crankshafts from * * * during 1985, * * * was not considered an important supplier and was already being phased out. According to * * *, * * * did not keep up with the advances of technology and could not produce the volume or the precise tolerances required. * * *'s contracts are commonly referred to as "agreements" and usually contain clauses that relieve them of contractual responsibilities if the quality of the product is unacceptable. * * * generally likes to source each part number from a single supplier and in 1985 chose the British supplier, UEF, as the sole supplier, over * * * Forge.

Purchasing responses

Questionnaire responses with usable data were received from 8 purchasers of forged steel crankshafts. Five of these purchasers stated that, in general, prices for foreign produced crankshafts are lower than those for domestic. However, purchasers ranked quality equal to or more important than price in their purchasing decisions. Three purchasers reported that the quality of West German crankshafts was superior to that of comparable domestic products. Two other purchasers rated crankshafts from the United Kingdom as being higher in quality than domestic products. Cummins Engine Co. stated that no difference in quality existed between the U.S- produced and West German crankshafts that they purchase.

Quality is important to purchasers because it can significantly affect a company's total cost of engine production. Before choosing a particular supplier, many purchasers examine the total cost of incorporating that supplier's crankshaft in their engine rather than just the price of the crankshaft. For example, one purchaser, * * *, stated that the company would be willing to pay more for a crankshaft that would require less machining. Since machining is a major cost to purchasers, a low quality crankshaft that requires more machining would increase the final cost of the engine. Furthermore, the better the quality of the crankshaft, the fewer the crankshafts that are rejected. Although most producers reported that their company bears the costs of rejected products, either by refund or replacement, purchasers do not want the production of engines to be delayed while waiting for new crankshafts.

Contract negotiations.--In general, purchasers solicit quotations from more than one supplier; however, methods of soliciting bids and entering into contracts vary among purchasers. A summary of information obtained from purchasers on their firm's contract policies follows:

Contract terms for * * * are usually determined by telephone conversations, but are sometimes in writing. These written contracts are referred to as "letters of agreement" by * * * and state that the supplier must remain competitive, provide a good quality product, and work with * * * on cost reductions to lower the price. * * * will then agree to purchase crankshafts at a specific price. Since * * * likes to single source each crankshaft, 100 percent of the requirements is awarded to the producer. These agreements are not strictly binding and can be terminated if the quality of the product is unacceptable. 1/

1/ Telephone interviews with * * *, Aug. 11, 1987, and * * *, Aug. 13, 1987, of * * *.

* * * initially agrees on purchase terms verbally but then usually follows up with a letter reiterating the terms. This letter contains the agreed-upon price, the percentage of * * * 's requirements and delivery terms. Purchase orders are submitted to the supplier prior to each shipment and contain the exact product specifications. Because * * * dual sources their crankshafts, if one supplier cannot deliver, the other producer assumes 100 percent of * * * 's business for that crankshaft. On occasion, * * * has renegotiated the agreed-upon price because of changes in the exchange rate. 1/

* * * has a formal "requirements contract", which runs for a period of 1 year. This contract contains numerous terms and conditions to which the supplier must agree. The price is not renegotiated during the period of the contract; it is only negotiated and/or changed in the next contract. As with other purchasers, the contract can be altered if the supplier can't deliver.

Contracts entered into by * * * are first verbally discussed and are then stated in writing. Written contracts, referred to as "agreements," are desirable to avoid any problems that could arise if there is a change in personnel. All personnel, e.g., those from purchasing, engineering, etc., are included in the contract discussions, so that the supplier chosen will satisfy the needs in all areas. Normally the terms are set at the onset and do not frequently change. 2/

* * * initially informs suppliers about its requirements and then receives notification from interested suppliers on their ability to meet * * * 's needs. Sometimes a written contract is set up; this usually depends on the total amount of the sale over the course of the year. * * * stated that a clause is often included in written contracts which allows for price renegotiation if the exchange rate changes by 10 percent or more. 3/

* * * solicits bids from potential suppliers in writing. * * * does not confirm the accepted bid in writing; once an order is placed for crankshafts, * * * considers this the acceptance of the bid. The length of these contracts vary, running from 1 to 3 years. 4/

Quality/Certification programs. --Most purchasers of crankshafts have quality certification/rating programs in order to ensure good quality products. These ratings are not standard throughout the industry; instead each company has its own program. Examples of some programs of major purchasers follows.

Cummins Engine Co., Columbus, IN, applies its Supplier Quality Assurance (SQA) program to new suppliers. The process begins with preliminary evaluation of the manufacturer's plant operations and products. Some products are required to undergo special engine testing in addition to chemical and metallurgical analyses. Further inspection evaluates the manufacturer's production capabilities and quality control. Once a supplier successfully completes the SQA program, it is considered an approved source. Cummins' certification program does not include different ratings based on quality; there are basically two classifications, certified and noncertified.

1/ Aug. 11, 1987, telephone interview with * * *.

2/ Aug. 12, 1987, telephone interview with * * *.

3/ Aug. 17, 1987, telephone interview with * * *.

4/ Aug. 17, 1987, telephone interview with * * *.

Navistar International Transportation Corp., Chicago, IL, has a certification program that requires its suppliers to meet certain quality capabilities, which are rated and categorized into one of six different categories. Categories range from 'unsatisfactory' to 'exceeds satisfaction'. Navistar's questionnaire response indicates the certification ratings of the firm's four suppliers: * * *.

Caterpillar Inc., Peoria IL, also has a formal program for all of its major suppliers, which requires approved quality plans for each supplier and product. Suppliers must obtain recertification annually with quality improvement being included as part of the suppliers plan. In addition, Caterpillar examines the technical capabilities of the company and requires reductions in rejection rates to meet Caterpillar's goal level.

Besides quality considerations, purchasers reported that technical support from the supplier, in the form of assistance in the areas of cost reduction, metallurgical analysis, and improvements in product design, is an important aspect in their purchasing decisions.

Lost sales and lost revenues 1/

Two U.S. producers of forged steel crankshafts reported 19 lost sales and 4 instances of lost revenues allegedly resulting from competition from Brazilian, West German and British crankshafts. 2/ * * * alleged lost revenues totaling \$***; one instance which involved revenues lost to Brazilian suppliers totaled \$*** and the other three allegations concerned West Germany and totaled approximately \$***. * * * reported 6 lost sales allegations resulting from competition from Brazilian suppliers of crankshafts; these allegations totaled \$***. * * * alleged four lost sales that totaled approximately \$*** involving crankshafts from West Germany. The 9 allegations of sales lost to suppliers from the United Kingdom totaled approximately \$***. All of these allegations occurred between late 1983 and 1986, with the majority of sales occurring in 1984 and 1985. * * * reported one lost sales allegation due to competition from crankshafts from the United Kingdom; this \$*** sale allegedly occurred in * * *. Eleven allegations of lost sales totaling \$***, were reported by * * * involving crankshafts from West Germany. A summary of staff interviews with the purchasers cited in these allegations follows.

* * * cited a lost sale of \$*** and lost revenues of \$***, from * * *, allegedly purchased from Brazilian suppliers in the latter part of * * *. Both allegations involved unmachined * * * crankshafts, with the lost sale involving *** units and the lost revenue involving *** units. * * *, stated that the company did purchase Brazilian crankshafts during that time but the decision to find new suppliers was based on quality not price. * * * commented that the gap between domestic and import prices is not as large as

1/ * * *. References to West German lost sales refer to Thyssen.

2/ One U.S. producer, * * *, reported 9 lost sales allegations and one instance of lost revenues allegedly due to competition from Japanese crankshafts during the period of investigation. Lost sales information concerning Japan were documented in the report of the preliminary investigations (Certain Forged Steel Crankshafts from Brazil, the Federal Republic of Germany, Japan, and the United Kingdom, USITC publication no. 1917, September 1986, p. A-30).

it was 3 or 4 years ago. * * * explained that more emphasis is placed on the total cost rather than just the price itself and that * * * would pay more for a forging that would lower the in-house cost. According to * * *, if the quality of the forging is very good, the cost of machining it and the scrap rate are lower; these factors will help reduce the total cost. In addition to quality, * * * places a lot of emphasis on the technological ability of the supplier. * * * looks for suppliers that continually search for ways to improve the quality of the product or lower the cost.

Wyman-Gordon named the Cummins Engine Co. in 2 lost revenues allegations totaling \$*** and 4 lost sales totaling approximately \$*** allegedly purchased from West German suppliers between December 1983 and September 1986. * * *, could not verify the specific quantities and alleged price reductions in question. * * * stated that it is rare for Cummins to source a volume job from just one producer, choosing instead to buy from two sources. Therefore, price was not the reason that Cummins bought crankshafts from Thyssen. During the period of investigation, Cummins began to implement a cost-reduction plan. According to * * *, the price decreases that occurred in both U.S. prices and West German prices was due to this plan. * * * commented that one of the primary reasons that Cummins began to purchase foreign crankshafts was because of the new processes and new materials that were being used. * * * has found Thyssen to be the best in the area of technology and efficiency and stated that Cummins would be willing to pay a premium for Thyssen crankshafts.

* * *, was named by * * * in 5 lost sales allegations totaling \$*** due to lower priced crankshafts from the United Kingdom. * * *, did not confirm the time or the amounts of these allegations. * * * used to purchase crankshafts from Wyman-Gordon, in 1984 and early 1985, but they no longer buy any crankshafts from Wyman-Gordon. * * * explained that when he became involved in purchasing in mid 1985, * * * had already started decreasing purchases from * * * because of quality problems with crankshafts purchased from * * *. * * * added that * * * bases its purchasing decisions on quality, price, and service.

* * * named * * *, in a lost sales allegation totaling \$***, allegedly purchased from a United Kingdom supplier in * * *. * * *, stated that * * * did in fact stop purchasing crankshafts from * * * but this decision was not due to price. Initially, * * * began to purchase foreign crankshafts because of difficulty with supply from * * * due to labor problems. * * * then discovered that it could receive a better quality product from foreign producers and began purchasing offshore.

* * * was also named by * * * in a lost sales allegation that totaled \$***, due to competition from lower priced crankshafts from the United Kingdom. * * *, stated that * * * did stop buying from * * * by 1985. * * * generally likes to single source crankshafts by part numbers. * * * had never been a big supplier and when * * *'s business began to grow, * * * did not have the ability to produce to the stringent tolerances that * * * required. In addition, * * * was neither keeping up with technology nor offering competitive prices, and * * * chose to purchase crankshafts from the United Kingdom.

* * * was named by * * * in 3 lost sales allegations that totaled approximately \$***, due to competition from lower priced United Kingdom crankshafts in the latter part of 1986. * * *, stated that * * * did purchase crankshafts from British suppliers during this time. * * * commented that the quality of the crankshafts purchased from the United Kingdom was good and the prices were also lower than those of domestic crankshafts. * * * added that the top three purchasing determinants for * * * are quality, delivery, and service, in that order.

* * * was named by * * * in 5 lost sales allegations that totaled approximately \$***, due to competition from Brazilian suppliers. * * *, stated that * * * purchased crankshafts from Brazil during the period January 1983-March 1987 that were lower priced than domestic crankshafts; however, * * * stated that price was not the reason that the company purchased crankshafts from Brazil. * * * explained that in the early 1980's, * * * purchased forgings from * * *. * * *. * * * stated that * * * has purchased machined crankshafts from Brazilian suppliers throughout the period of investigation and did not change because the quality and delivery of Brazilian crankshafts was very good.

Exchange rates

Quarterly data reported by the International Monetary Fund indicate that during January 1984-March 1987 the nominal value of the West German mark and the British pound appreciated 46.9 percent and 7.5 percent against the U.S. dollar while the value of the Brazilian currency depreciated sharply by 93.8 percent relative to the dollar (table 46). ^{1/} As a result of similar rates of inflation in West Germany compared with that in the United States over the 13-quarter period for which data were collected, movements in the West German real exchange rate were very similar to those of the nominal exchange rate.

The rate of inflation in the United Kingdom was slightly higher than that in the United States; therefore, the real exchange rate increased 27.3 percent over the period, as opposed to a 7.5-percent increase in the nominal exchange rate.

The very high rate of inflation in Brazil relative to that in the United States over the same period moderated much of the export price advantage gained through currency depreciation. The value of the Brazilian cruzado adjusted for differences in relative inflation rates decreased erratically from January 1984 through June 1985 and then increased rapidly from July-September 1985 through January-March 1987. By January-March 1987 the real Brazilian exchange rate had achieved a level that was 14.9 percent above its January-March 1984 level.

^{1/} International Financial Statistics, June 1987.

Table 46

Exchange rates: 1/ Nominal-exchange-rate equivalents of selected currencies in U.S. dollars, real-exchange-rate equivalents, and producer price indicators in specified countries, 2/ indexed by quarters, January 1984-March 1987

Period	U.S.	Brazil		United Kingdom			West Germany			
	Pro- ducer Price Index	Pro- ducer Price Index	Nominal- exchange- rate index	Real- exchange- rate index ^{3/}	Pro- ducer Price Index	Nominal- exchange- rate index	Real- exchange- rate index ^{3/}	Pro- ducer Price Index	Nominal- exchange- rate index	Real- exchange- rate index ^{3/}
			-US dollars/cruzado-		-US dollars/pound-		-US dollars/mark			
1984:										
Jan.-Mar...	100.0	100.0	100.00	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Apr.-June..	100.7	132.9	75.36	99.5	102.3	97.4	98.9	100.7	99.8	99.8
July-Sept..	100.4	177.3	56.91	100.5	102.9	90.5	92.7	101.2	92.6	93.3
Oct.-Dec...	100.2	247.8	41.76	103.3	104.3	84.8	88.2	101.9	88.5	90.1
1985:										
Jan.-Mar...	100.0	342.6	30.32	103.9	106.0	77.7	82.4	103.0	83.0	85.5
Apr.-June..	100.1	438.2	21.81	95.5	108.1	87.7	94.6	103.4	87.6	90.4
July-Sept..	99.4	575.5	16.78	97.2	108.7	95.9	104.9	103.4	94.9	98.7
Oct.-Dec...	100.0	815.1	12.67	103.2	109.6	100.1	109.8	103.2	104.6	108.0
1986:										
Jan.-Mar...	98.5	1,236.9	8.97	112.6	111.2	100.4	113.3	102.2	115.2	119.5
Apr.-June..	96.6	1,285.5	8.24	109.7	112.9	105.2	122.9	100.7	120.3	125.4
July-Sept..	96.2	1,309.2	8.24	112.2	113.4	103.8	122.4	99.7	129.6	134.3
Oct.-Dec...	96.5	1,384.3	8.03	115.2	114.3	99.6	118.0	98.2	134.6	137.0
1987: Jan.-										
Mar.....	97.7	1,799.5	6.24	114.9	115.7	107.5	127.3	98.0	146.9	147.3

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

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

3/ The 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 the respective foreign country. Producer prices in the United States decreased 2.3 percent between January 1984 and March 1987, compared with a 2.0-percent decrease in West German prices during the same period. In contrast, producer prices in Brazil and the United Kingdom increased 1,699.5 percent and 15.7 percent, respectively, during the period under investigation.

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

Note.—January-March 1984=100.0.

APPENDIX A

CHRONOLOGY OF ACTIONS

CHRONOLOGY

<u>Date</u>	<u>Action</u>	<u>FR Cite</u>	<u>Finding</u>
10/16/86	ITC- Institution Brazil--701-TA-282 (P) Brazil--731-TA-350 (P) FRG--731-TA-351 (P) Japan--731-TA-352 (P) UK--731-TA-353 (P)	51 FR 36871	
11/6	ITA- Initiation: Japan UK FRG	51 FR 40347 51 FR 40348 51 FR 40349	
11/13	ITC - Termination: Brazil 731-TA-350 (P)	51 FR 41163	
12/10	ITC - Determination	51 FR 44537	Affirmative
1/8/87	ITA - Preliminary Determination	52 FR 699	Affirmative: 4.96%
2/10	ITA - Extension of Final: Brazil	52 FR 4168	
2/19	ITC - Institution: Brazil 701-TA-282 (F)	52 FR 5200	
3/10	ITA - Extension of Preliminary Determinations: Japan, U.K., and the FRG. - Extension of Final Determinarion: Brazil.	52 FR 7286	
5/13	ITA - Preliminary Determinations: Japan U.K. FRG--Gerlach --Thyssen --All other	52 FR 17999 52 FR 18000 52 FR 18002	Negative Affirmative: 24.53% Negative Affirmative: 1.69% Affirmative: .78%
6/3	ITC - Institution: FRG--731-TA-351 (F) UK--731-TA-353 (F)	52 FR 20790	
6/11	ITC - Correction to the scope of investigation (TSUS)	52 FR 22415	
6/24	ITA - Postponement of final determination: Japan United Kingdom	52 FR 23707 52 FR 23708	Due: 9/25/87
7/28	ITA - Final determination: West Germany-Gerlach -Thyssen -All others - CVD suspension - Brazil	52 FR 28170 52 FR 28177	Negative Affirmative: 2.02% Affirmative: 2.02%
9/1	ITA - Final determination: U.K.	52 FR 32951	Affirmative: 14.67%

APPENDIX B

COPIES OF COMMISSION'S AND COMMERCE'S NOTICES

[A-412-602]

Final Determination of Sales at Less Than Fair Value, Certain Forged Steel Crankshafts From the United Kingdom**AGENCY:** International Trade Administration, Import Administration, Commerce.**ACTION:** Notice.

SUMMARY: We determine that certain forged steel crankshafts (CFSC) from the United Kingdom (U.K.) are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of CFSC from the U.K. that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated weighted-average dumping margins as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: September 1, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Loc Nguyen, Ms. Lori Cooper, or Ms. Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 377-0187, 377-3320, or 377-2438.

SUPPLEMENTARY INFORMATION:**Final Determination**

We determine that imports of CFSC from the U.K. are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a)(2) of the Tariff Act of 1930, as amended (the Act) [19 USC 1673d(a)]. We made fair value comparisons on sales of CFSC to the United States by the respondent during the period of investigation (October 1, 1985, through October 31, 1986). The estimated weighted-average dumping margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the last Federal Register publication pertaining to this case (the preliminary determination of sales at less than fair value (52 FR 18000, May 13, 1987)), the following events have occurred. We conducted verification from May 13-22, and on June 11, 1987, of the questionnaire responses of United Engineering & Forging (UEF). A public hearing was held on July 16, 1987.

Petitioner and respondent filed pre-hearing briefs on July 13, and post-hearing briefs, including comments on the verification report, on July 24, 1987.

Scope of Investigation

The products covered by this investigation are forged carbon or alloy steel crankshafts with a shipping weight between 40 and 750 pounds, whether machined or unmachined. These products are currently classified under items 660.6713, 660.6727, 660.6747, 660.7113, 660.7127, and 660.7147 of the *Tariff Schedules of the United States Annotated* (TSUSA). Neither cast crankshafts nor forged crankshafts with shipping weights of less than 40 pounds or greater than 750 pounds are subject to this investigation.

Period of Investigation

CFSC are normally sold to the United States on the basis of long-term requirements contracts. Therefore, in order to capture the most recent sales of CFSC to the United States, we extended the period of investigation (POI) to encompass the 13 months from October 1, 1985, to October 31, 1986, as permitted by § 353.38(a) of our regulations.

Fair Value Comparisons

To determine whether sales of CFSC in the United States were made at less than fair value, we compared the United States price to the foreign market value for the company under investigation, as specified below. We made comparisons on virtually all of the sales of CFSC to the United States during the POI.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of CFSC to represent the United States price for sales by UEF, because the merchandise was sold directly to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price based on the c.i.f. delivered, duty-paid price to unrelated purchasers. We made deductions, where appropriate, for foreign inland, ocean and U.S. inland freight, marine insurance, U.S. customs duties, and brokerage and handling fees.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value for CFSC based on delivered prices in the home market. We made deductions for foreign inland freight. Since no packing costs were incurred in the home market, we have only added U.S. packing costs. Pursuant to § 353.15(a) of our regulations, we

made circumstances of sale adjustments for differences in warranty and credit expenses. We made an adjustment to account for differences in physical characteristics of the merchandise in accordance with § 353.16 of our regulations.

In our preliminary determination, we made no adjustment for what respondent reported as technical services expenses, because we did not consider them to be directly related expenses within the meaning of § 353.15 of our regulations. At verification, we confirmed that these expenses were not directly related to the sales under consideration. On this basis, we have not made a circumstances of sale adjustment for these expenses.

In our preliminary determination, based on information provided in UEF's response, we made an adjustment for what we believed were after-sale warehousing expenses. During verification, we found that one shipment of crankshafts was held in UEF's rental facilities in the U.S. as buffer stock, to dampen fluctuations in shipping time and customer schedules. We also found that two other shipments of crankshafts were held in the customer's warehouse. Because the factual situation pertaining to these three transactions was not established until the verification, and because they comprise less than four percent of the total value of crankshafts sold to the United States during the POI, we have not included these three transactions in our fair value comparisons.

Currency Conversion

When calculating foreign market value, we made currency conversions from British pound sterling to U.S. dollars in accordance with § 353.56(a) of our regulations, using certified exchange rates furnished by the Federal Reserve Bank of New York.

Petitioner's Comments

Comment 1: Petitioner argues that, contrary to respondent's arguments, the Department should not enlarge the POI to cover sales of certain die numbers that took place prior to October 1, 1985.

Petitioner argues that, given the prevalence of long-term contracts in this industry, it is recent "sales" that are the appropriate focus of DOC's inquiry.

DOC Position: We agree. We believe that the 13-month POI, October 1, 1985, through October 31, 1986, set at the beginning of this investigation captures the most recent sales, allowing us to do a meaningful analysis of this case.

Comment 2: Petitioner argues that the "date of sale" should be the "date of price determination" and not the

effective date as respondent argues. Furthermore, petitioner argues that "the date of sale" should be the date on which agreement is reached as to firm price and quantity terms and not the date of the purchase order, or the date of written confirmation of an agreement.

DOC Position: We agree that the "date of sale" is the date on which all basic terms of the sale are agreed to, including the determination of price. We believe that, in this case, the date of sale is the date the price is confirmed in writing since that is the first date the price is finalized.

Comment 3: Petitioner argues that weight ought to be a primary criterion of similarity and that only crankshafts within a 15 percent weight range should be compared. Although this 15 percent rule is not recognized in the industry as based upon any principle of forged crankshaft production, petitioner argues that "there is an obvious need to draw the line somewhere," in order to minimize the size of the physical difference adjustments. Petitioner cites several cases to support its argument about the use of a range within which "similar" products are grouped including, among others: *Color Picture Tubes from Canada*, 52 FR 24316, 28317 (1987) and *Certain Electric Motors from Japan*, 49 FR 32627 (1984).

DOC Position: We disagree. Petitioner has not provided us with any evidence supporting a cut-off point of plus or minus 15 percent. However, we have used weight as one of the major criteria by which we determined appropriate comparisons. In the cases cited above, the products covered by those investigations are sold in specific sizes; therefore, it is appropriate to use a range of sizes within which to group similar products. Crankshafts, on the other hand, are made to each customer's specifications. Therefore, although weight is a factor in choosing the most similar merchandise, the weight range itself is not the basis for establishing categories of such or similar merchandise.

Comment 4: Petitioner contends that UEF's argument that section 771(16) of the Act requires the Department to take into consideration both physical (such as "complexity of crankshaft design") and non-physical (such as "sales" or "planning volume") characteristics in determining product "similarity" is a misinterpretation of the statute. Petitioner admits that section 771(16) does refer to such non-physical characteristics as end-use and commercial value; however, when it comes to determining what is "most similar", the statute clearly makes physical characteristics the primary

criteria. Petitioner further argues that "twisting" is not a physical characteristic, and that the physical characteristics of the home market models used by the Department in its preliminary determination are wholly unrelated to the fact that they are produced using different manufacturing techniques. Petitioner argues that "conceptually, it would appear more appropriate to consider twisting, like production volume, as a cost issue cognizable, if at all, under the commercial value criterion of the statute and therefore of much less importance than physical characteristics such as configuration and weight."

DOC Position: We disagree. Based on the evidence produced during this proceeding, we consider twisting to be as much of a physical characteristic as configuration and weight; therefore, it is one of the primary criteria in determining "most similar" products. We agree, however, that such non-physical characteristics as sales and planning volume are not relevant for the purpose of selecting "most similar" products. See *DOC Position on Respondent's Comment 2*.

Comment 5: Petitioner argues that the Department should reject respondent's argument that twisted and non-twisted crankshafts are not comparable, because: (1) Petitioner has been prejudiced by UEF's untimely submission of "voluminous arguments" in support of this change in the Department's analysis this late in the investigation; (2) these arguments are unverifiable; (3) petitioner is further prejudiced by its inability to respond fully to the highly technical arguments offered by UEF; (4) UEF was unable to provide the Department with actual cost data showing that twisted crankshafts have higher costs or higher prices because they are twisted; (5) contrary to respondent's claim that it has not calculated many of the costs that go into the making of a twisted crankshaft, these cost differences have already, in fact, been quantified and furnished to the Department; and (6) judging from photographs provided, the two twisted crankshafts involved could be produced using the forged-in-position process and, therefore, are no more "complex" in shape than the two "stepped" crankshafts shown in the photographs. Finally, petitioner argues that the additional cost of twisting is not a material factor in total manufacturing costs and that the small cost discrepancy is irrelevant to a pricing decision.

DOC Position: We disagree. The issue of twisted crankshafts versus non-

twisted crankshafts was raised early on in this investigation. Petitioner had ample opportunity to comment on this issue. Furthermore, while it is true that UEF was unable to provide actual cost data, the issue is whether a twisted crankshaft is sufficiently physically similar to a non-twisted crankshaft to allow comparison. Costs relating to physical differences are relevant only once we have determined that the crankshafts are similar. Since we determined that other, non-twisted crankshafts were more similar to non-twisted crankshafts for comparison purposes, the cost of producing a twisted crankshaft is irrelevant, as is the actual production process used. Furthermore, we verified that the crankshafts were actually "twisted" rather than "forged-in-position". Thus, we determined not to compare with non-twisted crankshafts.

Comment 6: Petitioner argues that the Department should adhere to the product comparisons made in the preliminary determination, because the home market comparisons selected by the Department were "more similar" to the U.S. crankshafts than those preferred by UEF. Should the Department conclude that UEF's choices are more similar, petitioner argues that the weighted average of all home market crankshafts with the same number of throws and falling within the 15 percent weight range should be used for comparison purposes. While petitioner believes it is reasonable to compare two crankshafts similar in configuration and weight, deciding which one of two or more home market crankshafts meeting this general description is "most similar" to the U.S. crankshaft may well be a difficult, if not an impossible, task.

DOC Position: In selecting comparable products for the preliminary determination, we took into account the criteria of number of throws, weight, and forging method. In light of the evidence produced during these proceedings, we have determined that it is appropriate to take into account the additional criterion of twisting. It is our policy to use the most similar home market product for comparison purposes and not to average a number of similar home market products. We do not find that the number of adjustments to price resulting from our selection of comparable models in this case is so large as to require resorting to an averaging technique such as that proposed by petitioner, nor is there any evidence that petitioner's proposal would lead to a more accurate comparison than the models we have chosen.

Comment 7: Petitioner argues that UEF has misconstrued and misapplied the "end-use" criterion of similarity. Section 771(16)(B) of the Act includes similar end-use as a criterion of comparability. Petitioner argues that the subject crankshafts and their proposed comparison models have the same over end-use and that UEF's argument regarding "end-use" pertains to the engines into which the crankshafts are incorporated, and not to the "end-use" of the crankshafts themselves. Petitioner further argues that even if the engines were sold into different markets, the Department should not examine marketplace dynamics in deciding whether certain crankshafts are "such or similar" to one another.

DOC Position: We agree. It is the end-use of the product under investigation itself that we consider in making "similar" merchandise selections, not the end-use of other products into which the product under investigation is incorporated. See *DOC Position on Respondent's Comments 1 and 2.*

Comment 8: Petitioner argues that the Department should continue to convert currencies using the daily exchange rate prevailing on the date of sale, rather than the six-month forward rate. Petitioner contends that UEF's discussion of forward exchange rates is no more than a description of how UEF allegedly deals with the exchange rate risk that is inherent in virtually all international sales by foreign companies. Petitioner argues that because of regulatory prescription and the Department's consistent practice of making currency conversion calculations on the basis of the exchange rate in effect on the date of sale, there is absolutely no risk of UEF being prejudiced in an antidumping investigation by reason of exchange rate movements after the date of sale, whether the sales contract lasts for one day or for five years. Since UEF knows the pound sterling prices of its sales in the home market, and since it knows the applicable exchange rate on the date of price agreement with the U.S. buyer, if it agrees to a price that is less than fair value, it has made a conscious decision to do so and cannot blame subsequent exchange rate movements for creating a dumping margin.

DOC Position: We converted currencies using the quarterly rates certified by the Federal Reserve in accordance with § 353.56(a) of the Commerce Regulations, except where the exchange rate on the date of sale varied from the quarterly rate by five percent or more. On the one date for which there was a change greater than

five percent, we used the actual daily rate, as required. See also *DOC Position on Respondent's Comment 7.*

Comment 9: Petitioner argues that the Department should reject UEF's "volatility" argument because UEF based its argument on rates appearing on one particular day at the beginning of each month, thereby making the movement in exchange rates appear more dramatic than if measured based on monthly average rates. Furthermore, since exchange rates in most quarters within the POI seemed just as volatile as exchange rates in the next quarter, it seems illogical to substitute one "volatile" rate for another "volatile" rate.

DOC Position: We find that evidence does not support a conclusion that respondent reacted within a reasonable period of time to "sustained" exchange rate changes. We also find that exchange rates in this case were not "temporary" or "volatile". For these reasons, we have used the certified Federal Reserve rate in effect on the date of each sale. See *DOC Position on Respondent's Comments 7 and 8.*

Comment 10: Petitioner and respondent make several arguments on issues relating to credit expense calculations and the allocation of after-sale warehousing expenses on three shipments which were warehoused in the United States.

DOC Position: As discussed in the *Foreign Market Value* section of the notice, these three shipments of crankshafts have not been included in our fair value comparisons. Therefore, the issues of credit expense calculation and the allocation of after-sale warehousing expenses are moot.

Respondent's Comments

Comment 1: Respondent contends that the home market models chosen as comparators by the Department in the preliminary determination improperly took into account only two criteria: Number of throws and weight. The Department should consider all relevant factors in making model selections, including non-physical differences. Respondent states that, in numerous other investigations, the Department has focused on non-physical differences in identifying such or similar merchandise where identical merchandise is not sold in the home market. Respondent further contends that section 771(16)(B) expressly directs the department to consider non-physical characteristics in selecting such or similar merchandise, including the purposes for which the merchandise is used and the commercial value of the merchandise. Respondent

contends that section 771(16)(C) covers an even broader grouping, *i.e.*, "the same general class or kind" of merchandise, thereby inviting a wide-ranging consideration of all relevant factors. Respondent cites the following in support of its position: *Malleable Cast Iron Pipe Fittings, Other than Grooved, from Brazil (Pipe Fittings)*, 51 FR 10897 (March 31, 1986); *Carlisle Tire & Rubber Co. v. United States (Carlisle)*, 9 C.I.T. _____, 622 F. Supp. 1071 (1985); *Lightweight Polyester Filament Fabric from Japan (Polyester)*, 49 FR 472 (January 4, 1984); *Lightweight Polyester Filament Fabric from the Republic of Korea (Polyester)*, 48 FR 49679 (October 27, 1983); *Large Power Transformers from Japan (Power Transformers)*, 51 FR 21197 (June 11, 1986); and *J. Pattison, Antidumping and Countervailing Duty Laws (1987)* 5.05(1) and 5-26.

DOC Position: In light of evidence produced during this proceeding, we have selected comparable models based on the criteria used in arriving at the preliminary determination, namely number of throws, weight, and forging method, with the addition of twisting. We believe these criteria enable us to select merchandise meeting the statutory requirements for most similar merchandise.

Respondent's arguments concerning commercial value and end-use have described the end-use of the machines in which the crankshafts are used, rather than the end-use of the crankshafts themselves. The cases cited by respondent may be distinguished on this basis and on the facts of the different industries involved. In the *Polyester* cases, the fabric industry had well-established designations for various types of merchandise, which reflected primarily physical characteristics of the merchandise, and which were agreed upon by experts in the field. There are no well-established designations for types of merchandise in the crankshaft industry. In *Carlisle* and *Pipe Fittings*, comparability decisions included consideration of the end-use of the products under investigation, but not of the products into which they were later incorporated. Finally, *Power Transformers* were found to be complex products which differed in unusual features, not necessarily obvious from a reading of specifications, for which price information was deemed necessary to assist in distinguishing the various products.

Comment 2: Respondent states that, under § 353.16, once comparison models are chosen, any remaining physical differences between products are subject to adjustment for cost

differences. On this basis, respondent argues that the most appropriate methodology in this investigation is to first match factors which effect physical and commercial comparability but which cannot be accounted for with a high degree of accuracy, and then to make adjustments to account for any differences due to any remaining, more readily quantifiable factors which do not match precisely. Specifically, respondent suggests matching non-twisted with non-twisted crankshafts, crankshafts with comparable volumes of sales, and crankshafts sold for incorporation into engines with similar end-uses. In support of this proposed methodology respondent cites *Certain Electric Motors from Japan*, 45 FR 73723 (November 6, 1980) and *Brass Sheet and Strip from the Republic of Korea (Korean Brass Sheet)*, 51 FR 40833 (November 10, 1986), in which the "Department concluded that the higher production costs associated with smaller production runs of one possible home market product disqualified that product from use as the comparator—even though it was physically closer to the U.S. product." Instead, the Department chose as the home market comparator a product produced in similar volumes to the one sold in the U.S. Respondent argues that the cost of production (COP) of twisted crankshafts is substantially higher than the non-twisted crankshafts and that not all of these incremental costs are captured in its cost accounting system. Respondent also contends that volume and end-use have a direct impact on production cost and price but are factors which are not equalized by the adjustment process. Respondent contends that the Department's own regulations expressly recognize the relevance of volume in making price-to-price comparisons, citing § 353.14, which instructs that home market and U.S. price comparisons "usually will be made on sales of comparable quantities of the merchandise under consideration."

DOC Position: While we have determined that it is inappropriate to compare non-twisted to twisted crankshafts, since twisting does indicate a physical difference in merchandise, we do not consider end-use and volume to be factors in the selection of similar merchandise in this case. Under section 771(16) of the Act, which defines "such or similar" merchandise, end-use is a factor only when the end-use pertains to the product under investigation itself, not to the product into which it is incorporated. In this case, the subject crankshafts and the proposed comparison models have the same end-

use, *i.e.*, incorporation into engines. Therefore, it is not appropriate to use the end-use of the engines themselves as a basis for comparison. As for volume, the regulation respondent cites, § 353.14, refers to appropriate comparisons made after the selection of similar merchandise. The definition of such or similar merchandise under section 771(16), does not specify volume as a criterion for choosing the most similar merchandise. Therefore, we have not considered volume in making our selection of most similar merchandise. In *Korean Brass Sheet*, the case cited by respondent, the Department first determined that two home market products were equally similar to the U.S. product. Comparisons were then made to the home market product for which the production run was closest to that of the U.S. product. In that case, volume was only considered after the similar merchandise selection had been made. See also *DOC Position on Petitioner's Comments 4, 5, 6, and 7.*

Comment 3: Respondent argues that the factors of end-use and volume support one of its proposed comparison models, because both its comparison choice and the U.S. model are used primarily for agricultural/industrial applications and in nearly identical quantities, whereas the comparator chosen by the Department for the preliminary determination is sold in smaller volumes into a high-priced, "niche", truck market.

DOC Position: We disagree. See *DOC Position on Respondent's Comments 1 and 2* and on *Petitioner's Comment 7.*

Comment 4: Respondent suggests that the Department should question "widely disparate margins resulting from the use of basically similar home market models as comparators." Where the different margins are attributable to identifiable, distinguishing factors that affect the commercial value of the merchandise, respondent argues that the Department must eliminate the differences, either by quantifying them and making an adjustment or by identifying a more similar home market model.

DOC Position: "Widely disparate margins which result from the use of basically similar home market models as comparators" are not necessarily an indication of inappropriate comparisons but rather could be an indication of actual dumping margins. However, if those margins are solely attributable to identifiable, distinguishing factors, then the Department will attempt to eliminate the differences, either by quantifying them and making an adjustment or by identifying a more similar home market

model. In this case, we have selected a more similar home market model.

Comment 5: Respondent argues that the plus or minus 15 percent weight range proposed by petitioner as a basis for selecting crankshaft comparison models is arbitrary, has no technical or commercial basis, and overstates the importance of similarity in weight in the process of model selection.

DOC Position: We agree that petitioner has not provided any evidence other than conclusory statements to support the proposed weight limit of plus or minus 15 percent in making our product comparisons. Therefore, where appropriate, we have gone outside that weight range in selecting the most similar home market crankshaft for comparison purposes. See *DOC Position on Petitioner's Comment 3*.

Comment 6: Should the Department adhere to its preliminary comparison model choices, respondent urges that the Department weight-average the two home market models (i.e., the Department's proposed comparator and respondent's proposed comparator). Respondent argues that this approach would reduce the distortion inherent in comparing models which differ in non-adjustable respects. Finally, respondent argues that weight-averaging would be consistent with petitioner's own preference.

DOC Position: See *DOC Position on Petitioner's Comment 6*.

Comment 7: Respondent argues that the Department should use the six-month forward exchange rates for currency conversions. It contends that it is common practice in the U.K. to hedge against the effect of exchange rate fluctuation by selling forward foreign currency receipts and that this has been actual UEF policy for several years. UEF argues that it would be perverse and unfair, if the company's "sound commercial practice were ignored in determining fair value, producing exchange rate dumping", the very result sought to be avoided when applying the antidumping laws in an economic environment characterized by volatile exchange rates. Respondent further argues that nothing is said in the Department's regulations barring the use of a forward exchange rate, citing 19 CFR 353.56(a), which merely requires that the conversion be made "as of the date of the purchase or agreement to purchase". Respondent argues that the regulation does not specify a daily, quarterly, or a forward rate, and that the Department has discretion as to which rate to use.

DOC Position: Section 353.56(a) requires that currency conversions be

made "in accordance with the provisions of section 522 of the Tariff Act of 1930, as amended" (31 U.S.C. 5151), which provides that "[t]he Federal Reserve Bank of New York shall decide the buying rate" [31 U.S.C. 5151(e)]. The Tariff Act also directs that conversions be made at quarterly rates, unless the rate on any given day varies from the quarterly rate by five percent or more, in which case the actual daily rate is to be used [31 U.S.C. 5151(c), (d)]. Therefore, contrary to Respondent's contention, we are obliged to use quarterly rates absent the five percent variance provided for in the Tariff Act, or absent circumstances which would permit us to apply the "special rule" of § 353.56(b) of the regulations. Even if the "special rule" could be applied in this case, UEF has not provided sufficient evidence to support its assertion that its pricing is directly linked to, or based on, the six-month forward exchange rate.

Comment 8: Respondent argues that if forward exchange rates are not used, the Department should apply the lag rate, i.e., use the exchange rate prevailing in the calendar quarter preceding the sales date. Respondent contends that in previous cases such as *Melamine Chemicals, Inc. v. United States (Melamine)*, 732 F.2d 924, 931 (Fed. Cir. 1984), the Court of Appeals has upheld the Department's application of the exchange rate prevailing in the quarter preceding the sales in question to prevent the imposition of antidumping duties resulting solely from temporary currency fluctuations.

Respondent states that it renegotiated its prices with one U.S. customer to take account of the strengthening of the pound, and that this is evidence of UEF's attempt to do what the statute wants foreign producers to do—to raise U.S. prices when the dollar weakens. In *Brass Sheet and Strip from the Federal Republic of Germany (German Brass Sheet)*, 52 FR 822, 826 (January 9, 1987), the Department specifies two tests, one of which must be met before the Department will consider lagging the exchange rates in less than fair value (LTFV) investigations: (1) There has been a sustained change in exchange rates and respondents can show that they have acted within a reasonable period of time to adjust their prices to the change, or (2) dumping margins are due solely to a temporary fluctuation in exchange rates. Respondent contends that it has met these tests.

DOC Position: We disagree. If exchange rates in this case are considered to have been characterized by "sustained" changes, respondent's evidence has not shown price readjustment or other reaction to such

changes within a reasonable period of time as required by *Melamine*. Nor does the evidence support a finding of "temporary" exchange rate changes, so that the second test cited by respondent is inapplicable.

Comment 9: Respondent argues that U.S. interest rates should be used in determining the cost of credit for U.S. sales, because the U.S. rate would reflect the actual credit costs incurred by UEF had the company borrowed to finance its U.S. receivables. Respondent cites *Certain Welded Pipe and Tube Products from Turkey (Welded Pipe)*, 51 FR 13044 (April 17, 1986), in which the Department calculated interest expense in the U.S. market based on the relevant U.S. rates.

DOC Position: We disagree. It is the Department's policy to use the home market interest rate to compute the respondent's credit expense for U.S. purchase price sales where, as in the present investigation, the respondent has not received any foreign financing. In *Welded Pipe*, U.S. sales were actually financed with short-term dollar-denominated financing, so the use of the weighted-average dollar interest rate was applied.

Comment 10: Respondent argues that the Department should calculate credit adjustments based on the interest rate prevailing on the date of each shipment, the rate UEF would have had to pay had it actually borrowed to finance its receivables.

DOC Position: We agree and have done so.

Comment 11: Respondent argues that the per diem cost of credit should be calculated on the basis of a 365-day year rather than a 360-day year.

DOC Position: We agree. We found that the bank used by the respondent based its interest calculations on 365 and not 360 days.

Comment 12: Respondent argues that shipments made after October 31, 1986, should not be included in fair value calculations since these shipments are no more relevant than sales prior to October 1, 1985, or subsequent to October 31, 1986.

DOC Position: We disagree. Because of contractual practice in this industry, there is a significant difference between "sales" and "shipments" in this case. A "sale" of the product is made at the time when a price agreement is reached. "Shipments" directly related to these "sales" are subsequently sent to the customer over a period of months or even years. In order for the "sale" to be included in the dumping calculation for purposes of this final determination, the date of sale, i.e., the date of written

confirmation of the price agreement, has to be within the POI, *i.e.*, October 1, 1985, through October 31, 1986. "Shipments", however, are not limited to the POI. As long as the "shipments" are pursuant to a "sale" made within the POI, they should be included in the calculation for purposes of the investigation. We agree, however, that sales prior to October 1, 1985, and subsequent to October 31, 1986, are irrelevant to the calculation of fair value since they are outside the POI.

Comment 13: Respondent argues that any future dumping order issued in this case should be limited only to those sales which were actually investigated. Since the Department excludes sales to some customers from the investigation because they occurred prior to October 1, 1985, it should exclude from the scope of any order which might ultimately be issued, UEF's shipments to those customers. Otherwise, some of UEF's customers would be burdened by the requirement to deposit duties on sales which were never investigated and which the Department has no basis whatever to assume were made at less than fair value. Since sales to customers whose imports were not investigated cannot be identified by tariff classification, respondent proposes that such models be identified by means of a certification mechanism similar to that used in other areas of customs law where the need arises because the rate of duty varies depending on the actual use of the imported merchandise. Such a procedure could be adopted here to permit imports of crankshafts by these customers without the deposit of duties based on unfounded and arbitrary assumptions, rather than findings based on facts.

DOC Position: We disagree. Respondent misunderstands the statutory scheme applicable to dumping investigations and orders. The result of a dumping investigation is an estimated margin which is to be applied to future entries. The Department has not actually made a determination that such future entries were dumped, since an investigation can only evaluate practices which have already occurred. Should respondent believe that the estimated margin provided in an order does not accurately reflect the actual dumping margin for future entries, its remedy is to request a review under section 751 of the Act and § 353.53(a) of our regulations.

Comment 14: Respondent argues that a circumstances of sale adjustment must be made for the cost of tooling for one die number for which the U.S. customer

paid part of the cost of tooling, since the U.K. customer for the comparison model did not pay for tooling. UEF submits that the different treatment of tooling costs in the two markets warrants an adjustment for different circumstances of sale. Respondent cites as an example, *Certain Forged Steel Crankshafts from the Federal Republic of Germany (German Crankshafts)*, 52 FR 18002, 18003 (1987).

DOC Position: Since this issue was first brought up after verification, we were unable to verify either the cost paid by the U.S. customer, or the fact that the U.K. customer did not pay for tooling for the comparison model. We therefore determined not to make a circumstances of sale adjustment. In *German Crankshafts*, the Department did not make a circumstances of sale adjustment between the home and the U.S. markets. Rather, we found that there was insufficient information on the home market side for us to consider an adjustment. Therefore, we did not make a determination on whether a circumstances of sale adjustment for tooling costs was appropriate.

Comment 15: Respondent states that it agrees with petitioner's argument that differences in the costs of inspection should be disregarded in calculating the difference in merchandise adjustment because these costs are not related to physical differences in merchandise.

DOC Position: We disagree. Since each crankshaft requires a different type and a different level of inspection, we consider inspection costs to be variable costs directly related to the differences in the physical characteristics of the merchandise. Therefore, these costs have been included in the calculation of the difference in merchandise adjustment.

Verification: We verified all information used in making our final determination in accordance with section 776(a) of the Act and followed standard verification procedures, including examination of relevant sales and financial records of the company under investigation.

Suspension of Liquidation: In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of CFSC from the U.K. that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount

by which the foreign market value of CFSC from the U.K. exceeds the United States price, as shown in the table below. The cash deposit or bonding rate established in the preliminary determination shall remain in effect with respect to entries or withdrawals from warehouse made prior to the date of publication of this notice in the Federal Register. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
United Engineering & Forging	14.67
All others	14.67

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing the U.S. Customs Service to assess an antidumping duty on CSFC from the U.K., entered or withdrawn from warehouse, for consumption on or after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Dated: August 26, 1987.

Paul Freedenberg,

Assistant Secretary for Trade Administration,
[FR Doc. 87-20056 Filed 8-31-87; 8:45 am]

BILLING CODE 2510-02-M

[A-428-604]

Final Determination of Sales at Less Than Fair Value: Certain Forged Steel Crankshafts From the Federal Republic of Germany

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain forged steel crankshafts (CFSC) from the Federal Republic of Germany (FRG) are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of CFSC, except for entries from Gerlach-Werke GmbH (Gerlach), that are entered or withdrawn from warehouse for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated weighted-average dumping margin as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: July 28, 1987.

FOR FURTHER INFORMATION CONTACT: Steve Morrison, Roy Van Buskirk, or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-0188, 377-0631, or 377-0161.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that imports of CFSC from the FRG are being, or are likely to be, sold in the United States at less than fair value, as provided in section

735(a)(1) of the Tariff Act of 1930, as amended (the Act) [19 USC 1673d(a)]. We made fair value comparisons on sales of CFSC to the United States by the respondents during the period of investigation (March 1, 1985, through October 31, 1986). The estimated weighted-average dumping margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the last Federal Register publication pertaining to this case (the preliminary determination of sales at less than fair value (52 FR 18002, May 7, 1987)), the following events have occurred. We conducted verification from May 20 through June 10, 1987, of the questionnaire responses of Gerlach and Thyssen Unformtechnik (Thyssen). Petitioner and respondents filed pre-hearing briefs on June 18, and rebuttal briefs including comments on the verification reports on July 10, 1987. A public hearing was held on July 1, 1987.

Scope of Investigation

The products covered by this investigation are forged carbon or alloy steel crankshafts with a shipping weight between 40 and 750 pounds, whether machined or unmachined. These products are currently classified under items 660.6713, 660.6727, 660.6747, 660.7113, 660.7127, and 660.7147 of the *Tariff Schedules of the United States Annotated* (TSUSA). Neither cast crankshafts nor forged crankshafts with shipping weights of less than 40 pounds or greater than 750 pounds are subject to this investigation.

Period of Investigation

CFSC are normally sold to the United States on the basis of long-term requirements contracts. Therefore, in order to capture the most recent sales of CFSC to the United States, we extended the period of investigation to encompass the 20 months from March 1, 1985, to October 31, 1986, as permitted by § 353.38(a) of our regulations.

Fair Value Comparisons

To determine whether sales of CFSC in the United States were made at less than fair value, we compared the United States price to the foreign market value for the companies under investigation, as specified below. We made comparisons on virtually all of the sales of CFSC to the United States during the period of investigation.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of CFSC to represent the United States price for

sales by Gerlach and Thyssen in which the merchandise was sold directly to unrelated purchasers prior to its importation into the United States.

For sales which were made through a related sales agent in the United States to an unrelated purchaser prior to the date of importation, we also used purchase price as the basis for determining United States price. For these sales, the Department determined that purchase price was the appropriate indicator of the United States price based on the following elements:

1. The merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related selling agent;
 2. This was the customary commercial channel for sales of this merchandise between the parties involved; and
 3. The related selling agent located in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyer.
- Where all the above elements are met, we regard the routine selling functions of the exporter as having been merely relocated geographically from the country of exportation to the United States, where the agent performs them. Whether these functions are done in the United States or abroad does not change the substance of the transactions or the functions themselves.

We calculated the purchase price based on the c.i.f. delivered, duty paid price to unrelated purchasers. We made deductions, where appropriate, for foreign inland, ocean and U.S. inland freight; foreign inland, marine and U.S. inland insurance; U.S. customs duties, and brokerage and handling fees. We disallowed an adjustment for tooling costs (costs associated with manufacturing the dies and molds used to produce crankshafts) requested by Thyssen. See DOC Position to Thyssen's Comment 5.

Foreign Market Value

In accordance with sections 773(a)(1)(A) and 773(a)(2) of the Act, we calculated foreign market value for CFSC based on home market sales and, where appropriate, constructed value. For both Gerlach and Thyssen, a constructed value comparison was used for all but one sale by each company in the United States during the period of investigation.

For Gerlach, we based our calculations of foreign market value on the ex-works, packed prices to unrelated purchasers in the home market. Pursuant to section 353.15(a) of our regulations, we made circumstance of sale

adjustments for differences in warranty and credit expenses where foreign market value was based on home market sales. However, no adjustments were made for these expenses when foreign market value was based on constructed value because U.S. credit and warranty expenses were included in the constructed value. We allowed an offset for indirect selling expenses in the home market up to the amount of the commissions for certain shipments in the U.S. market in accordance with § 353.15(c) of the Commerce Regulations. We made an adjustment to account for differences in physical characteristics of the merchandise in accordance with § 353.16 of our regulations. We deducted home market packing and added U.S. packing expenses.

We disallowed an offset of indirect selling expenses for 1986 shipments by Gerlach because the 1986 commission was paid to a U.S. selling agent related to Gerlach through ownership by a common holding company.

For Thyssen, we based our calculations on delivered, packed prices to unrelated purchasers in the home market. We deducted home market inland freight and insurance and made circumstance of sale adjustments for differences in warranty and credit expenses where foreign market value was based on home market sales. However, no adjustments were made for these expenses when foreign market value was based on constructed value because U.S. credit and warranty expenses were included in the constructed value. We deducted home market packing and added U.S. packing expenses. We made an adjustment to account for differences in physical characteristics of the merchandise in accordance with § 353.16 of our regulations.

Constructed Value

We used constructed value as the basis for calculating the foreign market value when there were no sales of such or similar merchandise. For both Thyssen and Gerlach, constructed values were based on the respondents' information, except as noted below:

1. We based scrap and material loss on the difference between actual input and output weights as verified.
2. We based the value of the machining services provided by Mavilor to Gerlach on the invoice price paid by Gerlach.

For both Thyssen and Gerlach, actual general expenses were used since these amounts exceeded the ten percent statutory minimum. For Gerlach in 1985,

and Thyssen in 1985 and 1986, the statutory minimum profit of eight percent was used because the actual profit was less than the statutory minimum. For Gerlach in 1986, actual profits exceeded the statutory minimum, therefore actual profits were used.

Currency Conversion

When calculating foreign market value, we made currency conversions from French francs and German marks to U.S. dollars in accordance with § 353.56(a) of our regulations, using certified exchange rates furnished by the Federal Reserve Bank of New York.

Petitioner's Comments

Comment 1: Petitioner argues that the date of sale is *not* the date of written confirmation of sales quantity and price, but is rather the date on which evidence indicates the parties agreed to firm quantity and price terms. They contend that neither the law nor Department practice requires the date of sale to be established by some explicit written statement of sales quantity and price; all that is required is documentary or other evidence of the date the parties reached a "meeting of the minds" with respect to price and quantity. Petitioner further argues that a purchase order does not itself establish a date of sale, but rather is evidence of an earlier agreement on price and quantity.

DOC position: We agree that the date of formal written confirmation on price and quantity is not necessarily dispositive of a date of sale. However, to determine the date of sale, we must have some written evidence in order to establish and verify the date of agreement between the parties. In this investigation, we determined date of sale based on the earliest written evidence of an agreement. We cannot speculate that an earlier date of sale exists based on a *belief* that an earlier agreement *may* have been reached between parties.

Comment 2: Petitioner argues that *all* of Thyssen's 1985-86 shipments of crankshafts to the United States were made pursuant to a unitary "sale" which occurred prior to the beginning of the period of investigation. Therefore, all shipments in both 1985 and 1986 should be excluded from the less-than-fair-value (LTFV) analysis.

DOC position: We disagree. See DOC Position to Thyssen's Comment 2.

Comment 3: Petitioner argues that *all* of Thyssen's 1987-88 shipments of crankshafts to the United States subject to this investigation should be included in the LTFV analysis because agreement on the quantity and price for these sales were reached prior to the end of the

period of investigation. Although there were post-filing renegotiations of existing contracts, these should not be permitted to negate the fact that a pre-filing sales agreement existed.

DOC position: We agree.

Documentation on the record indicates that an agreement on price and quantity for 1987-88 shipments of crankshafts to the United States subject to this investigation was made prior to the end of the period of investigation.

Accordingly, shipments pursuant to this sale have been included in our calculation of sales at LTFV. Also, see DOC Position to Thyssen's Comment 3.

Comment 4: Petitioner argues that for all crankshafts sold to the United States by Thyssen, FMV should be based on constructed value since all of Thyssen's relevant U.S. sales were made at below the cost of production.

DOC position: We disagree. In support of this argument, petitioner refers to Exhibit 15 of Thyssen's questionnaire response which it contends indicates that Thyssen's U.S. crankshaft sales were at a significant operating loss. We have verified that Exhibit 15 did not reflect actual financial costs incurred by Thyssen for the period of investigation. Moreover, the Department's authority to compare U.S. price to constructed value, rather than the preferred home market sales, does not extend to situations where U.S. sales are below cost of production. Section 773(b) of the Act, and § 353.7(b) of the Regulations authorize the Department to reject home market selling prices when those prices are below cost of production. No similar provision exists when U.S. prices are below cost of production.

Comment 5: Petitioner contends that the home market crankshaft proposed by Thyssen as "such or similar" is not appropriate for comparison to U.S. sales. They argue that the home market crankshaft proffered for comparison is in effect a semi-finished product and is therefore unusable as a comparison.

DOC position: We disagree. See DOC Position to Thyssen's Comment 4.

Comment 6: Petitioner states that, when calculating constructed value for Thyssen, the Department should use Thyssen's Exhibit 15, which purportedly reports actual operating results for forged steel crankshafts.

DOC position: For constructed value, the Department has used the actual costs incurred by Thyssen during the period of investigation. Thyssen's Exhibit 15 was submitted for use in identifying *certain* costs (*i.e.*, U.S. and home market profit); it does not reflect other actual costs incurred by Thyssen for *all* elements of constructed value. Rather, Exhibit 15 reports as current

expenses certain costs that benefit future periods. Therefore, these costs are not representative of the actual expenses incurred during the period of investigation.

Comment 7: Petitioner argues that the GS&A costs reported by Thyssen do not include selling expenses and that the selling expenses we should use for constructed value are those contained in Exhibit 15.

DOC position: We disagree. In our preliminary determination, we added U.S. credit and warranty expenses to the constructed values reported by Thyssen. However, at verification, we found that these U.S. costs were already included in GS&A expenses. Therefore, we have not added these costs for purposes of our final LTFV analysis. With regard to Exhibit 15, see DOC response to Petitioner's Comment 6.

Comment 8: Petitioner states that the Department should reject Thyssen's new cost of production submission of May 29, 1987, because this new cost data is at considerable variance with the cost data previously submitted by Thyssen.

DOC position: The Department has verified the costs submitted by Thyssen on June 12, 1987. These costs, rather than the costs presented in the May 29 submission, were used in calculating constructed value for purposes of our final determination.

Comment 9: Petitioner argues that the Department should add the full amount of Thyssen's U.S. technical services expenses to foreign market value as a circumstance of sale adjustment. Petitioner further contends that these technical services should be allocated over only those sales during the period of investigation of the particular crankshaft to which these expenses were directly connected.

DOC position: We disagree. We have not made a circumstance of sale adjustment for technical services expenses because these expenses could not be tied to the specific sale under investigation.

Comment 10: Petitioner argues that the Department should recalculate Thyssen's U.S. credit costs based on the full purchase price to the U.S. customer, rather than on the transfer price to its related U.S. subsidiary.

DOC position: We agree with respect to credit expenses in 1985 and 1986. These expenses have been recalculated for purposes of our final determination. For 1987, Thyssen reported credit expenses based on full purchase price; therefore, no adjustment was made.

Comment 11: Petitioner argues that, in its constructed value calculations, the Department should disregard the steel

prices reported by Thyssen since they were not at market prices and should instead use the steel prices it provided in its April 24, 1987, submission as best information available.

DOC position: We disagree. Under section 773(e)(2) of the Act, the Department may disregard transactions between related parties if "in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise under consideration." In this case, Thyssen's sole supplier of the steel used to produce the subject merchandise is a related company. Further, Thyssen is the only purchaser of that related party's product in the FRG. The "market price" referred to by petitioner purportedly comes from a market research report of prices in the FRG covering only one month during the period of investigation. That report has not been submitted on the record, and we do not know the grade of steel the reported price is for. While the section of the Act cited above permits the Department to use best information available when it can be demonstrated that the price of the constructed value element is not at market prices, we have no evidence which would lead us to believe that the price paid by Thyssen for steel is not representative of a market price in the FRG. We further note that this price is above the related party's cost of producing the steel used by Thyssen in CFSC. Therefore, we have not disregarded the related transactions.

Comment 12: Petitioner argues that Gerlach has inappropriately reported a sale based on the date of a contract which effected no change in prices and terms over an earlier memorandum referring to an agreement on those same prices and terms. In addition, petitioner urges the Department to scrutinize the verification exhibits to determine the date of the actual agreement pursuant to which the memorandum was issued and to apply the appropriate exchange rate for that sale date.

DOC position: Although the later contract led to no change in price over the earlier memorandum, we found that the contract changed other terms of sale from an earlier memorandum so as to constitute a new date of sale. With regard to the date of the earlier memorandum, the information contained in this memorandum indicated a change in price from an agreement prior to the period of investigation, effective as of the date of the memorandum. Therefore, the date of the memorandum is the proper date of sale for shipments for the

interim period between the memorandum and the later contract.

Comment 13: Petitioner argues that Gerlach's 1987 shipments of a particular crankshaft were made pursuant to a new sale consummated during the period of investigation and were not, as the verification reports indicated, part of the same sale under which 1988 shipments were made.

DOC position: We agree. The earlier sale was determined pursuant to a document which stated a definitive time period for which prices and terms were in effect. Because the earlier document by its own terms was due to expire imminently, the agreement to continue the price and terms into 1987 was therefore considered by the Department to constitute a new sale.

Comment 14: Petitioner argues that the Department should recalculate Gerlach's depreciation costs by using an historical-based straight line methodology, rather than the replacement cost methodology submitted by Gerlach in its response.

DOC position: We agree. For this final determination, we did not use replacement cost originally reported by Gerlach to establish asset values. During verification, Gerlach resubmitted, and we verified, depreciation schedules prepared on an historical cost basis.

Comment 15: Petitioner argues that the Department should use Gerlach's actual tooling costs incurred during the period of investigation for purposes of constructed value rather than the average tooling costs over several years reported by Gerlach.

DOC position: We disagree. The Department used the tooling costs as presented by the respondent. This amount approximated the average for the period of investigation. We verified that tooling costs fluctuate widely from one year to the next and are not tied to any particular sales. Therefore, we believe it is more appropriate to use an average tooling cost rather than the costs incurred during the period of investigation.

Comment 16: Petitioner argues that, without documentation of actual quantities of scrap steel recovered, actual quantities of scrap steel sold, and the price per ton of scrap steel paid by the purchaser of the scrap steel, the Department should reject Gerlach's and Thyssen's claim for scrap credit.

DOC position: We disagree. At verification, we tested scrap calculations and forged weights, and examined invoices on sales of scrap in order to check the accuracy of the scrap values reported. We are satisfied that the quantity and value of scrap as

reported by both Gerlach and Thyssen are reasonable.

Comment 17: Petitioner argues that the Department should calculate the constructed value of certain crankshafts based on actual forging weights discovered during verification rather than the theoretical weights presented in Gerlach's response.

DOC position: We agree. Where possible, actual forged crankshaft weights were used in the final determination instead of theoretical forged weights.

Comment 18: Petitioner argues that the Department should continue to calculate the price Gerlach pays for steel without regard to rebates and other credits granted by its related supplier.

DOC position: We disagree. During verification, rebates and credits were found to be typical deductions from prices charged steel purchasers and have, therefore, been accepted for purposes of our final determination.

Comment 19: Petitioner argues that a majority of Gerlach's reported indirect selling expenses are relevant only to U.S. or other export sales. Therefore, petitioner contends that the proper calculation of home market indirect selling expenses would involve dividing those expenses by the value of home market sales.

DOC position: We disagree. Indirect selling expenses pertain to all sales made and cannot be tied to a particular market. These expenses would remain constant over a certain level of sales regardless of where those sales occur.

Comment 20: Petitioner argues that the Department should continue to base Gerlach's GS&A factor on manufacturing costs rather than on the cost of goods sold.

DOC position: In this case, the Department calculated GS&A as a percentage of cost of manufacturing, since we were unable to verify the cost of sales.

Comment 21: Petitioner argues that the Department should take the "interest expense" incurred by Gerlach in connection with its purchase of Mavilor into account in the constructed value calculations for the final LTFV determination.

DOC position: We agree. Interest expense paid for the purchase of Mavilor is a cost related to producing crankshafts and was used in the final determination.

Gerlach's Comments

Comment 1: Gerlach contends that machined crankshafts constitute a separate class or kind of merchandise

from unmachined crankshafts. Gerlach argues that machined and unmachined crankshafts differ substantially in physical characteristics, do not compete for the same customers, move in different channels of trade, and require different manufacturing facilities. Also, machined crankshafts undergo a labor-intensive process that increases the value of an unmachined crankshaft by more than 100 percent. In support of its argument, Gerlach cites *Certain Carbon Steel Butt-Weld Pipe Fittings From Brazil (Pipe Fittings)* (51 FR 37770, October 24, 1986) in which the Department excluded from its investigation forged products which had not been advanced in value by processes such as coining, heat treatment, shot blasting, grinding, die sampling, or plating. Gerlach argues that because these finishing processes transform a forged product far less substantially, and add far less value, than does the machining process which renders a crankshaft usable in an engine, the Department should reach separate fair value determinations for these two products.

DOC position: We disagree. In order to determine whether certain goods constitute a separate "class or kind" of merchandise, the DOC must examine those goods in light of the following five criteria:

- (a) the general physical characteristics;
- (b) the expectations of the ultimate purchaser;
- (c) the channels of trade in which the product is sold;
- (d) the manner in which the product is advertised and displayed; and
- (e) the ultimate use of the merchandise in question.

Although machined and unmachined crankshafts differ in outward appearance, the general size, configuration, design, and material properties are the same.

Second, an unmachined crankshaft is simply a preliminary stage in the production of a finished product. It is produced exclusively for machining and end use as an integral part of an internal combustion engine. Unmachined crankshafts have no use other than for machining. Therefore, the ultimate purchaser is *always* the same for both machined and unmachined crankshafts and the ultimate use is *always* as the identical component in an internal combustion engine. Furthermore, both products are sold through the same channels of trade. Finally, because of the nature of the product, little advertising for either product exists, other than product brochures provided by the company.

With regard to *Pipe Fittings*, our scope in that investigation was limited to the products specifically named in the petition. The Department made no determination on whether to exclude certain pipe fittings from the scope of investigation.

Comment 2: Gerlach contends that, in the preliminary determination, the Department improperly adjusted labor and factory overhead costs to compensate for a reported increase in input units during the fabrication process.

DOC position: We agree. During verification this point was resolved. The Department obtained the facts concerning labor and overhead, and thus, no adjustment was necessary.

Comment 3: Gerlach contends that the net raw material prices paid by Gerlach to its related steel supplier, including adjustments for special rebates and credits, were comparable to arms-length prices that this supplier charged unrelated German customers for similar merchandise. Thus, these raw material prices should be used in calculating constructed value.

DOC position: We agree. The Department determined during verification that prices paid by Gerlach approximated market prices published in a public price list for that grade of steel, and has used those prices for constructed value.

Comment 4: Gerlach contends that the use of intra-corporate transfer prices for machining from Mavilor to Gerlach double counts profits, thereby improperly inflating Gerlach's constructed value. Therefore, Gerlach argues that the Department should utilize the costs incurred by Mavilor to calculate constructed value for the final determination.

DOC position: We disagree. The prices paid for machining services to Mavilor by Gerlach were identical to those paid by Gerlach prior to its purchase of Mavilor. Therefore, we find these prices approximate market value and used them in accordance with section 773(e)(2) of the Act. With respect to Gerlach's contention that by using transfer prices we would be double-counting profit, we note that a component of any market price is the profit margin of the seller. In this case, since we have determined that the price charged by Mavilor was a market price, we would expect that price to include Mavilor's profit on its sale to Gerlach.

Comment 5: Gerlach contends that, because it does not sell machined crankshafts in its home market, the Department should assess profits on machined crankshafts for use in constructed value based on Mavilor's

profits on its home market (*i.e.*, French) sales of machined crankshafts.

DOC position: We disagree. Mavilor only provides machining services for Gerlach. All sales related activities are performed by Gerlach, with such sales reported in their audited financial statements. Therefore, Gerlach's home market profit was used for purposes of constructed value in our final determination.

Comment 6: Gerlach contends that 1986 shipments of leftover crankshafts produced and sold pursuant to sales consummated prior to the review period should not be used in the Department's fair value analysis, even though the invoiced price for these crankshafts was not the price agreed upon in the original contract. Gerlach contends that this sale was made pursuant to an agreement made prior to the period of investigation.

DOC position: We agree. The agreement referred to indicates that Gerlach agreed to a new price with its U.S. customer. This is the earliest written documentation with regard to this agreement. This sale was not included in our fair value determination since it occurred before the period of investigation.

Thyssen's Comments

Comment 1: Thyssen argues that, in determining the date of sale for shipments of crankshafts to the United States, the Department must apply the following basic principles: (1) the buyer and seller must have agreed to basic sales terms regarding price and quantity; (2) by application of law and by requirement of Thyssen's customer, the terms of the long-term requirements contract must be reduced to writing to be binding on the parties; (3) the written agreement must properly memorialize the meeting of the minds and cannot merely reflect the fact that individual shipments will be made; and (4) since business considerations often require that individual shipments predate the actual date of contract, the existence of these shipments does not create a binding agreement for the entire term at issue. In support of its argument, Thyssen cites *64K Dynamic Random Access Memory Components from Japan (64K DRAMS)*, (51 FR 15943, Apr. 29, 1986); *Brass Sheet and Strip from France (Brass Sheet)*, (52 FR 812, Jan. 9, 1987); and *Cellular Mobile Telephones and Subassemblies from Japan (CMTs)*, (50 FR 45447, Oct. 31, 1985). Thyssen asserts that, in all of these determinations, the Department has held that the date of sale for antidumping purposes is the date on which the basic terms of the

contract (price and quantity) are agreed to irrevocably—that is, the date on which a binding commitment exists. In making these determinations, Thyssen states that the Department has followed basic principles of contract law in which a binding commitment for a long-term requirements contract only exists when: (1) the contracting parties have a meeting of the minds on all essential terms and conditions; and (2) the parties bind themselves to abide by this understanding by entering into a formal written agreement not just an offer or price quotation. Moreover, Thyssen asserts that even if the statute of frauds and sound public policy did not dictate that a long-term multi-million dollar requirements contract be reduced to writing to be binding on the parties, the statement by Thyssen's customer in its purchase order that "verbal understandings or agreements are not valid and will not be recognized," makes a written offer and a written acceptance mandatory in this situation. Thyssen cites certain U.S. state law as authority for its position.

DOC position: In determining the appropriate date of sale, we focused on the initial written documentation in each case that specified price and quantity terms which were agreed to by the parties involved, for it is on that date that the petitioning U.S. industry lost the ability to sell its product to the U.S. customer. For each of the sales in question, Thyssen produced a crankshaft to the customer's specifications, and the customer accepted delivery and made payment based on a written agreement which we have determined to be the date of sale. Thus, the parties clearly acted in a manner consistent with a determination that there was a "meeting of the minds" as to the terms.

We do not agree with Thyssen that we may look only to a formal memorialization of the agreement of sale. This case presents a factual situation in which the formal documentation of the terms between Thyssen and its customer is sometimes never executed, or is executed at a time long after the parties have already begun performance. We have determined that this commercial arrangement does not necessarily make reliance upon the formal documentation as the date of sale appropriate. In the case of one of the crankshafts covered by this investigation, Thyssen and the same U.S. customer ordered, shipped and paid for the model based exclusively on a purchase order. No other written documentation of this agreement was ever issued. This

reinforces our position that it is appropriate to look at a purchase order and we need not look only to a formal memorialization to determine the proper date of sale in this case.

In prior determinations, we have looked to the first documentation indicating an agreement as to terms of sale of the merchandise involved. See *Brass Sheet*. Our decision in the present case is also consistent with *CMT's*, where we decided that a purchase order constituted a sale since it was the date of the first documentation which indicated that the terms were agreed upon by both parties.

The *64K DRAMS* decision cited by Thyssen is distinguishable from the fact situation at hand. In that case, we declined to use the dates of the purchase orders because the performance of the parties indicates that the purchase order did not represent an agreement between the parties as to significant terms, such as price, which were included in the purchase orders. In the present case, the performance of the parties indicated that the purchase orders reflect an understanding as to the price and quantity under which the shipments were made. The subsequent formalization of these agreements in a contract does not alter this conclusion.

Furthermore, Thyssen's argument, if followed, would allow respondents to manipulate our investigations, simply by subsequently signing a contract after our period of investigation, despite the fact that merchandise is delivered prior to such signing. The fact that merchandise is delivered and paid for indicates the existence of an agreement for sale. The fact in this case, that the price terms in question for the 1985 requirements, and for the 1987 requirements did not change upon signing the formal contract indicates that the prices were in fact determined in the earlier documentation. See also *DOC Position to Thyssen's Comments 2 and 3*.

Comment 2: Thyssen contends that all of its 1985 shipments (as well as its 1986 shipments) of a particular crankshaft model category were made pursuant to a contract issued during the period of investigation and, therefore, should be included in the Department's LTFV calculations. Thyssen states that although a purchase order for shipments of that crankshaft was issued prior to the period of investigation, neither Thyssen nor its customer recognized it as a binding agreement. They contend that had the parties intended this purchase order to represent the binding contract needed to consummate the entire sale, there would have been no need to issue a formal order

confirmation. They assert that it was not until the contract was issued that the two year sales agreement was firm and irrevocable. As such, they contend that the Department should use the date of the contract as the date of sale for all 1985 shipments.

DOC position: We disagree in part. We determine that, for two long-term periods, there were two relevant dates of sale for the 1985 shipments; one for crankshafts for one type of heat treatment (crankshaft "A"), and one for crankshafts with another type of heat treatment (crankshaft "B") (with one exemption as noted below). For crankshaft "A", verified information on the record indicates that Thyssen and its U.S. customer regarded the terms specified in the purchase order issued before the period of investigation as definite and determinable. Production, acceptance of delivery and payment were made in accordance with this purchase order for crankshafts delivered in 1985. We determined the date of this purchase order was the appropriate date of sale, since the price and quantity (1985 requirements) specified by Thyssen's customer in that document were the same as those previously offered by Thyssen.

Since this purchase order was issued prior to the period of investigation, we have not included shipments pursuant to this purchase order in our LTFV calculations.

For crankshaft "B", we have determined that the date of sale was within our period of investigation. The first documentary evidence establishing the price and quantity for those products was the contract issued during the period of investigation. We have found no other documentation that would lead us to believe that the terms of sale for those products were established any earlier than the date of the contract.

We note that for one of the crankshaft "B" models covered by the contract, the price charged during the three months immediately following the date of the contract was at variance with the price specified in the contract. The only documentary evidence we have concerning those prices are the invoices for each shipment. Therefore, for sales of that model at the non-contract price, we have used as the date of sale the dates of the individual shipping invoices. Once shipments commenced at the contract price, we used the date of the contract as the date of sale. See also *DOC Position to Thyssen's Comment 1*.

Comment 3: Thyssen argues that 1987-88 shipments of certain crankshafts are made pursuant to a sale consummated on a shipment-by-shipment basis.

subsequent to the period of investigation and should not be included in the LTFV analysis. Thyssen states that due to exchange rate fluctuations during 1986, price negotiations between Thyssen and its customer continued throughout 1986, concluding in April 1987. At that time, the buyer and seller reached an agreement on future crankshaft prices. Even though the price paid for crankshafts prior to the effective date of the April 1987 agreement was the same as that agreed to in October of the previous year, Thyssen contends that a binding long-term contract did not exist. The Department cannot ignore the characterization of the respondent and its customer that a contract did not exist before the April 1987 agreement.

Accordingly, since the requisite meeting of the minds between buyer and seller did not take place prior to the end of the period of investigation, certain of Thyssen's 1987 shipments of those crankshafts should not be the subject of this investigation.

DOC position: We disagree. All shipments in the interval from the end of the period of investigation to a date over half a year later (when new terms were put into effect), were covered by a telex from Thyssen's customer accepting the price and quantity terms Thyssen previously proposed. This telex as dated just prior to the end of the period of investigation. After Thyssen received the telex, it attempted to negotiate changes to price and quantity. However, Thyssen shipped crankshafts for more than six months under the terms specified in the telex. The 1987 formal contract changed the price and quantity terms prospectively, but did not alter the telex price for quantities already shipped. Thus, deliveries made during this interval of over six months were made pursuant to price and terms specified in the telex. Therefore, we have used the date of the telex as the date of sale and have included 1986-87 shipments made pursuant to the price and quantity terms in the telex in our fair value comparison.

Comment 4: Thyssen, citing the Amendment of Final Determination, *Melamine in Crystal Form From the Netherlands* 45 FR 29619, May 5, 1980, argues that if crankshafts shipped to its U.S. customer in 1987 are included in this investigation, the Department must take into account the sustained depreciation of the U.S. dollar vis-a-vis the German mark during the period of investigation, as required in § 353.56(b) of the Commerce Regulations. Thyssen suggests that the Department convert dollars to marks using the exchange rate existing in the second quarter of 1986

(when the request for quotation and Thyssen's pricing proposal were made).

DOC position: We disagree. Section 353.56 (b) states that manufacturers, exporters and importers will be expected to act within a reasonable period of time to take into account price differences resulting from sustained changes in prevailing exchange rates. In this instance, we see no evidence that Thyssen adjusted its prices to respond to exchange rate changes within a reasonable period of time. For the sale in question, Thyssen made no adjustments in its prices over a seven month period, and, when it did negotiate a new price, it specifically stated that the price on prior shipments would not be changed retroactively. Therefore, we are not using the prior quarter exchange rates for this sale.

Comment 5: Thyssen argues that an adjustment should be made to the United States price to reflect tooling costs. Thyssen notes that such costs are invoiced separately on sales to its U.S. customers while in the home market they are allocated over sales and are included in the crankshaft price. Therefore, Thyssen argues these costs should either be included in the United States price or an adjustment should be made to the FMV as a circumstance of sale adjustment.

DOC position: Tooling expenses do not qualify as an addition to purchase price pursuant to section 772(d)(1) of the Act. Furthermore, at verification, Thyssen was unable to provide tooling costs associated with sales in the home market nor was it able to present a consistent or verifiable method for allocating tooling costs over sales. Therefore, we did not have adequate information on either U.S. or home market tooling costs and could not make any adjustments for these costs.

Comment 6: Thyssen asserts that while the Department correctly realized that it was required to adjust its price-by-price comparison to account for differences in material and production processes between crankshafts sold by Thyssen in the home market and to the United States, the Department's preliminary calculation was premised on an improper methodology. Thyssen contends that the Department should adjust for physical differences on a per pound, rather than a per piece basis.

DOC position: The difference in merchandise adjustment should take into account differences in material, differences in variable manufacturing costs and differences in the weight of the two crankshafts. The method suggested by Thyssen eliminates the last

factor (weight difference) and is, therefore, incorrect.

Comment 7: Thyssen argues that in calculating constructed value, the Department imputed an additional material cost in error and should use actual material and manufacturing costs as verified by the Department.

DOC position: We agree. The Department determined during verification that these costs were already included in the constructed value submission.

Comment 8: Thyssen claims that its sale of the smallest crankshaft covered by the scope of investigation in the United States should be compared with the home market crankshaft it suggested. Even if the U.S. crankshaft was sold below its cost, price to price comparisons are required (see section 773(b) of the Act and § 353.7(b) of the Regulations).

DOC position: We agree. We have used the home market crankshaft proffered by Thyssen for our final determination. The crankshafts compared for the preliminary determination are such or similar merchandise notwithstanding that the home market unit has counterweights subsequently attached by the manufacturer. Both crankshafts are unmachined, forged of steel, made with the same number of throws and bearings by substantially the same process, formed in the same forging press with similar "as forged" weights, and cleaned and inspected in substantially the same way. The absence of integral counterweights on the as-forged home market crankshaft model does not provide a proper basis to reject a price to price comparison.

Comment 9: Thyssen contends that during verification, it advised the Department that certain discrepancies for charges relating to brokerage and handling were caused by the allocation from a customs entry other than the entry at issue, and that the vast majority of the charges reported were correct.

DOC position: We verified brokerage and handling expenses and have included the corrected values in our final calculations.

Comment 10: Thyssen contends that the charges reported for credit expenses were properly based on the Thyssen transfer price to its related selling agent and not the contract price due from the purchaser. They argue that these charges are not understated since the credit to Thyssen is equal to the amount of its outstanding receivables multiplied by the time that such receivables remain unpaid.

DOC position: We disagree. The amount which Thyssen, through its wholly owned U.S. selling agent, received from the purchaser on a deferred basis is the appropriate basis for calculating credit expenses. We used the same methodology in the home and U.S. markets.

Comment 11: Thyssen contends that the one percent scaling material loss represents an extremely conservative calculation of the difference between input weight and weight after forging plus scrap recovered. Thyssen argues that it has established the accuracy of its claimed material loss by confirming that the actual credit could not have exceeded its claim.

DOC position: We agree. The Department tested the scrap calculation and the scrap value appears reasonable.

Comment 12: Thyssen contends that at verification, it provided the Department with all requested source documentation relating to the cost of iron ore, natural gas and coke, as well as a complete analysis of the gas credit, and that the verification report was in error in stating that certain items of cost of production were not supported with source documents.

DOC position: This issue is moot because we have not used Thyssen's related party's cost of producing steel. See DOC Position to Petitioner's Comment 11.

Verification

We verified the information used in making our final determination in accordance with section 776(a) of the Act and followed standard verification procedures, including examination of relevant sales and financial records of the companies under investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of CFSC from the FRG, except from Gerlach, that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the amount by which the foreign market value of CFSC from the FRG, except from Gerlach, exceeds the United States price, as shown in the table below.

The cash deposit or bonding rate established in the preliminary determination shall remain in effect with respect to entries or withdrawals from warehouse made prior to the date of publication of this notice in the Federal

Register. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Estimated weighted-average margin percentage
Gerlach-Werke GmbH	0.43 (de minimis)
Thyssen Uniformschraik	2.02
All others	2.02

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing the U.S. Customs Service to assess an antidumping duty on CSFC from FRG, except from Gerlach, entered or withdrawn from warehouse, for consumption on or after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Paul Freedenberg,
Assistant Secretary for Trade Administration,
July 21, 1987.

[FR Doc. 87-17073 Filed 7-27-87; 8:45 am]
BILLING CODE 3510-09-M

[C-351-609]

Suspension of Countervailing Duty Investigation; Certain Forged Steel Crankshafts From Brazil

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce has decided to suspend the

countervailing duty investigation involving certain forged steel crankshafts ("CFSC" or "the subject merchandise") from Brazil. The basis for the suspension is an agreement to eliminate completely all benefits provided by the Government of Brazil that we find to constitute subsidies on exports of CFSC to the United States.

EFFECTIVE DATE: July 28, 1987.

FOR FURTHER INFORMATION CONTACT: Bradford Ward or Barbara Tillman, Office of Investigations, or Richard Moreland, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-2239, 377-2438, or 377-2786.

SUPPLEMENTARY INFORMATION:

Case History

Since the last Federal Register publication pertaining to this case [the notice of extension of the deadline date for this final determination (52 FR 7286, March 10, 1987)], the following events have occurred. Verification of the questionnaire response in this investigation was held from February 11 through 13, and from March 23 through 31, 1987.

On June 19, 1987, we initialed a proposed Suspension Agreement (the Agreement) with respect to CFSC from Brazil. Petitioner and respondents have had 30 days during which to submit comments regarding the proposed Suspension Agreement. Their comments have been received and taken into consideration.

There were two known manufacturers and producers in Brazil of CFSC that exported to the United States during the review period. These are Krupp Metalurgica Campo Limpo Ltda. (Krupp), and Sifco S.A. (Sifco). In addition, Brasifco S.A. (Brasifco), is a trading company which exported the subject merchandise from Brazil to the United States during the review period. We verified the Krupp, Sifco, and Brasifco account for substantially all exports of CFSC to the United States.

We determined that the following programs conferred countervailable benefits on the respondent companies during the review period:

- Income Tax Exemption for Export Earnings;
- Preferential Working-Capital Financing for Exports (including Incentives for Trading Companies); and
- Import Duty and IPI Tax Exemptions Under Decree-Law 1189 of 1971, as amended.

Scope of Investigation

The products covered by this investigation are forged carbon or alloy steel crankshafts with a shipping weight of between 40 and 750 pounds, whether machined or unmachined. These products are currently classified under items 860.6713, 860.6727, 860.6747, 860.7113, 860.7127, and 860.7147 of the *Tariff Schedules of the United States, Annotated* (TSUSA). Neither cast crankshafts nor forged crankshafts with shipping weights of less than 40 pounds or greater than 750 pounds are subject to this investigation.

Changes Since the Preliminary Determination

Import Duty and IPI Tax Exemptions under Decree-Law 1189 of 1971: Our examination of company documents at verification revealed that the respondent companies had imported certain items free of the normal import duty and the IPI tax (Imposto Sobre Produtos Industrializados, or Tax on Industrial Products) during the review period. These exemptions were granted under a provision of Decree-Law 1189 of 1971, as amended, which allows for the duty- and tax-free importation of certain non-physically incorporated merchandise based on a percentage of a company's increase in exports. Because these exemptions from import duty and the IPI tax are contingent upon export production, we determine that this program constitutes an export subsidy.

Petitioner's Comments

Comment 1: Petitioner stated that it is amenable to termination of this investigation by a suspension agreement so long as the agreement is comprehensive, enforceable and requires timely, detailed reports.

DOC position: The Department believes the Agreement attached to this notice satisfies the legal requirements of the Act, provides sufficient reporting, and adequately addresses the enforcement concerns of both the petitioner and the Department.

Comment 2: Petitioner requested that the provision in the Agreement regarding the income tax exemption for export earnings be amended to prohibit respondent companies from receiving as well as applying for such benefits.

DOC position: We agree and have incorporated that change into the Agreement.

Comment 3: Petitioner requested that reports required by the Agreement include data beginning on the effective date of the Agreement rather than data beginning with the final calendar quarter of 1987.

DOC position: We agree and have incorporated that change into the Agreement.

Comment 4: Petitioner requested that the Department be notified in writing of certain matters where the initialed agreement was silent on the form of notification.

DOC position: We agree and have incorporated that requirement into the Agreement.

Comment 5: Petitioner requested that, in addition to other separate recordkeeping requirements, the respondents be required to maintain records of all applications for or receipt of benefits under the named subsidy programs.

DOC position: We have required the respondent companies to maintain the requested records but find such a requirement of the Government of Brazil to be unnecessary because of reporting requirements elsewhere in the Agreement.

Comment 6: Petitioner requested that the Government of Brazil be required to notify agencies administering subsidy programs of the Agreement within 7 days of signature and to confirm to the Department that such notification has been made.

DOC position: We disagree. The Government of Brazil has undertaken in the Agreement to inform all relevant authorities of the terms of the Agreement and we do not believe that written confirmation is necessary.

Comment 7: Petitioner requested that reports required from the Government of Brazil recite in detail any and all applications for or receipt of the subsidies specified in the Agreement.

DOC position: We disagree. The respondent companies are required to notify the Department in writing 30 days prior to applying for or accepting any benefits specified in the Agreement, and also to maintain separate records of such applications or receipt. Further, the Government of Brazil must notify the Department within 45 days if the exporters apply for or receive the subsidies specified in the Agreement. Given these requirements, we do not believe it necessary that the Government of Brazil be required to report application for or receipt of benefits by parties not subject to the Agreement.

Comment 8: Petitioner requested that "surge" restrictions agreed to by the Government of Brazil also be accepted by the respondent companies.

DOC position: We disagree. The Government of Brazil is the appropriate entity to monitor and enforce the volume restrictions in paragraph V.4 of the Agreement. Volume restrictions are

relevant only to the overall level of imports of the subject merchandise from Brazil. Since the individual respondent companies are only able to control their own levels of shipments of CFSC to the United States, it is the responsibility of the Government of Brazil to ensure that there is no surge in exports of CFSC to the United States.

Comment 9: Petitioner requested that the respondents be required to report to the Department 45 days after the effective date of the Agreement that the subsidies have been eliminated and enumerate the steps taken to that end.

DOC position: We disagree. The respondent companies and the Government of Brazil have undertaken through this Agreement to eliminate the subsidies on CFSC to the United States and to notify the Department of compliance with all terms of the Agreement in a timely and regular manner, as specified in paragraphs III.5 and V.2. a & c. The additional reports requested by petitioner would therefore be duplicative.

Comment 10: Petitioner submitted several comments requesting that certain reporting and notification provisions be amended as follows:

a. That quarterly reports by the respondent companies and the Government of Brazil be submitted to the Department 15 rather than 45 days after the end of the quarter;

b. That the respondent companies report to the Department 15 rather than 45 days after they apply for, receive, or become eligible for any new or existing subsidies; and

c. That the respondent companies and the Government of Brazil should inform the Department 75 rather than 30 days prior to application or acceptance of subsidies.

DOC position: We disagree. As to a. and b. above, we believe that 45 days is a reasonable time for the respondents to collect the necessary information, prepare it for submission, and transmit it to the Department. As to c. above, we believe it unlikely that the respondents would be aware of the application for or acceptance of subsidies so far in advance. In our view, 30 days is a more reasonable advance notice requirement.

Respondents' Comment

Comment 1: Respondents claim that the petitioner's suggested revisions to the Agreement would pose additional reporting requirements and time deadlines that are impossible to meet. Furthermore, counsel argues that the additional information on subsidy programs requested by petitioner is

unnecessary, since the Department will be able to verify all information.

DOC position: We have modified certain aspects of the Agreement as we believe appropriate and necessary, in consultation with the respondents, and we have taken into consideration the written comments submitted by petitioner. For a more specific discussion of petitioner's suggested revisions and our responses, see the *Petitioner's Comments* section above.

Suspension of Investigation

We have determined that the Agreement will eliminate completely the amount of the estimated net subsidy on the subject merchandise exported, directly or indirectly, to the United States, that the Agreement can be monitored effectively, and that the Agreement is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the Agreement, signed July 21, 1987, are set forth in Appendix A to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of all entries of CPSC from Brazil entered, or withdrawn from warehouse, for consumption effective January 8, 1987, as directed in our notice of *Preliminary Affirmative Countervailing Duty Determination: Certain Forged Steel Crankshafts from Brazil* (52 FR 699, January 8, 1987) is hereby terminated. To comply with the requirements of Article 5, paragraph 3 of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade, the Department directed the U.S. Customs Service to terminate the suspension of liquidation in this investigation on May 8, 1987, which is 120 days from the date of publication of the preliminary determination in this case. Therefore, we are directing Customs to liquidate all entries suspended on or after January 8, 1987 and prior to May 8, 1987. Any cash deposit on entries of the subject merchandise from Brazil pursuant to that preliminary affirmative determination shall be refunded and any bonds shall be released.

Notwithstanding the Agreement, the Department will continue the investigation if we receive a request to do so in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act (19 U.S.C. 1671c(f)(1)(A)).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

July 21, 1987.

Appendix A—Suspension Agreement Concerning Certain Forged Steel Crankshafts From Brazil

Pursuant to the provisions of section 704 of the Tariff Act of 1930 ("the Act") and section 355.31 of the Department of Commerce Regulations, the Department of Commerce ("the Department"), the Government of Brazil, and the Brazilian manufacturers, producers, and exporters ("the exporters") of certain forged steel crankshafts ("the subject merchandise," as defined in paragraph I below) enter into the following Suspension Agreement ("the Agreement"). In consideration of this Agreement, the Government of Brazil agrees to take such steps as are necessary to ensure that the renunciation of subsidies by the exporters is effectively implemented and monitored, and that the Department is informed of any other companies that begin exporting the subject merchandise to the United States. On the basis of the foregoing, the Department shall suspend its countervailing duty investigation initiated on October 28, 1986 (51 FR 46240, November 5, 1986) with respect to certain forged steel crankshafts from Brazil subject to the terms and conditions set forth below.

I. Scope of the Agreement

The Agreement applies to certain forged steel crankshafts manufactured in Brazil and exported, directly or indirectly, from Brazil to the United States. Certain forged steel crankshafts include forged carbon or alloy steel crankshafts with a shipping weight of between 40 and 750 pounds, whether machined or unmachined. These products are currently classified under items 680.6713, 680.6727, 680.6747, 680.7113, 680.7127, and 680.7147 of the *Tariff Schedules of the United States Annotated (TSUSA)* and under items 8483.10.10 and 8483.10.30 of the Harmonized System. Neither cast crankshafts nor forged crankshafts with shipping weights of less than 40 pounds or greater than 750 pounds are included.

II. Basis of the Agreement

The exporters, listed in Appendix I, accounting for more than 85 percent by volume of the total exports of the subject merchandise imported from Brazil into the United States, agree to the following:

a. The exporters will not claim or receive any exemption from income tax under Decree-Laws No. 1158, No. 1721, and No. 2303 on that portion of profits attributable to exports of the subject merchandise exported, directly or indirectly, from Brazil to the United States on any tax return filed on or after the effective date of the Agreement. This requires that the exporters deduct the value of export revenue derived from direct or indirect sales of the subject merchandise to the United States from total export revenues before calculating the value of the income tax exemption for export earnings.

b. With respect to any short-term export financing provided by CACEX pursuant to Resolutions 882, 883, 950 or 1009, as amended, the exporters will comply with the following conditions:

1. Unless it is demonstrated to the satisfaction of the Department within 30 days of the effective date of this Agreement that the certificates which underlie all outstanding CACEX loans were not in any manner based on exports of the subject merchandise to the United States, all CACEX financing pursuant to Resolutions 882, 883, 950, and 1009, as amended, outstanding as of the effective date of the Agreement shall be:

(a) repaid; or

(b) refinanced on nonpreferential terms (without accepting any interest rate rebate or reduction provided from CACEX through the lending bank and without any exemption from normal IOP charges); by the original due date of the loan, or by the thirtieth day from the effective date of the Agreement, whichever comes first;

2. As of the effective date of the Agreement, the exporters shall not use export licenses of the subject merchandise exported, directly or indirectly, to the United States to meet their export commitments for CACEX financing;

3. As of the effective date of the Agreement, the exporters shall not use that portion of any outstanding CACEX certificate which was issued based upon the subject merchandise exported, directly or indirectly, to the United States for CACEX financing; and

4. As of the effective date of the Agreement, the exporters shall not use direct or indirect exports of the subject merchandise to the United States in any proposal submitted to CACEX to obtain CACEX financing.

c. The exporters agree that they will not apply for, or receive, as of the effective date of the Agreement, any other subsidies on the manufacture, production, or export of the subject

merchandise exported, directly or indirectly, from Brazil to the United States which are countervailable under the Act. Subsidies on the manufacture, production, or export of the subject merchandise include any subsidy which the Department has found or may find to be countervailable in this or any previous or subsequent countervailing duty processing (including section 751 reviews) involving imports from Brazil, specifically, but not limited to, the following:

- CIC-CREGE 14-11 financing;
- the BEFIEX program;
- the CIEK program;
- Resolutions 68 and 509 (FINEX) financing;
- Resolutions 330 financing;
- trading company incentives under Resolution 643 as amended;
- duty and tax exemptions under Decree Law 1189 of 1971 as amended;
- duty and tax reductions or exemptions under the CDI program;
- accelerated depreciation under the CDI program;
- FINEP/ADTEN long-term loans; and
- IPI tax rebates for capital investments.

Such subsidies also include those determined by the Department to apply to other products or exports to other destinations, the benefits of which cannot be segregated as applying solely to such other products or exports.

d. The exporters shall notify the Department in writing at least thirty days prior to applying for or accepting any new benefit which is, or is likely to be, a countervailable subsidy on the manufacture, production or export of the subject merchandise exported, directly or indirectly, from Brazil to the United States, including subsidies which may apply to other products or exports to other destinations, the benefits of which cannot be segregated as applying solely to such other products and exports; and

e. If any program under which subsidies have been received in the past, and which is included in the Agreement, is found by the Department not to constitute a subsidy under the Act, then the renunciation of the subsidies under that program will no longer be required.

III. Monitoring of the Agreement

1. The exporters agree to supply any information and documentation which the Department deems necessary to demonstrate that there is full compliance with the terms of the Agreement, including the volume and value of exports of the subject merchandise to the United States, within 45 days from the end of each calendar

quarter, beginning with the partial quarter ending September 30, 1987.

2. The exporters will notify the Department in writing at least thirty days in advance if they:

- a. transship the subject merchandise through third countries to the United States;
- b. alter their position with respect to any terms of the Agreement; or
- c. apply for, or receive, directly or indirectly, the subsidies from the programs described in Section II for the manufacture, production, or export of the subject merchandise exported, directly or indirectly, from Brazil to the United States.

3. The Department may request information and may perform verifications periodically pursuant to administrative reviews conducted under section 751 of the Act, in addition to exercising its rights under paragraphs III.1 and 2, above.

4. The exporters agree to permit such verification and data collection as deemed necessary by the Department in order to monitor the Agreement.

5. The exporters agree to provide to the Department a periodic certification that they continue to be in compliance with the terms of the Agreement. A certification will be provided within 45 days from the end of each calendar quarter beginning with the partial quarter ending September 30, 1987.

6. In order to ensure compliance with the terms and scope of this Agreement, the exporters agree to implement the following measures:

- a. Separate invoicing and documentation of the subject merchandise exported to the United States;
- b. Separate accounting treatment for tax purposes of income derived from exports of the subject merchandise to the United States; and
- c. Maintenance of records of application for, and receipt of, benefits under any of the subsidy programs described in paragraph II, above.

IV. General Provisions

1. In entering into the Agreement, the exporters do not admit that any of the programs investigated constitute subsidies within the meaning of the Act or the GATT Subsidies Code.

2. The provisions of section 704(l) shall apply if:

- a. The exporters withdraw from this Agreement; or
- b. the Department determines that the Agreement is being or has been violated or no longer meets the requirements of section 704 of the Act.

3. Additionally, should exports to the United States by the exporters of the

subject merchandise account for less than 85 percent of the subject merchandise imported, directly or indirectly, into the United States from Brazil, the Department may seek to negotiate an agreement with additional exporters or may terminate the Agreement and reopen the investigation or issue a countervailing duty order as appropriate under section 355.32 of the Commerce Regulations.

4. If, pursuant to section 704(g) of the Act, the investigation is continued after the notice of suspension of investigation, the application of the Agreement shall be consistent with the final determination issued in the continued investigation.

V. Undertaking by the Government of Brazil

1. In consideration of the foregoing Agreement between the exporters and the Department, the Government of Brazil agrees to take such steps as are necessary to ensure that the renunciation of subsidies in the Agreement by the exporters is effectively implemented and monitored, including:

a. notifying the relevant authorities of the Government of Brazil of the terms of the Agreement in order to ensure action by those agencies consistent with the terms of the Agreement;

b. supplying any information and documentation that the Department deems necessary to demonstrate full compliance by the exporters with the terms of the Agreement;

c. permitting such verification and data collection as deemed necessary by the Department in order to monitor the Agreement;

d. notifying the Department within 45 days of the end of each calendar quarter, beginning with the partial quarter ending September 30, 1987, if exporters other than the exporters party to the Agreement export the subject merchandise to the United States and whether such exporters have agreed to undertake the obligations specified under the Agreement;

e. notifying the Department within 45 days if the Government of Brazil becomes aware that the exporters are transshipping the subject merchandise through third countries to the United States;

f. notifying the Department within 45 days if the Government of Brazil alters its position with respect to any of the terms of the Agreement;

g. notifying the Department within 45 days if the exporters apply for, or receive, directly or indirectly, the subsidies described in paragraph II(a-c)

on exports of the subject merchandise, directly or indirectly, from Brazil to the United States;

h. notifying the Department within 45 days if the exporters become eligible for, apply for, or receive any new or substitute subsidies on the subject merchandise exported, directly or indirectly, from Brazil to the United States in contravention of paragraphs II(c) and II(d) of the Agreement; and

i. notifying the Department within 45 days of any changes, alterations, or amendments that are made to:

- income tax exemption for export earnings under Decree-Laws No. 1158, No. 1721, and No. 2303;
- CACEX financing pursuant to Resolutions 862, 863, 950, and 1009, as amended;
- duty and tax exemptions under Decree-Law 1189 of 1971 as amended; and
- duty and tax exemptions or reductions, or accelerated depreciation under the CDF program.

j. using its best efforts to facilitate the negotiation of agreements with other exporters of the subject merchandise to the United States when such agreements are deemed necessary by the Department.

2. The Government of Brazil agrees to provide to the Department within 45 days of the end of each calendar quarter, beginning with the partial quarter ending September 30, 1987, all relevant information deemed by the Department to be necessary to maintain the Agreement. The information shall include, but not be limited to:

a. a certification (provided after consultation with each agency responsible for administering the programs in Section II) that the exporters have not applied for or received any subsidies described in Section II on shipments of the subject merchandise exported, directly or indirectly, from Brazil to the United States;

b. a certification that the exporters continue to account for over 85 percent of total exports of the subject merchandise exported, directly or indirectly, from Brazil to the United States; and

c. a certification that the exporters continue to be in full compliance with the Agreement.

3. The Government of Brazil agrees to provide to the Department, within 45 days of the end of each calendar quarter, beginning with the partial quarter ending September 30, 1987, the volume and value of exports of the subject merchandise to the United States.

4. The Government of Brazil agrees, and will ensure, that from the effective date of the Agreement and until the complete elimination of the net subsidies (no later than 30 days after the effective date), the volume of exports of the subject merchandise exported to the United States will not exceed the greatest volume of imports of the subject merchandise for any one month in the six month period immediately preceding the month in which the petition in this investigation was filed. The volume of such exports shall be reported by the exporters to the Department pursuant to paragraph III and be certified by the Government of Brazil pursuant to paragraph V.2.

5. The Government of Brazil's undertaking under this section is not an admission that any of the programs investigated constitute subsidies under the Act or the Subsidies Code.

6. The Government of Brazil recognizes that its undertaking is essential to the continuation of the Agreement.

VI. Effective Date

The effective date of the Agreement is the date of publication in the Federal Register.

Signed on this 21st day of July 1987, for the Government of Brazil.

Jose Artur Denot Medeiros,
Minister-Counselor, Embassy of Brazil.

Signed on this 21st day of July, 1987, for the exporters.

Walter J. Spak,
Wilkie Farr & Gallagher.

I have determined, pursuant to section 704(b) of the Act, that the provisions of Section II completely eliminate the subsidies that the Government of Brazil is providing with respect to certain forged steel crankshafts exported, directly or indirectly, from Brazil to the United States. Furthermore, I have determined that the suspension of the investigation is in the public interest, that the provisions of Sections III and V ensure that the Agreement can be monitored effectively, and that the Agreement meets the requirements of section 704(d) of the Act.

Gilbert B. Kaplan,
Deputy Assistant Secretary for Import Administration, United States Department of Commerce.

Appendix I—List of Brazilian Manufacturers, Producers, and Exporters of the Subject Merchandise Subject to the Agreement

SIFCO, S.A., Rua Libero Badaro, 377-6°
Andar, 01009 Sao Paulo, Brasil
BRASIFCO, S.A., Rua Libero Badaro,
377-6° Andar, 01009 Sao Paulo, Brasil

Krupp Metalurgica Campo Limpo Ltda.,
Avenida Alfredo Krupp 1050, Campo
Limpo Paulista, SP, Brazil.

[FR Doc. 87-17072 Filed 7-27-87; 8:45 am]

SHLWS CODE 3510-08-01

[A-588-606]

Postponement of Final Antidumping Duty Determination and Rescheduling of Public Hearing; Certain Forged Steel Crankshafts From Japan

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: The final antidumping duty determination involving certain forged steel crankshafts from Japan is being postponed until not later than September 25, 1987, and the public hearing is being rescheduled for July 21, 1987.

EFFECTIVE DATE: June 24, 1987.

FOR FURTHER INFORMATION CONTACT: Rick Herring, Ellie Shea, or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0187, 377-0184, or 377-0161.

SUPPLEMENTARY INFORMATION: On May 7, 1987, we made a preliminary determination that certain forged steel crankshafts from Japan are not being, nor are likely to be, sold in the United States at less than fair value (52 FR 17999, May 13, 1987). The notice stated that we would issue our final determination not later than July 21, 1987. On May 13, 1987, petitioner requested that the Department extend the period for the final determination until not later than 135 days after the publication of the preliminary determination in accordance with section 735(a)(2)(B) of the Tariff Act of 1930, as amended (the Act). Accordingly, the date of the final

determination in this case is postponed until not later than September 25, 1987. The U.S. International Trade Commission is being advised of this postponement in accordance with section 735(d) of the Act.

Scope of Investigation

The scope remains the same as described in our preliminary determination.

Public Comment

The public hearing, which had been previously scheduled for June 23, 1987, will be held at 10:00 a.m. on July 21, 1987, in Room 1414, at the U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230. Prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by July 14, 1987. All written views should be filed in accordance with 19 CFR 353.46, within seven days after the hearing transcript is available, at the above address in at least ten copies.

This notice is published pursuant to section 735(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

June 19, 1987.

[FR Doc. 87-14346 Filed 6-23-87; 8:45 a.m.]

BILLING CODE 3510-05-01

[A-412-502]

Postponement of Final Antidumping Duty Determination and Rescheduling of Public Hearing; Certain Forged Steel Crankshafts From the United Kingdom

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: The final antidumping duty determination involving certain forged steel crankshafts from the United Kingdom is being postponed until August 26, 1987, and the public hearing is being rescheduled for July 16, 1987.

EFFECTIVE DATE: June 24, 1987.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen, Lori Cooper, or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0167, 377-8320 or 377-2438.

SUPPLEMENTARY INFORMATION: On May 7, 1987, we made a preliminary determination that certain forged steel crankshafts from the United Kingdom

are being, or are likely to be, sold in the United States at less than fair value (52 FR 18000, May 13, 1987). The notice stated that we would issue our final determination not later than July 21, 1987. On June 10, 1987, respondent requested that the Department extend the period for the final determination until the 105th day after the publication of the preliminary determination in accordance with section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act). Accordingly, the date of the final determination in this case is postponed until August 26, 1987. The U.S. International Trade Commission is being advised of this postponement in accordance with section 735(d) of the Act.

Scope of Investigation

The scope remains the same as described in our preliminary determination.

Public Comment

The public hearing, which had been previously scheduled for June 23, 1987, will be held at 10:00 a.m. on July 16, 1987, in Room 1413, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by July 9, 1987. All written views should be filed in accordance with 19 CFR 353.46, within seven days after the hearing transcript is available, at the above address in at least ten copies.

This notice is published pursuant to section 735(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

June 19, 1987.

[FR Doc. 87-14347 Filed 6-23-87; 8:45 am]

BILLING CODE 3510-05-01

Corrections

Federal Register

Vol. 52, No. 112

Thursday, June 11, 1987

INTERNATIONAL TRADE COMMISSION

(Investigation No. 701-TA-282 (Final) and
Investigations Nos. 731-TA-351 and 359
(Final))

**Certain Forged Steel Crankshafts
From Brazil, the Federal Republic of
Germany, and the United Kingdom**

Correction

In notice document 87-12822 beginning
on page 20790 in the issue of
Wednesday, June 3, 1987, make the
following correction on page 20790:

In the first column, in the **SUMMARY**, in
the 15th line, after "660.67" insert, "and
660.71".

BILLING CODE 1505-01-0

[Investigation No. 701-TA-282 (Final) and Investigations Nos. 731-TA-351 and 353 (Final)]

Certain Forged Steel Crankshafts From Brazil, the Federal Republic of Germany, and the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with these investigations and with countervailing duty investigations No. 701-TA-282 (Final), and clarification of the notice of institution of investigation No. 701-TA-282 (Final).

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731-TA-351 and 353 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the Federal Republic of Germany and the United Kingdom of certain forged steel crankshafts, provided for in items 660.67 of the Tariff Schedules of the United States, that have been found by the Department of Commerce, in preliminary determinations, to be sold in the United States at less than fair value (LTFV). The Commission also hereby gives notice of the scheduling of a hearing in connection with these investigations and with countervailing duty investigation No. 701-TA-282 (Final), Certain Forged Steel Crankshafts from Brazil, which the Commission instituted effective February 19, 1987 (52 FR 5200, February 19, 1987). The schedules for investigation 701-TA-282 (Final) and for the subject antidumping investigations will be identical, pursuant to Commerce's extension of its final countervailing duty determination (52 FR 7286, March 10, 1987). Commerce will make its final LTFV determinations and its final countervailing duty determination in these cases on or before July 21, 1987. Accordingly, the Commission will make its final injury determinations by September 9, 1987 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673(b))).

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

EFFECTIVE DATE: May 13, 1987.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202-523-7914), 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. Information may also be obtained via electronic mail by calling the Office of Investigations' remote bulletin board system for personal computers at 202-523-0103. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-523-0161.

SUPPLEMENTARY INFORMATION: Background.—These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of certain forged steel crankshafts from the Federal Republic of Germany and the United Kingdom are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). These investigations were requested in a petition filed on October 9, 1986, by the Wyman-Gordon Company, Worcester, MA. In response to that petition the Commission conducted preliminary antidumping investigations and, on the basis of information developed during the course of those investigations, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (51 FR 44537, December 10, 1986).

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

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR

201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearances. 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 these investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report.—A public version of the prehearing staff report in these investigations will be placed in the public record on July 20, 1987, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on August 4, 1987, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on July 23, 1987. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on July 23, 1987, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is July 30, 1987.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.8(b)(2) of the Commission's rules (19 CFR 201.8(b)(2))).

Written submissions. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR § 207.22). Posthearing briefs must conform with the provisions § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on August 10, 1987. In addition, any person who has not entered an appearance as a party to

these investigations may submit a written statement of information pertinent to the subject of the investigations on or before August 10, 1987.

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

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

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

By order of the Commission.

Issued: May 28, 1987.

Kenneth R. Mason,
Secretary.

[FR Doc. 87-12622 Filed 6-2-87; 8:45 am]

BILLING CODE 7020-02-00

[A-588-606]

Preliminary Determination of Sales at Not Less Than Fair Value: Certain Forged Steel Crankshafts From Japan**AGENCY:** International Trade Administration, Import Administration, Department of Commerce.**ACTION:** Notice.

SUMMARY: We preliminarily determine that certain forged steel crankshafts (CFSC) from Japan are not being, nor are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination. If this investigation proceeds normally, we will make a final determination by July 21, 1987.

EFFECTIVE DATE: May 13, 1987.

FOR FURTHER INFORMATION CONTACT: Rick Herring, Ellie Shea, or Tom Bombelles, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0187, 377-0184, or 377-3174.

SUPPLEMENTARY INFORMATION:**Preliminary Determination**

We preliminarily determine that imports of CFSC from Japan are not being, nor are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). We have found that the weighted-average margin for the company being investigated is *de minimis*.

Case History

On October 9, 1986, we received a petition filed in proper form by Wyman-Gordon Company. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of CFSC 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 Act, and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on October 29, 1986 (51 FR 40347, November 8, 1986), and notified the ITC of our action.

On November 18, 1986, the ITC determined that there is a reasonable indication that imports of CFSC from

Japan are materially injuring a U.S. industry (51 FR 44537, December 10, 1986).

On January 6, 1987, an antidumping duty questionnaire was presented to Sumitomo Metal Industries, Ltd. (SMI), which accounts for at least 65 percent of the exports of CFSC from Japan to the United States during the period of investigation, May 1, 1985 through October 31, 1986. On January 30, 1987, we granted a request for an extension in which to submit the questionnaire response until February 17, 1987. On February 17 and 26, 1987, we received questionnaire responses from SMI. A deficiency questionnaire was sent to SMI on March 6, 1987, and a supplemental questionnaire was sent on April 13, 1987. Responses to these questionnaires, as well as other supplemental information, have been submitted by SMI prior to this determination.

On February 20, 1987, petitioner filed a request for extension of the deadline date for the preliminary determination pursuant to section 733(c)(1)(A) of the Act. On February 26, 1987, we extended the deadline date for the preliminary determination by 50 days, to not later than May 7, 1987 (52 FR 7286, March 10, 1987).

Scope of Investigation

The products covered by this investigation are forged carbon or alloy steel crankshafts with a shipping weight between 40 and 750 pounds, whether machined or unmachined. These products are currently classified under items 660.6713, 660.6727, 660.6747, 660.7113, 660.7127 and 660.7147 of the *Tariff Schedules of the United States Annotated* (TSUSA). Neither cast crankshafts nor forged crankshafts with shipping weights of less than 40 pounds or greater than 750 pounds are subject to this investigation.

Period of Investigation

CFSC are normally sold to the United States on the basis of long-term requirements contracts. Therefore, in order to capture the most recent sales of CFSC to the United States, we extended the period of investigation to encompass the 18 months from May 1, 1985 to October 31, 1986, instead of using the six-month period defined by § 353.38(a) of our regulations.

Fair Value Comparisons

To determine whether sales of CFSC in the United States were made at less than fair value, we compared the United States price to the foreign market value

for SMI, using data provided in the responses.

We made comparisons on all sales of CFSC during the period of investigation, May 1, 1985 through October 31, 1986. We divided the 18-month review period into three six-month periods for purposes of making price-to-price comparisons.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of CFSC to represent the United States price for sales by SMI, because the merchandise was sold to unrelated purchasers prior to its importation into the United States. In response to our questionnaire, the respondent has stated that the first sale of CFSC destined for the United States to an unrelated party is between SMI and Sumitomo Corporation. The respondent has also stated that SMI and Sumitomo Corporation are not related within the meaning of section 771(13) of the Act.

In accordance with our longstanding position, we have accepted this response for purposes of our preliminary determination. However, we have sought additional information from respondent and will obtain information during verification on the issue of whether SMI and Sumitomo Corporation are related within the meaning of the antidumping law.

We calculated the purchase price based on the packed FOB (free on board), CFS (container freight station), CY (container yard), or FAS (free alongside ship) price to unrelated purchasers. All U.S. sales, as well as all such or similar home market sales, were made to Sumitomo Corporation, a Japanese trading company.

From the price charged between Sumitomo Corporation and SMI, we made deductions for inland freight and, where appropriate, other delivery charges. In the response, SMI deducted after-sale warehousing expenses from the gross price that it received from Sumitomo Corporation. We consider this to be a circumstance of sale adjustment. Therefore, we have added this charge back into the gross price and made the appropriate adjustment to the foreign market value.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we based foreign market value for CFSC on sales in the home market. When comparing foreign market value to purchase price sales, we made deductions, where appropriate, from the home market price for inland freight. We added U.S. packing costs. We made adjustments under § 353.15 of

the Commerce Regulations for differences in circumstances of sale for credit expenses, after-sale warehousing, and sales commissions in the United States and home markets. Pursuant to § 353.16 of our regulations, we made adjustments, where appropriate, to account for differences in physical characteristics of the merchandise.

Currency Conversion

When calculating foreign market value, we made currency conversions from Japanese yen to U.S. dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York.

Verification

We will verify all information used in making our final determination in accordance with section 776(a) of the Act. We will follow standard verification procedures, including examination of relevant sales and financial records of the company under investigation.

Preliminary Results

The preliminary results of our investigation are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Sumitomo Metal Industries, Ltd.	.05

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, a U.S. industry within 75 days after our final determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary

determination at 1:00 p.m. on June 23, 1987, at the U.S. Department of Commerce, Room 1414, 14th and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by June 16, 1987. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, not less than 30 days before the final determination, or, if a hearing is held, within seven days after the hearing transcript is available, at the above address in at least ten copies.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

May 7, 1987.

[FR Doc. 87-10951 Filed 5-12-87; 8:45 am]

BILLING CODE 3510-06-M

[A-412-602]

Preliminary Determination of Sales at Less Than Fair Value: Certain Forged Steel Crankshafts From the United Kingdom

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain forged steel crankshafts (CFSC) from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of CFSC from the United Kingdom that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated weighted-average dumping margin as described in the "Suspension of

Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by July 21, 1987.

EFFECTIVE DATE: May 13, 1987.

FOR FURTHER INFORMATION: Contact Loc Nguyen, Lori Cooper, or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0167, 377 8320, or 377-0161.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that imports of CFSC from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated weighted-average dumping margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

On October 9, 1986, we received a petition filed in proper form by Wyman-Gordon Company. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of CFSC from the United Kingdom 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 Act, and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on October 29, 1986 (51 FR 40348, November 6, 1986), and notified the ITC of our action.

On November 18, 1986, the ITC determined that there is a reasonable indication that imports of CFSC from the United Kingdom are materially injuring a U.S. industry (51 FR 44537, December 10, 1986).

On December 12, 1986, an antidumping duty questionnaire was presented to United Engineering & Forging (UEF). UEF accounted for all exports of CFSC from the United Kingdom to the United States during the period of investigation, October 1, 1985, through October 31, 1986. On January 15, 1987, we granted a request for an extension of the time in which to submit the questionnaire response until January 30, 1987. On February 4, 1987, we

received the questionnaire response of UEF. A deficiency questionnaire was sent to UEF on March 5, 1987. A response to that questionnaire, as well as other supplemental information, has been submitted by UEF prior to this determination.

On February 20, 1987, petitioner filed a request for extension of the deadline date for the preliminary determination pursuant to section 733(c)(1)(A) of the Act. On February 26, 1987, we extended the deadline date for the preliminary determination by 50 days, to not later than May 7, 1987 (52 FR 7286, March 10, 1987).

Scope of Investigation

The products covered by this investigation are forged carbon or alloy steel crankshafts with a shipping weight between 40 and 750 pounds, whether machined or unmachined. These products are currently classified under items 660.6713, 660.6727, 660.6747, 660.7113, 660.7127 and 660.7147 of the *Tariff Schedules of the United States Annotated* (TSUSA). Neither cast crankshafts nor forged crankshafts with shipping weights of less than 40 pounds or greater than 750 pounds are subject to this investigation.

Period of Investigation

CFSC are normally sold to U.S. customers on the basis of long-term requirements contracts. Therefore, in order to capture the most recent sales of CFSC to U.S. customers, we extended the period of investigation to encompass the 13 months from October 1, 1985 to October 31, 1986, instead of using the six-month period defined by § 353.38(a) of our regulations.

Fair Value Comparisons

To determine whether sales of CFSC in the United States were made at less than fair value, we compared the United States price to the foreign market value for the company under investigation, using data provided in the response.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of CFSC to represent the United States price for sales by UEF, because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price based on c.i.f., delivered prices to unrelated purchasers. We made deductions for foreign inland freight, ocean freight, marine insurance, U.S.

inland freight, brokerage and handling, and U.S. customs duties.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we based foreign market value for CFSC on delivered prices in the home market. We made deductions for foreign inland freight and added packing costs in the U.S. market. We made circumstance of sale adjustments for credit expenses, warranty expenses, and after-sale warehousing expenses, in accordance with § 353.15(a) of our regulations. Pursuant to § 353.16 of our regulations, we made adjustments, where appropriate, to account for differences in the physical characteristics of the merchandise.

UEF reported what it deemed to be technical services expenses; however, we made no adjustment for these expenses, because we do not consider them to be directly related expenses within the meaning of section 353.15 of our regulations. We will look further into this issue during verification.

Currency Conversion

When calculating foreign market value, we made currency conversions from British pounds sterling to U.S. dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York.

Verification

We will verify information used in making our final determination in accordance with section 776(a) of the Act. We will use standard verification procedures, including examination of relevant sales and financial records of the company under investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of CFSC from the United Kingdom that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the *Federal Register*. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of CFSC from the United Kingdom exceeds the United States price, as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Estimated weighted-average margin percentage
United Engineering & Forging	24.53
All others	24.53

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

If our final determination is affirmative, then the ITC will determine no later than 120 days after the date of this preliminary determination, or 45 days after our final determination, whether these imports are materially injuring, or threaten material injury to, a U.S. industry.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on June 23, 1987, at the U.S. Department of Commerce, Room 1413, 14th and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by June 18, 1987. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, not less than 30 days before the final determination, or, if a hearing is held, within seven days after the hearing transcript is available, at the above address in at least ten copies.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Gilbert B. Kaplan,
Deputy Assistant Secretary for
Administration.

May 7, 1987.

[FR Doc. 87-10952 Filed 5-12-87; 8:46 am]

BILLING CODE 3510-06-M

[A-428-604]

Preliminary Determination of Sales at Less Than Fair Value: Certain Forged Steel Crankshafts From the Federal Republic of Germany

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain forged steel crankshafts (CFSC) from the Federal Republic of Germany (FRG) are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of CFSC, except for entries from Gerlach-Werke GmbH, that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash-deposit or bond for each entry in an amount equal to the estimated weighted-average dumping margins as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by July 21, 1987.

EFFECTIVE DATE: May 13, 1987.

FOR FURTHER INFORMATION CONTACT: Steve Morrison, Roy Van Buskirk or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-0189, 377-0631, or 377-0161.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that imports of CFSC from the FRG are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated weighted-average dumping margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

On October 9, 1986, we received a petition filed in proper form by Wyman-Gordon Company. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of CFSC from the FRG are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on October 29, 1986 (51 FR 40349, November 6, 1986), and notified the ITC of our action.

On November 18, 1986, the ITC determined that there is a reasonable indication that imports of CFSC from the FRG are materially injuring a U.S. industry (51 FR 44537 December 10, 1986).

On December 16, 1986, antidumping duty questionnaires were presented to Gerlach-Werke GmbH (Gerlach) and Thyssen Umformtechnik (Tyssen), the two FRG producers that account for virtually all of the exports to the United States during the period of investigation. We received the questionnaire responses from Thyssen on February 5 and from Gerlach on February 6, 1987. Deficiency questionnaires were sent to Thyssen and Gerlach on February 6, 1987. In addition, we sent constructed value questionnaires to Gerlach and Thyssen on March 18 and April 14, 1987, respectively. Responses to our questionnaires as well as additional supplemental information, were submitted prior to this determination.

On February 20, 1987, petitioner filed a request for extension of the deadline date for the preliminary determination pursuant to section 773(c)(1)(A) of the Act. On February 26, 1987, we extended the deadline date for the preliminary determination by 50 days, to not later than May 7, 1987 (52 FR 7286, March 10, 1987).

Scope of Investigation

The products covered by this investigation are forged carbon or alloy steel crankshafts with a shipping weight between 40 and 750 pounds, whether machined or unmachined. These products are currently classified under items 680.6713, 680.6727, 680.6747, 680.7113, 680.7127 and 680.7147 of the *Tariff Schedules of the United States Annotated* (TSUSA). Neither cast

crankshafts nor forged crankshafts with shipping weights of less than 40 pounds or greater than 750 pounds are subject of this investigation.

Period of Investigation

CFSC are normally sold to the United States on the basis of long-term requirements contracts. Therefore, in order to capture the most recent sales of CFSC to the United States, we extended the period of investigation to encompass the 20 months from March 1, 1985, to October 31, 1986, instead of using the six-month period defined by § 353.38(a) of our regulations.

Date of Sale Issue

Over the course of this investigation, comments were submitted by both petitioner and counsel for Thyssen stating their positions on what each considers to constitute the appropriate date of Thyssen's U.S. sales. Petitioner contends that certain sales reported by Thyssen were actually made before the period of investigation and that certain other sales took place during the period of investigation, but were not reported. Thyssen contends that it has properly reported all U.S. sales that were confirmed during the period of investigation.

In considering this issue we have reviewed documents filed by both parties. Counsel for Thyssen has submitted various documents including requests for quotation, memoranda between companies concerning negotiations, offers, acceptances, revisions and purchase orders. Likewise, counsel for petitioner has submitted documentation also purporting to support its allegation. We examined all documents received for evidence of written confirmation of sales quantity and price. Based on our review, we have excluded Thyssen's 1985 shipments from our calculations because we believe the price and quantity were confirmed prior to the period of investigation. We included certain shipments made subsequent to the period of investigation because documentation submitted by Thyssen indicates that that sale on which the shipments were based actually occurred during the period of investigation. We will carefully examine this issue at verification.

Fair Value Comparisons

To determine whether sales of CFSC in the United States were made at less than fair value, we compared the United States price to the foreign market value for the companies under investigation, using data provided in the responses.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of CFSC to represent the United States price for sales by Gerlach and Thyssen because the merchandise was sold directly to unrelated purchasers prior to its importation into the United States.

For sales which were made through a related sales agent in the United States to an unrelated purchaser prior to the date of importation, we used purchase price as the basis for determining United States price. For these sales, the department determined that purchase price was the more appropriate indicator of the United States price based on the following elements:

1. The merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related selling agent;
2. This was the customary commercial channel for sales of this merchandise between the parties involved; and
3. The related selling agent located in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyer.

Where all the above elements are met, we regard the routine selling functions of the exporter as having been merely relocated geographically from the country of exportation to the United States, where the agent performs them. Whether these functions are done in the United States or abroad does not change the substance of the transactions or the functions themselves.

We calculated the purchase price based on the c.i.f. delivered, duty paid price to unrelated purchasers. We made deductions, where appropriate, for foreign inland freight, ocean freight, U.S. inland freight, inland and marine insurance, U.S. customs duty and brokerage and handling.

Thyssen requested that we increase the purchase price to account for tooling cost which were paid by its U.S. customer separately from the crankshaft invoice price. We have disallowed this claim because such expenses do not qualify as an addition to purchase price pursuant to section 772(d)(1) of the Act. We have requested information on tooling costs associated with home market sales and will consider making a circumstance of sale adjustment if the information is provided on a timely basis and verified.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on home

market sales and, where appropriate, constructed value. For both Gerlach and Thyssen, a constructed value comparison was used for all but one sale in the United States during the period of investigation.

For Gerlach, we based our calculations of foreign market value on the ex-works, packed prices to unrelated purchasers in the home market. Pursuant to § 353.15 of our regulations, we made circumstance of sale adjustments for differences in warranty expenses and credit expenses. We allowed an offset for indirect selling expenses in the home market up to the amount of the commissions for certain shipments in the U.S. market in accordance with § 353.15(c) of the Commerce Regulations. We made an adjustment to account for differences in physical characteristics of the merchandise in accordance with § 353.16 of our regulations. We deducted home market packing and added U.S. packing expenses. We have disallowed an offset of indirect selling expenses for 1986 shipments by Gerlach because its information indicates that the commission may have been paid to a U.S. selling agent who is related to Gerlach through ownership by a common holding company. We will carefully examine this issue during verification.

For Thyssen, we based our calculations on delivered, packed prices to unrelated purchasers in the home market. We deducted home market inland freight and made a circumstance of sale adjustment for credit expenses. We made an adjustment to account for differences in physical characteristics of the merchandise in accordance with § 353.16 of our regulations. We deducted home market packing and added U.S. packing expenses.

Constructed Value

We used constructed value as the basis for calculating foreign market value where there were no sales of such or similar merchandise as defined in section 771(16) of the Act. The constructed values were based on the respondents' information, using actual material and fabrication costs. We made the following adjustments to the data submitted by the respondents:

1. Gerlach

- a. Material cost was adjusted upward by subtracting the claim for special rebates and other credits.
- b. Labor cost was adjusted to compensate for a reported increase in input units during the fabrication process.

c. Factory overhead was adjusted to compensate for a reported increase in input units during the fabrication process.

d. Machining costs used were those reported in the original response as machining adjustments.

e. SG&A, as reported, exceeded the statutory minimum of ten percent; therefore actual costs were used.

f. Profit, as reported, did not meet the statutory minimum; therefore eight percent was used.

We made a circumstance of sale adjustment to the constructed value to account for warranty expenses.

2. Thyssen

a. SG&A, as reported, exceeded the statutory minimum of ten percent; therefore actual costs were used.

b. Profit, as reported, exceeded the statutory minimum; therefore actual profit was used.

Currency Conversion

When calculating foreign market value, we made currency conversions from French francs and German marks to U.S. dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York.

Verification

We will verify all information used in making our final determination in accordance with section 776(a) of the Act. We will follow standard verification procedures, including examination of relevant sales and financial records of the companies under investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of CFSC, from the FRG, except Gerlach-Werke GmbH that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average dumping amount by which the foreign market value of CFSC from the FRG, except from Gerlach-Werke GmbH, exceeds the United States price, as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Estimated weighted-average margin percentage
Gerlach-Werke GmbH.....	De minima
Thyssen Uniformschweiß.....	1.69
All others.....	.78

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring, or threaten material injury to, a U.S. industry no later than 120 days after the date of this preliminary determination or 45 days after our final affirmative determination.

Public Comment

In accordance with section 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination on June 25, 1987, at 1 p.m., at the U.S. Department of Commerce, Room B841, 14th and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by June 18, 1987. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, not less than 30 days before the final determination, or, if a hearing is held, within seven days after the hearing transcript is available, at the above address in at least ten copies.

This determination is published

pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

May 7, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-10933 Filed 5-42-87; 8:45am]

BILLING CODE 3510-06-M

7286

Notices

Federal Register

Vol. 52, No. 46

Tuesday, March 10, 1987

International Trade Administration**[A-428-604, A-589-606, A-412-602, C-351-609]****Antidumping and Countervailing Duties; Forged Steel Crankshafts From Federal Republic of Germany, Japan, United Kingdom and Brazil**

In the matter of Extension of the Deadline Date for the Preliminary Antidumping Duty Determinations: Certain Forged Steel Crankshafts from the Federal Republic of Germany, Japan, and the United Kingdom and Extension of the Deadline Date for the Final Countervailing Duty Determination: Certain Forged Steel Crankshafts from Brazil.

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: Based upon the request of petitioner, the Wyman-Gordon Company, we are extending the deadline date for the preliminary determinations in the antidumping duty investigations of certain forged steel crankshafts from the Federal Republic of Germany, Japan, and the United Kingdom for 50 days, pursuant to section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the Act). These preliminary determinations are now scheduled for May 7, 1987. If these investigations proceed normally, we will make our final determinations on or before July 21, 1987. In addition, the final determination in the countervailing duty investigation of the same product from Brazil will be made on or before July 21, 1987, pursuant to section 705(a)(1) of the Act.

EFFECTIVE DATE: March 10, 1987.

FOR FURTHER INFORMATION CONTACT: Thomas Bombelles or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 377-3174 or 377-0161.

Case History

On October 9, 1986, we received antidumping duty petitions filed by the Wyman-Gordon Company against certain forged steel crankshafts from Brazil, the Federal Republic of Germany, Japan, and the United Kingdom and a

countervailing duty petition, also filed by the Wyman-Gordon Company, against certain forged steel crankshafts from Brazil.

In compliance with the filing requirements of section 353.36 of our regulations (19 CFR 353.36), the antidumping duty petitions alleged that imports of certain forged steel crankshafts from Brazil, the Federal Republic of Germany, Japan, and the United Kingdom 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 Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

On October 29, 1986, petitioner requested that the antidumping duty petition filed against Brazil be withdrawn; and, as a result, we declined to initiate that investigation.

We found that the remaining petitions contained sufficient grounds on which to initiate antidumping duty investigations, and on October 29, 1986, we initiated such investigations against the manufacturers, producers, and exporters of these products in the Federal Republic of Germany, Japan, and the United Kingdom (51 FR 40349, 51 FR 40347, 51 FR 40348, November 6, 1986). We stated that the preliminary determinations in these antidumping duty investigations would be made on or before March 18, 1987.

In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the countervailing duty petition alleged that manufacturers, producers, or exporters in Brazil of certain forged steel crankshafts directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to a U.S. industry.

We found that the petition contained sufficient grounds on which to initiate a countervailing duty investigation, and on October 29, 1986, we initiated such an investigation (51 FR 40240, November 5, 1986). On January 2, 1987, we issued a preliminary affirmative determination in this countervailing duty investigation (52 FR 699, January 8, 1987).

On January 8, 1987, petitioner filed a request for extension of the deadline date for the final determination in the countervailing duty investigation to correspond with the date of the final determinations in the antidumping duty investigations. We granted an extension of the deadline date pursuant to section 705(a)(1) of the Act and stated that the final determination in the countervailing duty investigation would be made on or

before June 1, 1987, to correspond with the deadline date for the final determinations in the antidumping duty investigations (52 FR 4168, February 10, 1987).

Petitioner filed a request for extension of the deadline date for the preliminary determinations in the antidumping duty investigations on February 20, 1987. Section 733(c)(1)(A) of the Act permits extension of the preliminary determination until not later than 210 days after the date of receipt of the petition, if so requested by petitioner. Pursuant to this provision, we are granting an extension of the deadline date for the preliminary determinations in the antidumping duty investigations until not later than May 7, 1987. The final determinations are now scheduled to be made on or before July 21, 1987.

Because we have already granted an extension of the deadline date for the final determination in the countervailing duty investigation to correspond with the date of the final determinations in the antidumping duty investigations, we are extending the date of the final determination in the countervailing duty investigation until not later than July 21, 1987, the new deadline for the final determinations in the antidumping duty investigations.

This notice is published pursuant to section 733(c)(2) of the Act

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-4926 Filed 3-9-87; 8:45 am]

BILLING CODE 3510-05-M

of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the Federal Register. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT:
Ruby J. Dionne, Office of the Secretary,
U.S. International Trade Commission,
telephone 202-523-0176.

Issued: February 13, 1987.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 87-3548 Filed 2-18-87; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 731-TA-371
(Preliminary)]

**Import Investigation; Fabric and
Expanded Neoprene Laminate From
Taiwan**

Determination

On the basis of the record¹ developed in the subject investigation, the Commission determines,² pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Taiwan of fabric and expanded neoprene laminate, provided for in items 355.81, 355.82, 359.50 and 359.60 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 December 23, 1986, a petition was filed with the Commission and the Department of Commerce by Rubatex Corp., Bedford, VA, alleging that an industry in the United States is

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

² Chairman Liebeler dissenting.

³ Vice Chairman Brunsdale determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of the subject imports.

materially injured and threatened with material injury by reason of LTFV imports of fabric and expanded neoprene laminate from Taiwan. Accordingly, effective December 23, 1986, the Commission instituted preliminary antidumping investigation No. 731-TA-371 (Preliminary).

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 January 5, 1987 (52 FR 365). The conference was held in Washington, DC, on January 12, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on February 6, 1987. The views of the Commission are contained in USITC Publication 1944 (February 1987), entitled "Fabric and Expanded Neoprene Laminate from Taiwan: Determination of the Commission in Investigation No. 731-TA-371 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: February 6, 1987.

By order of the Commission:

Kenneth R. Mason,
Secretary.

[FR Doc. 87-3549 Filed 2-18-87; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 701-TA-282 (Final)]

**Import Investigation; Certain Forged
Steel Crankshafts From Brazil**

AGENCY: International Trade
Commission.

ACTION: Institution of a final
countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701-TA-282 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 167d(b)) to determine whether an industry in the United States is materially injured, or is threatened with materially retarded, by reason of imports from Brazil of certain forged steel crankshafts, provided for in items 660.67 and 660.71 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Brazil.

Pursuant to a request from petitioner under section 705(a)(1) of the Act (19 U.S.C. 1671d(a)(1)), Commerce has extended the date for its final determination in an ongoing antidumping investigation on certain forged steel crankshafts from Brazil. Accordingly, the Commission will not establish a schedule for the conduct of the countervailing duty investigation until Commerce makes a preliminary determination in the antidumping investigation (currently scheduled for March 18, 1987).

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

EFFECTIVE DATE: January 8, 1987.

FOR FURTHER INFORMATION CONTACT:
Lynn Featherstone (202-523-0242),
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 contracting the
Commission's TDD terminal on 202-724-
0002.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Brazil of certain forged steel crankshafts. The investigation was requested in a petition filed on October 9, 1986 by Wyman-Gordon Company, Worcester, MA. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (51 FR 44537, December 10, 1986).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this

notice in the Federal Register. Any entry of appearance filed after this date will be referred to the 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.

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

Issued: February 13, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-3550 Filed 2-18-87; 8:45 am]

BILLING CODE 7020-02-0

[Investigation No. 731-TA-375
(Preliminary)]

Import Investigation; Certain Line Pipes and Tubes From Canada

AGENCY: International Trade
Commission.

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

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-375 (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 Canada of line pipes and

tubes¹ 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 investigation in 45 days, or in this case by March 30, 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, Subpart A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: February 11, 1987.

FOR FURTHER INFORMATION CONTACT: Brian Walters (202-523-0104), 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 contracting 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 11, 1987, by counsel for Tex-Tube Division of Cyclops Corp., Houston, TX, and Maverick Tube Corp., Chesterfield, Mo.

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 (7) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

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),

¹ For purposes of this investigation, the term "line pipes and tubes" covers welded carbon steel pipes and tubes of circular cross section, with walls not thinner than 0.065 inch, 0.375 inch or more but not over 16 inches in outside diameter, conforming to API specifications for line pipe, provided for in items 610.3208 and 610.3209 of the Tariff Schedules of the United States Annotated (TSUSA) 1987.

each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on March 5, 1987, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Brian Walters (202-523-0104) not later than March 2, 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 March 11, 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 submission must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.8 of the Commission's rules (19 CFR 201.8).

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).

Issued: February 13, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-3551 Filed 2-18-87; 8:45 am]

BILLING CODE 7020-02-0

(C-351-609)

Extension of the Deadline for the Final Countervailing Duty Determination and Postponement of the Public Hearing: Certain Forged Steel Crankshafts From Brazil**AGENCY:** Import Administration, International Trade Administration, Commerce.**ACTION:** Notice.

SUMMARY: Based upon the request of petitioner, the Wyman-Gordon Company, Inc., we are extending the deadline date for the final determination in the countervailing duty investigation of certain forged steel crankshafts from Brazil to correspond to the date of the earliest of the final determinations in the antidumping duty investigations of the same product from Japan, the Federal Republic of Germany and the United Kingdom pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub. L. 98-573). In addition, we are postponing the public hearing.

EFFECTIVE DATE: February 9, 1987.

FOR FURTHER INFORMATION CONTACT: Thomas Bombelles, Bradford Ward or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3174, 377-2239 or 377-2433.

SUPPLEMENTARY INFORMATION:**Case History**

On October 9, 1986, we received antidumping duty petitions filed by the Wyman-Gordon Company, Inc. on certain forged steel crankshafts from Brazil, Japan, the Federal Republic of Germany, and the United Kingdom, and a countervailing duty petition on the same product from Brazil.

In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the antidumping petitions alleged that imports of certain forged steel crankshafts from these countries, are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

On October 29, 1986, the petitioner withdrew the antidumping petition with respect to Brazil. We found that the remaining petitions contained sufficient

grounds on which to initiate antidumping duty investigations, and on October 29, 1986, we initiated such investigations on this product from Japan, the Federal Republic of Germany, and the United Kingdom (51 FR 40347, 51 FR 40349, and 51 FR 40348, November 6, 1986).

In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the countervailing duty petition alleged that manufacturers, producers, or exporters in Brazil of certain forged steel crankshafts directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds on which to initiate a countervailing duty investigation, and on October 29, 1986, we initiated such an investigation (51 FR 40240, November 5, 1986). Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiation.

On November 24, 1986, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil, Japan, the Federal Republic of Germany, and the United Kingdom of certain forged steel crankshafts (51 FR 44537, December 10, 1986).

On January 2, 1987, we issued a preliminary affirmative determination in the countervailing duty investigation (52 FR 699, January 8, 1987). The preliminary determinations in the antidumping investigations will be made on or before March 18, 1987 and the final determinations are scheduled to be made on or before June 1, 1987.

On January 8, 1987, petitioner filed a request for extension of the deadline date for the final determination in the countervailing duty investigation to correspond with the date of the first final determination in the antidumping investigations of the same product. Section 705(a)(1) of the Act, as amended by section 606 of the Trade and Tariff Act of 1984, provides that when a countervailing duty investigation is "initiated simultaneously with an [antidumping] investigation . . . which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination [in the countervailing

duty investigation] to the date of the final determination" in the antidumping duty investigation (19 U.S.C. 1671d(a)(1)). Pursuant to this provision, we are granting an extension of the deadline date for the final determination in the countervailing duty investigation of certain forged steel crankshafts from Brazil until not later than June 1, 1987, the current deadline for the final determinations in the antidumping duty investigations. In accordance with petitioner's request, if some or all of the three antidumping duty investigations are extended after the preliminary determination in accordance with section 735(a)(2) of the Act, the deadline for the final countervailing duty determination will correspond to the date of the earliest of the final antidumping duty determinations.

To comply with the requirements of Article 5, paragraph 3 of the Subsidies Code, the Department will direct the U.S. Customs Service to terminate the suspension of liquidation in the countervailing duty investigation on May 8, 1987, which is 120 days from the date of publication of the preliminary determination in this case. No cash deposits or bonds for potential countervailing duties will be required for merchandise which enters after May 8, 1987. The suspension of liquidation will not be resumed unless and until a final affirmative ITC determination is made in this case. We will also direct the U.S. Customs Service to hold the entries suspended prior to May 8, 1987, until the conclusion of this investigation.

In addition, due to the extension of the final determination in the countervailing duty investigation, we are postponing the public hearing, originally set for February 13, 1987. The hearing will be rescheduled for a later date.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, all written views will be considered if received not less than 30 days before the final determination is due.

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

Dated: February 4, 1987.

Joseph A. Spetrini,
Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-2737 Filed 2-9-87; 8:45 am
BILLING CODE 3510-05-M]

[C-351-609]

**Preliminary Affirmative Countervailing
Duty Determination: Certain Forged
Steel Crankshafts from Brazil**

AGENCY: Import Administration,
International Trade Administration,
Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of certain forged steel crankshafts. The estimated net subsidy is 4.98 percent *ad valorem*. We have notified the United States International Trade Commission (ITC) of our determination.

We are directing the United States Customs Service to suspend liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. We have also directed the United States Customs Service to require a cash deposit or bond for each such entry in an amount equal to the estimated net subsidy as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination not later than March 18, 1987.

EFFECTIVE DATE: January 8, 1987.

FOR FURTHER INFORMATION CONTACT: Thomas Bombelles or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-3174 or 377-2438.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that certain benefits which constitute subsidies

within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Brazil of certain forged steel crankshafts. For purposes of this investigation, the following programs are found to confer subsidies:

- Preferential Working Capital Financing for Exports
- Income Tax Exemption for Export Earnings

We preliminarily determine the estimated net subsidy to be 4.96 percent *ad valorem*.

Case History

On October 9, 1986, we received a petition in proper form from the Wyman-Gordon Company, a domestic manufacturer of certain forged steel crankshafts. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Brazil of certain forged steel crankshafts receive, directly or indirectly, subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, United States industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on October 29, 1986, we initiated such an investigation (51 FR 40240, November 5, 1986). We stated that we expected to issue a preliminary determination not later than January 2, 1987.

Since Brazil is entitled to an injury determination under section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Brazil materially injure, or threaten material injury to, a United States industry. Therefore, we notified the ITC of our initiation. On November 24, 1986, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil of certain forged steel crankshafts (51 FR 44537, December 10, 1986).

On November 10, 1986, we presented a questionnaire to the Government of Brazil in Washington, DC, concerning the petitioner's allegations, and we requested a response by December 10, 1986. On December 10, 1986, we received a response to our questionnaire.

There are two known manufacturers and producers in Brazil of certain steel forged crankshafts that exported to the United States during the review period. These are Krupp Metalurgica Campo Limo Ltda. (Krupp), and Sifco S.A. In

addition, Brasifco S.A. (Brasifco), is a trading company which exported the subject merchandise from Brazil to the United States during the review period. According to the Government of Brazil, Krupp, Sifco and Brasifco account for substantially all exports of certain forged steel crankshafts to the United States.

Scope of Investigation

The products covered by this investigation are forged carbon or alloy steel crankshafts with a shipping weight of between 40 and 750 pounds, whether machined or unmachined. These products are currently classified under items 660.6713, 660.6727, 660.6747, 660.7113, 660.7127, and 660.7174 of the *Tariff Schedules of the United States Annotated (TSUSA)*. Neither cast crankshafts nor forged crankshafts with shipping weights of less than 40 pounds or greater than 750 pounds are subject to this investigation.

Analysis of Programs

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

Consistent with our practice in preliminary determinations, when a response to an allegation denies the existence of a program or receipt of benefits under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of our preliminary determination. All such responses are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

For purposes of this preliminary determination, the period for which we are measuring subsidization ("the review period") is calendar year 1985. In its response, the Government of Brazil provided data for the applicable period, including financial statements for Krupp, Sifco and Brasifco.

Based upon our analysis of the petition, and the responses to our questionnaire, we preliminarily determine the following:

I. Programs Preliminarily Determined to Constitute Subsidies

We preliminarily determine that countervailable benefits are being

provided to manufacturers, producers, or exporters in Brazil of certain forged steel crankshafts under the following programs:

A. Preferential Working-Capital Financing for Exports. The Carteria do Comercio Exterior (Foreign Trade Department of CACEX) of the Banco do Brasil administers a program of short-term working capital financing for the purchase of inputs. During the review period, these loans were provided under Resolutions 882, 883, 950, and 1009.

Eligibility for this type of financing is determined on the basis of past export performance or an acceptable export plan. The amount of available financing is calculated by making a series of adjustments to the dollar value of exports. During the review period, the maximum level of eligibility for the subject merchandise for such financing was 20 percent of the adjusted value of exports.

Following approval by CACEX of their applications, participants in the program receive certificates representing the total dollar amount for which they are eligible. The certificates are presented to banks in return for cruzeiros at the exchange rate in effect on the date of presentation. Loans provided through this program are made for a term of up to one year.

The interest rate on Resolution 882 and 883 loans was one hundred percent of monetary correction, plus three percent. We compared this interest rate to our short-term benchmark, which is the discount rate on accounts receivable as published in *Analise/Business Trends*, a Brazilian financial publication. The interest rate charged on these loans is below our benchmark.

On August 21, 1984, Resolutions 882 and 883 were amended by Resolution 950. Resolution 950 loans are made by commercial banks, with interest paid at the time of principal repayment. Under Resolution 950, the Banco do Brasil paid the lending institution an equalization fee of up to 10 percentage points in interest (after monetary correction). Resolution 950 was amended in May 1985 by Resolution 1009 and the equalization fee was increased to 15 percentage points in interest charged (after monetary correction). Therefore, if the interest rate charged to the borrower is less than full monetary correction plus 15 percent the Banco do Brasil pays the lending bank an equalization fee, of up to 15 percentage points. According to the response, the lending bank passes the equalization fee on to the borrower in the form of a reduction of the interest due. Thus, the equalization fee reduces the interest rate on these working

capital loans below the commercial rate of interest. These loans are also exempt from the Imposto sobre Operacoes Financieras (Tax on Financial Operations or IOF), a tax charged on all domestic financial transactions in Brazil.

Since receipt of working-capital financing under Resolutions 882, 883, 950 and 1009 is contingent on export performance, and provides funds to participants at preferential rates, we preliminarily determine that this program confers an export subsidy. In order to calculate the benefit, we multiplied the value of all those loans repaid in 1985 by the sum of the difference between the applicable interest rates and our benchmark, plus the IOF. We then allocated the benefit over the total value of the 1985 exports, resulting in an estimated net subsidy of 3.59 percent *ad valorem*.

B. Income Tax Exemption for Export Earnings. Under Decree-Laws 1158 and 1721, Brazilian exporters are eligible for an exemption from income tax on the portion of profits attributable to export revenue. Because this exemption is tied to exports and is not available for domestic sales, we preliminarily determine that this exemption confers an export subsidy.

The two producers and one trading company under investigation took an exemption from income tax payable in 1985 on a portion of income earned in 1984. We multiplied that portion of income exempt from taxation by the companies' effective tax rates, and allocated the benefit over the total value of their 1985 exports to calculate an estimated net subsidy of 1.37 percent *ad valorem*.

II. Programs Preliminarily Determined Not to be Used

We preliminarily determine that manufacturers, producers, or exporters in Brazil of certain forged steel crankshafts did not use the following programs, which were listed in our notice of "Initiation of a Countervailing Duty Investigation: Certain Forged Steel Crankshafts from Brazil."

A. Resolution 330 of the Banco Central do Brasil. Resolution 330 provides financing for up to 80 percent of the value or the merchandise placed in a specified bonded warehouse and destined for export. Exporters of certain forged steel crankshafts would be eligible for financing under this program. However, the Government of Brazil stated in its response that none of the respondents borrowed, or had outstanding, loans under this program during the review period; therefore, we

preliminarily determine that this program was not used.

B. Exemption of IPI Tax and Customs Duties on Imported Capital Equipment (CDI). Under Decree-Law 1428, the Conselho do Desenvolvimento Industrial (Industrial Development Council or CDI) provides for the exemption of 80 to 100 percent of the customs duties and 80 to 100 percent of the Imposto sobre Produtos Industrializados (Tax on Industrial Products or IPI) on certain imported machinery for projects approved by the CDI. The recipient must demonstrate that the machinery or equipment for which an exemption is sought was not available from a Brazilian producer. The investment project must be deemed to be feasible and the recipient must demonstrate that there is a need for added capacity in Brazil. The Government of Brazil stated in its response that none of the forged steel crankshaft producers subject to the investigation received incentives under this program during the review period.

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

- First, under Decree-Law 77.065, BEFIEX may reduce by 70 to 90 percent import duties on the importation of machinery, equipment, apparatus, instruments, accessories and tools necessary for special export programs approved by the Ministry of Industry and Trade, and may reduce by 50 percent import duties and the IPI on imports of components, raw materials and intermediary products;

- Second, under Article 13 of Decree No. 72.1219, BEFIEX may extend the carry-forward period for tax losses from to six years;

- Third, under Article 14 of the same decree, BEFIEX may allow special amortization of pre-operational expenses related to approved products; and

- Fourth, the Government of Brazil may continue to provide the IPI export credit premium to approved exporters pursuant to long-term BEFIEX contracts.

In the response, the Government of Brazil stated that the forged steel crankshaft producers under investigation did not participate in this program during the review period.

D. The CIEX Program. Decree-Law 1428 authorized the Comissao para Incentivos a Exportacao (Commission for Export Incentives or CIEX) to reduce import taxes and the IPI by up to ten percent on certain equipment for use in

export production. In its response, the Government of Brazil stated that none of the forged steel crankshaft producers under investigation participated in this program during the review period.

E. Accelerated Depreciation for Brazilian-Made Capital Equipment. Pursuant to Decree-Law 1137, any company which purchases Brazilian-made capital equipment and has an expansion project approved by the CDI may depreciate this equipment at twice the rate normally permitted under Brazilian tax laws. In the response, the Government of Brazil stated that none of the forged steel crankshaft producers under investigation used this program during the review period.

F. Incentives for Trading Companies. Under Resolution 643 of the Banco Central do Brasil, trading companies can obtain export financing similar to that obtained by manufacturers under Resolution 950. In the response, the Government of Brazil stated that the trading company respondent did not borrow, or have outstanding, any loans under this program during the review period.

G. The PROEX Program. Short-term credits for exports are available under the Programa de Financiamento a Producao para a Exportacao (Export Production Financing Program or PROEX), a loan program operated by Banco Nacional do Desenvolvimento Economico e Social (National Bank of Economic and Social Development or BNDES). In the response, the Government of Brazil stated that none of the forged steel crankshaft producers or exporters under investigation received loans or had loans outstanding under this program during the review period.

H. Resolutions 68 and 509 (FINEX) Financing. Resolutions 68 and 509 of the Conselho Nacional do Comercio Exterior (National Foreign Trade Council or CONCEX) provide that CACEX may draw upon the resources of the Fundo de Financiamento a Exportacao (Export Financing Fund or FINEX) to extend dollar-denominated loans to both exporters and United States buyers of Brazilian goods. Financing is granted on a transaction-by-transaction basis. In its response, the Government of Brazil stated that neither the companies under investigation nor United States buyers of the subject merchandise received Resolution 68 or 509 financing or had outstanding loans during the review period.

I. Loans Through the Apoio o Desenvolvimento Tecnologica a Empresa Nacional (ADTEN). Petitioner alleges that the Government of Brazil maintains, through the Financiadora de

Estudos Projectos (Financing of Research Projects or FINEP), a loan program, ADTEN (Support of the Technological Development of National Enterprises), that provides long-term loans on terms inconsistent with commercial considerations to encourage the growth of industries and development of technology. In the response, the Government of Brazil stated that none of the companies under investigation received, or had outstanding, loans through this program during the review period.

J. *Export Financing Under the CIC-CREGE 14-11 Circular.* Under its CIC-CREGE 14-11 circular ("14-11"), the Banco do Brasil provides 180- and 360-day cruzeiro loans for export financing, on the condition that companies applying for these loans negotiate fixed-level exchange contracts with the bank. Companies obtaining a 360-day loan must negotiate exchange contracts with the bank in an amount equal to twice the value of the loan. Companies obtaining a 180-day loan must negotiate an exchange contract equal to the amount of the loan. According to the response of the Government of Brazil, none of the companies under investigation had loans under this program during the review period.

K. *IPI Rebates for Capital Investment.* Decree-Law 1547, enacted in April 1977, provides funding for approved expansion projects in the Brazilian steel industry through a rebate of the IPI, a value-added tax imposed on domestic sales. According to the response of the Government of Brazil, the companies under investigation are not eligible to participate in this program.

III. Program Preliminary Determined to Require Additional Information

Articles 13 and 14 of Decree-Law 2303. According to information submitted on the record of this investigation after we issued our questionnaire, on November 21, 1986, the Government of Brazil passed Decree-Law 2303, authorizing certain changes in the tax code. Article 13 of this Decree-Law changes the method of calculating export profits for the purpose of granting certain fiscal incentives. Article 14 exempts, wholly or partially, firms which export manufactured products from the excess profits tax if exports account for more than a designated amount of total revenue. We intend to obtain as much information as possible regarding the effects of these changes in the tax law at verification.

Verification

In accordance with section 776(a) of the Act, we will verify the data used in

making our final determination. We will not accept any statement in a response that cannot be verified for our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all unliquidated entries of certain forged steel crankshafts from Brazil entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the *Federal Register*, and to require a cash deposit or bond for each such entry of this merchandise of 4.96 percent *ad valorem*. This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a United States industry 120 days after the Department makes its preliminary affirmative determination or 45 days after its final affirmative determination, whichever is latest.

In accordance with § 355.35 of the Commerce Regulations (19 CFR 355.35) we will, if requested, hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination. The hearing will be held at 10:00 a.m. on February 13, 1987, at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B-099, at the above address within 10 days of the publication of this notice in the *Federal Register*.

Requests should contain: (1) The party's name, address, and telephone number; (2) The number of participants; (3) The reason for attending; and (4) A list of the issues to be discussed. In addition, at least 10 copies of the proprietary version and seven copies of the nonproprietary version of the

prehearing briefs must be submitted to the Deputy Assistant Secretary by February 6, 1987. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 353.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This determination is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

January 2, 1987.

[FR Doc. 87-376 Filed 1-7-87; 8:45 am]

BILLING CODE 3510-05-M

Investigations Nos. 701-TA-282 and 731-TA-351 through 353 (Preliminary)

Certain Forged Steel Crankshafts From Brazil, the Federal Republic of Germany, Japan, and the United Kingdom

Determinations

On the basis of the record¹ developed in the subject investigations, the Commission determines,² pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil of certain forged steel crankshafts^{3 4} which are alleged to be subsidized by the Government of Brazil. The Commission also determines, pursuant to section 733(a) of the Act (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the Federal Republic of Germany, Japan, and the United Kingdom of certain forged steel crankshafts³ which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On October 9, 1986, petitions were filed with the Commission and the Department of Commerce by Wyman-Gordon Company, Worcester, MA, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized imports of certain forged steel crankshafts from Brazil and by reason of LTFV imports of certain

forged steel crankshafts from the Federal Republic of Germany, Japan, and the United Kingdom. Accordingly, effective October 9, 1986, the Commission instituted preliminary countervailing duty investigation No. 701-TA-282 (Preliminary) and preliminary antidumping investigations Nos. 731-TA-351 through 353 (Preliminary).⁵

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of October 16, 1986 (51 FR 36871). The conference was held in Washington, DC, on October 31, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on November 24, 1986. The views of the Commission are contained in USITC Publication 1917 (November 1986), entitled "Certain Forged Steel Crankshafts from Brazil, the Federal Republic of Germany, Japan, and the United Kingdom: Determinations of the Commission in Investigations Nos. 701-TA-282 and 731-TA-351 through 353 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission.

Issued: November 25, 1986.

Kenneth R. Mason,
Secretary

[FR Doc. 86-27761 Filed 12-9-86; 8:45 am]

BILLING CODE 7020-02-M

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

² Chairman Liebelier dissenting.

³ The crankshafts subject to these investigations are forged carbon or alloy steel crankshafts with a shipping weight of between 40 and 750 pounds, whether machined or unmachined. They are provided for in items 660.67 and whether machined or unmachined. They are provided for in items 660.67 and 660.71 of the Tariff Schedules of the United States.

⁴ Commissioner Stern determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of allegedly subsidized imports of certain forged steel crankshafts from Brazil and by reason of allegedly LTFV imports of certain forged steel crankshafts from the Federal Republic of Germany, Japan, and the United Kingdom.

APPENDIX C

LIST OF WITNESSES

TENTATIVE CALENDAR OF PUBLIC HEARING

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

Subject : Certain Forged Steel Crankshafts
from Brazil, The Federal Republic
of Germany, and The United Kingdom

Inv. Nos. : 701-TA-282 (Final)
and
731-TA-351 and 353 (Final)

Date and time : August 4, 1987 - 9:30 a.m.

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

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

Collier, Shannon, Rill & Scott—Counsel
Washington, D.C.
on behalf of

Wyman-Gordon Company

Joseph R. Carter, Chairman

Michael T. Curtis, Vice President of Sales
(Transportation & Office Highway Products)

John W. Nowak, Plant Manager—Danville

David J. Sulzbach, Assistant Corporate Controller

Donald M. Tucker, Vice President & General Counsel

Economic Consulting Services, Inc., Washington, D.C.

Stanley Nehmer, President

Mark W. Love, Vice President

Jerrie Mirga

David A. Hartquist)
Michael R. Kershow) --OF COUNSEL
Robin H. Beeckman)

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

Fried, Frank, Harris, Shriver & Jacobson—Counsel
Washington, D.C.
on behalf of

United Engineering & Forging, the United Kingdom
producer and exporter of the subject merchandise

Robert Litan, Brookings Institute

James Mateyka, Vice President,
Booz, Allen & Hamilton

Russell Schroeder, Product Manager, GKI, ACI

Harry Cookson, Technical Director, United Engineering
and Forging

Alan Kashdan)
David E. Birenbaum) --OF COUNSEL

Sharretts, Paley, Carter & Blauvelt, P.C.—Counsel
Washington, D.C.
on behalf of

Thyssen Umformtechnik, Federal Republic of Germany

Hermann Braun, Director—Export Sales

Dr. Dieter Frank, Director

Ulla Plenkers, Product Manager

Peter O. Suchman)
Beatrice A. Brickell) --OF COUNSEL
Ned Marshak)

Wilmer, Cutler & Pickering—Counsel
Washington, D.C.
on behalf of

Sumitomo Metal Industries, Ltd., a Japanese producer

John D. Greenwald)
David Westin)--OF COUNSEL

Sharretts, Paley, Carter & Blauvelt, P.C.—Counsel
Washington, D.C.
on behalf of

Caterpillar Tractor Company

James Harrison, Supplier—Quality Engineer

Richard Saletzky, Manager — Central Purchasing,
Cast & Forged Commodities

Peter O. Suchman—OF COUNSEL

Barnes, Richardson & Colburn—Counsel
Washington, D.C.
on behalf of

The J.I. Case Company, Racine, Wisconsin,
and
Consolidated Diesel Corporation, Whitakers,
North Carolina

Donald E. Doles, Director of Supply, Consolidated
Diesel Company

Richard Ryndak

Gunter von Conrad)--OF COUNSEL
Matthew T. McGrath)

Cumins Engine Company, Inc., Columbus, Indiana

Charles S. Post, Corporate Attorney

David Patterson, Vice-President-Supply

Other interested witnesses:

Deere & Co., Moline, IL

Dean R. Dort, II, Washington Counsel

Robert Lees, International Purchasing Manager

Thomas Schwartz, Purchasing Supervisor

Thomas Speaker, Senior Buyer

APPENDIX D

U.S. IMPORTS BY PURCHASER AND COUNTRY

Exhibit 1

Forged steel crankshafts: U.S. imports, by purchaser and country, 1984-86,
January-March 1986, and January-March 1987