

SHOCK ABSORBERS AND PARTS, COMPONENTS, AND SUBASSEMBLIES THEREOF FROM BRAZIL

Determination of the Commission
in Investigation No. 731-TA-421
(Preliminary) Under the Tariff Act
of 1930, Together With the
Information Obtained in the
Investigation



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UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONERS

Anne E. Brundale, Acting Chairman
Alfred E. Eckes
Seeley G. Lodwick
Susan Liebeler
David B. Rohr
Ronald A. Cass

Staff assigned:

Jim McClure, Investigator
Peder Andersen, Commodity-Industry Analyst
Bill Shpiece, Economist
Marshall Wade, Accountant/Financial Analyst
Craig McKee, Attorney

Bob Carpenter, Supervisory Investigator

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

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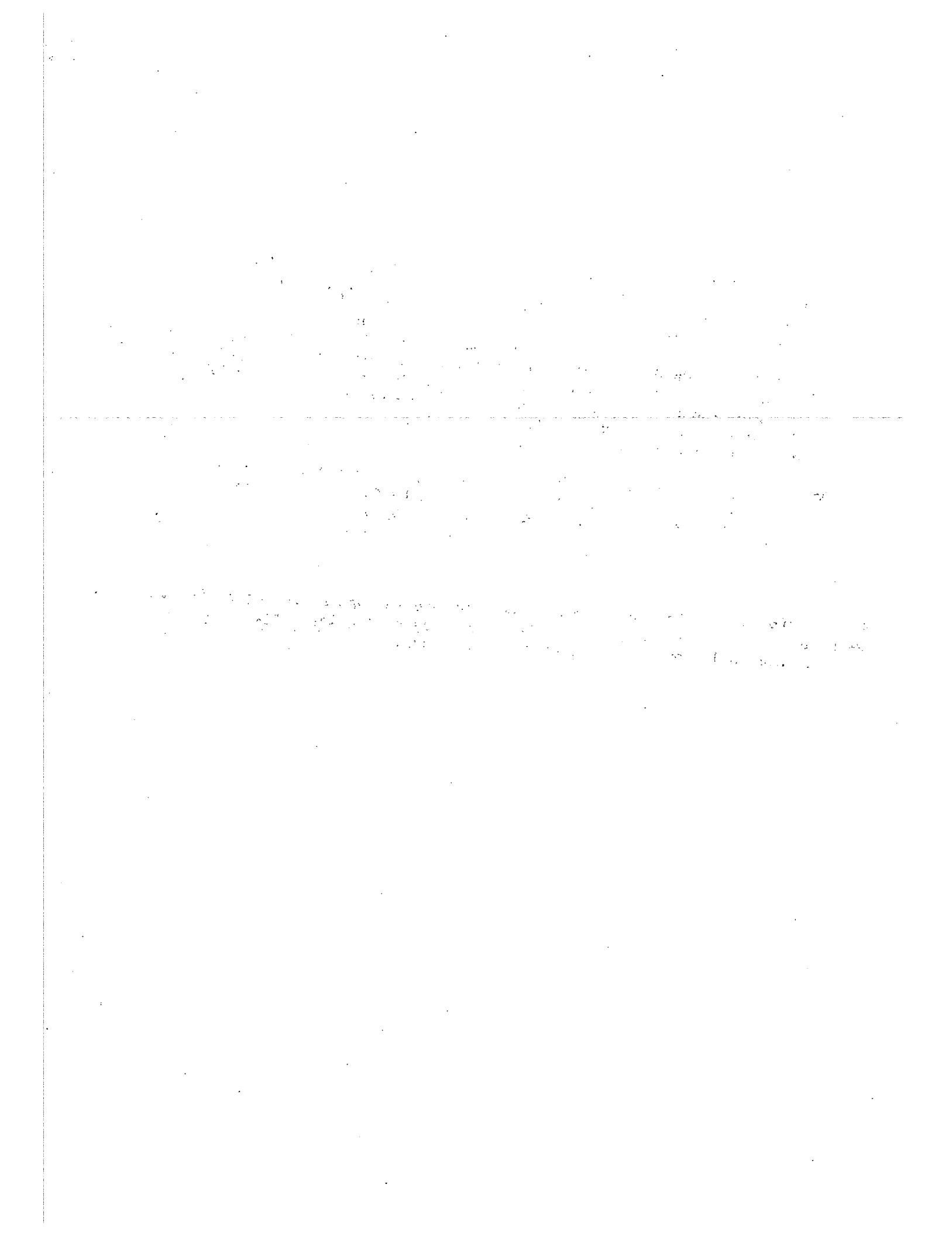
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Note.--Information that would reveal the confidential operations of individual concerns may not be published and, therefore, has been deleted for this report. Such deletions are indicated by asterisks.



UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-421 (Preliminary)

SHOCK ABSORBERS AND PARTS, COMPONENTS, AND SUBASSEMBLIES THEREOF FROM BRAZIL

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission 2/ determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of shock absorbers, 3/ provided for in item 692.32 of the Tariff Schedules of the United States (TSUS), and parts, components, and subassemblies thereof, however provided for in the TSUS, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On August 9, 1988, a petition was filed with the Commission and the Department of Commerce by Monroe Auto Equipment Co., Monroe, MI, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of shock absorbers and parts, components, and subassemblies thereof from Brazil. Accordingly, effective August 9, 1988, the Commission instituted preliminary antidumping investigation No. 731-TA-421 (Preliminary).

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

2/ Commissioner Rohr did not participate in the investigation..

3/ For purposes of this investigation, the term "shock absorbers" is defined as a cylindrically-shaped motor vehicle suspension component made essentially of sheet steel, which is designed to limit the motions, vibrations, and oscillations that affect a vehicle due to uneven road surfaces, centrifugal forces, or other disturbances, provided for in item 692.3282 of the Tariff Schedules of the United States Annotated (1987) (TSUSA); they are also provided for under subheading 8708.80.50 of the Harmonized Tariff Schedule of the United States (USITC Pub. 2030).

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 August 17, 1988 (53 F.R. 31113). The conference was held in Washington, DC, on August 30, 1988, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEW OF ACTING CHAIRMAN BRUNSDALE,
COMMISSIONERS LIEBELER, LODWICK AND CASS

We unanimously determine 1/ 2/ that there is no reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of shock absorbers and parts, components, and subassemblies manufactured in Brazil for use in the final assembly of shocks absorbers. 3/ 4/

The Standard in Preliminary Investigations

The purpose of the preliminary injury determination is to "eliminate unnecessary and costly investigations which are an administrative burden and

1/ Commissioner Röhr did not participate in this determination.

2/ Commissioner Eckes joins his colleagues in their discussion of the like product, domestic industry and related parties. His views concerning material injury, threat of material injury and the legal standard for preliminary determinations are set forth in his Separate Views.

3/ On August 23, 1988, the Omnibus Trade and Competitiveness Act of 1988 ("the 1988 Act") became law when it was signed by the President. Under the 1988 Act, the relevant amendments to title VII apply to "investigations initiated after the date of enactment of this Act." P.L. 100-418, 102 Stat. 1107, section 1337(b)(1). The International Trade Administration of the Department of Commerce ("Commerce") initiated the investigation on September 2, 1988, approximately ten days after the enactment of the 1988 Act. See 53 Fed. Reg. 34137 (September 2, 1988). Therefore, we apply the provisions of the 1988 Act to this preliminary investigation.

4/ Material retardation is not at issue in this investigation and will not be discussed further.

an impediment to trade." ^{5/} To this end, the Commission is to determine whether, based upon the best information available at the time of the preliminary determination, there is a reasonable indication of material injury, threat thereof, or material retardation of establishment of an industry by reason of the subject imports. ^{6/} Absent a reasonable indication of material injury or threat thereof, the Commission must terminate its antidumping investigation. ^{7/}

In our view, the statutory "reasonable indication" standard provided in 19 U.S.C. § 1673b(a) requires a negative preliminary determination when: (1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that, contrary evidence will arise in a final investigation. ^{8/} In American Lamb v. United States, the Court of Appeals for the Federal Circuit expressly approved this approach and judged the Commission's practice of weighing

5/ S. Rep. No. 1298, 93rd Cong., 2d. Sess. 171 (1974); American Lamb Co. v. United States, 785 F.2d. 994, 1002-1003, (Fed. Cir. 1986).

6/ 19 U.S.C. § 1673b(a); material injury is "harm which is not inconsequential, immaterial or unimportant". 19 U.S.C. § 1677(7)(A).

7/ See S. Rep. No. 1298, 93rd Cong., 2d. Sess. 170 (1974). ("The Committee felt that there ought to be a procedure for terminating investigations at an earlier stage where there was no reasonable indication...that an industry in the United States is being or is likely to be injured" by the subject imports); accord S. Rep. No. 249, 96th Cong., 1st Sess. 66 (1979) ("The Committee intends the 'reasonable indication' standard to be applied in essentially the same manner as the 'reasonable indication' standard under section 201(c)(2) of the Antidumping Act has been applied.")

8/ See American Lamb, 785 F.2d. at 1001.

evidence in reaching a preliminary determination as permissible within the statutory framework.^{9/} The Court found the Commission's practice consonant with Congress' intent to weed out those cases which are clearly without merit, while at the same time protecting against unwarranted terminations.^{10/}

The clear and convincing evidence standard requires that the evidence supporting a negative preliminary determination be more than "substantial" — that is, more than a preponderance of the evidence of record. In making its determination, the Commission is permitted to weigh evidence; and it may issue a negative preliminary determination even if some evidence in the record supports an affirmative determination, or even if there is some reasonable doubt about whether a negative determination is warranted, as long as the evidence "refuting the allegations of a petition" is clear and convincing.^{11/} Indeed, the Federal Circuit in American Lamb ultimately affirmed a Commission negative preliminary determination where some of the evidence concerning the factors considered by the Commission was mixed.

9/ Id. The court held that the reasonable indication standard requires more than a finding that there is a "possibility" of material injury, or a reasonable indication of a need for further inquiry, and that the Commission is to weigh the evidence it has obtained to determine if that evidence demonstrates that a reasonable indication exists.

10/ See American Lamb, at 1001-1002. Indeed, in affirming the Commission's application of the reasonable indication standard, the Federal Circuit observed that the "guidelines weigh the scales in favor of affirmative and against negative determinations." Id. at 1001.

11/ Id. at 1004; see also, Collins Security Corp. v. SEC, 562 F.2d 820, 824 (D.C. Cir. 1977) (clear and convincing evidence is more than a preponderance but less than "beyond a reasonable doubt").

The Court of International Trade has on several occasions followed American Lamb to affirm preliminary negative determinations by the Commission. 12/ 13/

In reaching its preliminary injury determination in this case, the Commission is required to consider the evidence for both an affirmative and negative determination and make its determination in light of the evidence on the record as a whole. 14/ We note that Congress contemplated that the data

12/ Wells Mfg. Co. v. United States, 11 CIT __, 677 F. Supp. 1239 (1987) (preliminary negative determination in Iron Bars from Brazil, Inv. No. 701-TA-208, USITC Pub. No. 1472 (Dec. 1983)); Jeannette Sheet Glass Corp. v. United States, 11 CIT __, 654 F. Supp. 179 (1987) (preliminary negative determination in Thin Sheet Glass from Switzerland, Belgium, and the Federal Republic of Germany, Inv. Nos. 731-TA-127-129 (Preliminary), USITC Pub. No. 1376 (May 1983)).

13/ The court's most recent decision, however, reversed a Commission preliminary negative determination. In Yuasa-General Battery Corp. v. United States ("Yuasa II"), Slip Op. 88-89 (July 12, 1988), the court reversed the Commission's preliminary negative determination in 12-Volt Motorcycle Batteries from Taiwan, Inv. No. 731-TA-238 (Preliminary), USITC Pub. No. 1654 (Feb. 1985). The CIT previously had remanded the Commission's preliminary negative threat determination for failure to address the statutory factors, but it had affirmed the preliminary negative material injury determination. Yuasa-General Battery Corp. v. United States ("Yuasa I"), 661 F.Supp. 1214 (1987).

In reversing the Commission's remand negative threat determination, the court held that the requirements for preliminary negative determinations set forth in American Lamb had not been met. The court held that the Commission had abused its discretion by not basing its determination on its own standard as upheld in American Lamb. The Yuasa court appears to have viewed the Commission as analyzing only how strong was the case favoring an affirmative determination. The Commission does not read the Yuasa decision as mandating a change in the Commission's standard, which has been sustained by the Court of Appeals for the Federal Circuit.

14/ See Yuasa II, Slip Op. No. 88-89 at 6. The court criticized the
(Footnote continued on next page)

in preliminary determinations would be imperfect, and therefore mandated that the Commission make its determination based on the best "available" information. Despite limiting the Commission's investigation to 45 days, Congress clearly contemplated that the Commission could reach a negative preliminary determination. Thus, data subsequently available by mere passage of time are clearly not the "contrary evidence" contemplated by American Lamb. ^{15/}

II. Like Product and Domestic Industry

To determine whether there exists a "reasonable indication of material injury," the Commission must first make factual determinations with respect to the "like product" and the "domestic industry" corresponding to the imported merchandise under investigation. ^{16/} The imported product subject to this

(Footnote continued from previous page)

Commission plurality in particular for appearing to consider "the evidence for an indication of the affirmative, rather than of the negative." To illustrate this comment, the court noted that the Commission plurality found the increase in market penetration by the subject imports was not sufficient to indicate a threat. This statement apparently indicates that the plurality was not basing its negative preliminary determination on clear and convincing evidence of no threat, but rather was basing its determination on the lack of stronger evidence of a threat.

^{15/} See, 785 F.2d at 1003-1004.

^{16/} While the Commission must accept Commerce's determination as to which merchandise is within the class of merchandise allegedly sold at less than fair value ("LTFV"), the Commission determines what domestic products are like the ones in the class defined by Commerce. *Algoma Steel Corp., Ltd. v. U.S.*, Slip Op. 88-74 at 9-10 (June 8, 1988). The Court of International Trade

(Footnote continued on next page)

Investigation is shock absorbers and parts thereof. 17/ For purposes of this investigation, a shock absorber is defined as a cylindrically shaped motor vehicle suspension component made essentially of sheet steel which is designed to limit the motions, vibrations, and oscillations that affect a vehicle due to uneven road surfaces. 18/ This definition includes all conventional front and rear shock absorbers manufactured in Brazil that are suitable for use in front and rear motor vehicle suspension systems, as well as component parts thereof. The Department of Commerce (Commerce), however, excluded MacPherson struts ("struts") and MacPherson strut cartridges from its Notice of Initiation. 19/

The "like product" is defined as "[a] product that is like, or in the absence of like, most similar in characteristics and uses with the articles subject to investigation." 20/ In turn, the domestic industry is the "domestic producers as a whole of a like product, or those producers whose

(Footnote continued from previous page)

("CIT") has affirmed the Commission's authority to subdivide a single class of merchandise into several domestic industries producing different like products. Badger-Powhatan, 9 CIT 213, 608 F. Supp. 653, 656-657 (1985), and it has indicated that the Commission is permitted to consider defining an industry more broadly than the class of merchandise under investigation. Asociacion Colombiana de Exportadores de Flores, et. al. v. United States ("ASOCOFLORES"), 12 CIT ___, Slip. Op. 88-91 at 6-7 (July 14, 1988).

17/ 53 Fed. Reg. 34137 (September 2, 1988).

18/ Id.

19/ Id.

20/ 19 U.S.C. § 1677(10).

collective output of the like product constitutes a major proportion of the total domestic production of that product." 21/

The Commission's decision regarding the appropriate like product(s) in an investigation is essentially a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis. 22/ In analyzing like product issues, the Commission examines the characteristics and uses of the merchandise, including (1) physical appearance, (2) interchangeability between the articles, (3) channels of distribution, (4) customer perceptions of the articles, and (5) common manufacturing facilities and production employees. 23/ No single factor is dispositive, and the Commission considers other factors which it deems relevant based on the facts of a given investigation. 24/

The Commission has found minor variations to be an insufficient basis for separate like product analysis, and in analyzing like product issues, the

21/ 19 U.S.C. § 1677(4)(A).

22/ ASOCOFLORES at 9.

23/ Certain Forged Steel Crankshafts from the Federal Republic of Germany and the United Kingdom, Invs. Nos. 731-TA-351 and 353 (Final), USITC Pub. 2014 (September 1987) (hereinafter "Crankshafts"); 64K Dynamic Random Access Memory Components from Japan, Inv. No. 731-TA-270 (Final), USITC Pub 1862 (June 1986) (hereinafter "64K DRAMs").

24/ For example, price may be relevant to the like product issue.
ASOCOFLORES at 12, n.8.

Commission looks for clear dividing lines among products. ^{25/} The like product requirement, therefore, is not "interpreted in such a narrow fashion as to permit minor differences in physical characteristics and uses to lead to the conclusion that the products are not like each other." ^{26/}

The parties raised various arguments with respect to the definition of the like product and, correspondingly, the domestic industry. Their different positions turned essentially on a single issue: whether to define the like product to include MacPherson struts. Monroe, the petitioner, argued that the domestic product like an imported conventional shock absorber does not include MacPherson struts or cartridges. ^{27/} Respondent Companhia Fabricadora de Pecas ("Cofap") argued that the domestic product like the imported merchandise, includes, not only conventional shock absorbers, but MacPherson struts and cartridges as well. Indeed, Cofap argued that the very distinction between "conventional" shocks and MacPherson struts is artificial. ^{28/}

Complicating the like product definition is the fact that imported shock absorber parts, components and subassemblies for use in finished shock

25/ See, e.g., Operators for Jalousie and Awning Windows from El Salvador, Invs. Nos. 701-TA-272 and 731-TA-319 (Final), USITC Pub. 1934 (January 1987) at 4, n.4.

26/ S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

27/ Struts may be sealed or unsealed. If a strut is sealed, then the shock absorber portion of the strut cannot be replaced if it is malfunctioning. Conversely, if the strut is unsealed, a replaceable MacPherson strut cartridge, i.e., the "shock absorber" component, may be inserted within the strut housing if the existing cartridge is malfunctioning. Staff Report of the Commission (Report) at A-2.

28/ See Cofap's post-conference brief at 2-6.

absorbers are within the scope of the investigation as defined by Commerce. Neither party addressed the inclusion of parts, components, and subassemblies within the scope of the investigation and its relevance to the like product determination. We find, however, that the inclusion of such parts and components within the scope of the investigation to be an important consideration in arriving at the appropriate like product definition in this case.

The process for manufacturing a shock absorber is highly automated and consists of two major fabrications (rod and reservoir tube) and two subassemblies. The rod is cold-formed, machined, and finished. The rod subassembly involves welding a piston to the rod and adding valve components. The reservoir tube is formed, heat-treated, cut, and finished. If its end use is as a MacPherson strut, this reservoir tube subassembly is then fitted with a spring, bracket, and base cup. 29/ In final assembly, the rod subassembly, the reservoir tube subassembly, and the compression valve assembly are mated with the cylinder tube, filled with oil, stroke tested, painted and shipped. 30/

Many U.S.-produced shock absorber components, like the imported components under investigation, are used in both MacPherson struts and conventional shock absorbers. A visual inspection alone of the components in shock absorbers illustrates that many of these components are used in both

29/ Report at A-3

30/ Id.

finished shock absorbers and struts. 31/ Indeed, Monroe stated at the conference that common machinery is used to make many components for use in both shock absorbers and MacPherson struts. 32/

Based upon the record in this preliminary investigation, we are not able to establish any clear dividing lines between struts and shock absorbers based upon the parts, components, and subassemblies within the scope of the investigation.

The Commission previously has determined that a part need not necessarily be identical to the finished product to be considered with the finished product as a single like product. 33/ Indeed, there will almost never be an instance in which the part is identical to the finished product because, by definition, a "part" is not a finished product.

In essence, manufacturers of shock absorbers are also fully integrated producers of MacPherson struts, and they use the same plants and manufacturing

31/ Conference sub-exhibits 1 and 2, Conference Exhibit 1 (entitled "shock absorber components" and "MacPherson strut components" respectively).

32/ Tr. at 18-20.

33/ See e.g., Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, France, Italy, Romania, Singapore, Sweden, Thailand, and the United Kingdom, Inv. Nos. 303-TA-19 and 20, (Preliminary), USITC Pub. 2083 at 20-22 (May 1988) ("Antifriction Bearings"); Crankshafts, supra, at n.5; 64K DRAMS, supra, at n.5.; Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Roller Bearings from Italy and Yugoslavia, Inv. Nos. 731-TA-342 and 346 (Final), USITC Pub. 1999 (August 1987) ("Tapered Roller Bearings II"); Cellular Mobile Telephones and Subassemblies Thereof from Japan, Inv. No. 731-TA-207 (Final), USITC Pub. 1786 (December 1985) ("Cellular Mobile Telephones").

facilities to produce component parts for and to assemble both MacPherson struts and conventional shock absorbers. ^{34/} There is no market for unfinished shock absorber parts and there are no other materials of any significance added to the components when finishing and assembling a shock absorber. ^{35/} The Commission faced analogous facts in Antifriction Bearings and found that the components were "like" the respective finished product into which they were incorporated. ^{36/} We find that the components, parts and subassemblies manufactured for use in shock absorbers are like the finished product into which they are incorporated.

Finally, we find that finished MacPherson struts are like finished shock absorbers. Both finished shock absorbers and MacPherson struts limit unwanted vibrations and oscillations in a vehicle, although MacPherson struts have several additional functions within a vehicle's suspension, such as bearing the weight of the vehicle, absorbing side and rotational loads, and acting as a component in the steering of the vehicle. ^{37/} Moreover, although a MacPherson strut includes a housing or "skirt" that visually distinguishes it from a conventional shock absorber, ^{38/} struts and shock absorbers possess

^{34/} See Report at A-5-6.

^{35/} Id. at A-2.

^{36/} Antifriction Bearings, supra at 22.

^{37/} Report at A-2; Petition at 8-9; Monroe post-conference submission at 6-7.

^{38/} Id.; see e.g., Report at A-2-3 and figure 1. Because MacPherson struts are designed for specific car and light truck applications, they include a variety of attachment hardware affixed to the body of the strut not found on a conventional shock absorber.

many similar physical characteristics including the central piston feature. 39/

Both shock absorbers and MacPherson struts are produced in common plants, although the additional tooling and processes associated with MacPherson struts make them more expensive to produce than conventional shock absorbers. 40/ Accordingly, MacPherson struts tend to be higher priced than conventional shock absorbers. 41/ Conventional shock absorbers and MacPherson struts, however, are sold through the same channels of distribution. 42/

39/ In terms of its physical construction, a strut contains a hydraulic damper, i.e., a "shock absorber," within its housing either as an integral part of the sealed strut or as a replaceable cartridge within the strut. Report at A-2.

40/ Struts, shock absorbers, and the parts thereof are manufactured by the same U.S. and Brazilian producers. Report at A-37; Tr. at 113. At the staff conference, Monroe was asked to provide, in terms of the total cost of the MacPherson strut component, the percentage of value added to the finished product by equipment not used in shock absorber production. Tr. at 20. Monroe accordingly submitted a confidential written response.

41/ Report at A-37.

42/ Id. at A-37; Tr. at 112; Cofap post-conference brief at 5.

A MacPherson strut cannot be interchanged for a conventional shock. 43/ However, different sizes and styles of shock absorbers are not substitutable for each other, either. Often a shock absorber is designed to fit a specific vehicle model, and so the size, housing, and weight of the particular shock absorber will vary according to the vehicle. Thus, the consumer has limited choice between shock absorber designs once the particular model of car is chosen; and in the aftermarket, the consumer's only choice is the brand and quality of shock absorber. 44/

In the final analysis, however, the one irreducible, defining characteristic of both conventional shock absorbers and MacPherson struts is that they dampen spring movement. As a passage from a Monroe catalog states: "[s]hocks and struts damp or control suspension motion. So, basically they do the same thing...Struts are shock absorbers inside a "strut housing." 45/

In making our like product determination we reiterate that the scope of this investigation includes parts, components, and subassemblies manufactured for use in shock absorbers, together with finished shock absorbers from Brazil. We further note that many of the domestic shock absorber parts and components like the subject imported parts and components are also used interchangeably with shock absorber components in MacPherson struts. Based upon the record in this preliminary investigation, we find a single like

43/ Report at A-2.

44/ Cofap post-conference brief at 4-5; Tr. at 112.

45/ Tr. at 111.

product corresponding to the subject imports consisting of MacPherson struts, shock absorbers, and the components thereof. Accordingly, we also conclude that there is one domestic industry consisting of the U.S. producers of this like product. ^{46/}

III. Related Parties

Under section 771(4)(B) of the Tariff Act of 1930, when a producer is related to exporters or importers of the product under investigation, or is itself an importer of that product, the Commission may exclude such producers from the domestic industry in appropriate circumstances. ^{47/} Application of the related parties provision is within the Commission's discretion based upon the facts presented in each case. ^{48/}

The Commission generally applies a two-step analysis under the related parties provision. The Commission considers first whether the company qualifies as a related party under section 771(4)(B), and second whether in view of the producer's related status there are appropriate circumstances for excluding the company in question from the definition of the domestic

^{46/} Those companies are: Monroe Auto Equipment Company, Maremont Corp., Delco Products Division of General Motors Corp., and Ford Motor Co. Report at A-5.

^{47/} 19 U.S.C. § 1677(4)(B).

^{48/} Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (CIT 1987).

industry. 49/ The Commission has stated previously that the related parties provision should be employed to avoid any distortion in the aggregate data in the domestic industry that might result from including related parties whose operations are shielded from the effect of the imports. 50/

In this investigation, Monroe is a related party under 771(4)(B) because it imported shock absorbers and/or MacPherson struts from Brazil during the period of our investigation. Monroe, moreover, has a wholly owned subsidiary, Monroe Auto Pecas, S.A. ("Monroe Brazil"), located in Mogi Mirim,

51/ Monroe's imports from Monroe Brazil accounted for a small percentage of total U.S. shock absorber imports from Brazil in 1987, as compiled from the questionnaire responses. 52/ Monroe's imports from Monroe Brazil are solely for one specific application 53/ and are allegedly sold at fair value. 54/ Moreover, Monroe is a significant producer of shock absorbers and of MacPherson struts.

49/ See e.g., Color Television Receivers from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-134 and 135 (Final), USITC Pub. 1514 at 17 (April 1984).

50/ Granular Polytetrafluoroethylene Resin from Italy and Japan, Inv. Nos. 731-TA-385 and 386 (Preliminary), USITC Pub 2043 at 9 (December 1987). See also Erasable Programmable Read Only Memories from Japan, Inv. No. 731-TA-288 (Final), USITC Pub. 1927 (1986); Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 (1986).

51/ Report A-6; Petition at 16-17.

52/ Report at A-6.

53/ Petition at 19-20.

54/ Tr. at 58.

Based in part upon confidential information on the record we do not find it appropriate to exclude any of the U.S. producers from the definition of the domestic industry for the reasons, that, inter alia, excluding any of the U.S. producers importing shock absorbers or struts from Brazil will skew the data on the domestic industry.

IV. Condition of the Domestic Industry

In determining the condition of the domestic industry, the Commission considers, among other factors, the domestic consumption of the product, U.S. production, capacity and capacity utilization, shipments, inventories, employment, financial performance, and existing development and production efforts, within the context of the business cycle and conditions of competition that are distinctive to the domestic industry. 55/ 56/

55/ 19 U.S.C. § 1677(7)(C)(iii), as amended by section 1328 of the 1988 Act. We only consider the impact of imports on the domestic industry's production operations within the United States. 19 U.S.C. § 1677(7), as amended by Section 1328 of the 1988 Act.

56/ The conditions of competition in the domestic industry involve two markets. Shock absorbers are sold on a per unit basis to two distinct and separate markets in the United States: the original equipment market and the replacement market. For each market, U.S. producers and importers use distinct sales practices and offer different price regimes for both shock absorbers and MacPherson struts. Report at A-37-38.

Original equipment manufacturers ("OEMs") purchase shock absorbers and MacPherson struts through a bidding process, and because of their buying power, they are able to obtain lower prices for shock absorbers and MacPherson struts than prevail in the aftermarket. OEMs generally purchase shock absorbers with a one-inch bore size. Because the demand for shock absorbers and struts in the OEM market is a derived demand from U.S.-produced

(Footnote continued on next page)

Apparent consumption of shock absorbers and MacPherson struts in the United States declined in terms of quantity by 5.9 percent from 1985 to 1987 and then increased by 2.9 percent in January-June 1988 compared with January-June 1987. On a value basis, consumption increased by 10.5 percent from 1985 to 1987 and by 8.9 percent in January-June 1988 compared with January-June 1987. 57/

U.S. producers' capacity to produce shocks and struts increased by 1.9 percent from 1985 to 1987 and by 2.1 percent in January-June 1988 compared with January-June 1987. Over the same period, production declined by 6.8 percent from 1985 to 1987 and by 0.9 percent in January-June 1988 compared with the same period in 1987. With the slight increase in capacity and the production decline, capacity utilization dropped from 90.3 percent in 1985 to

(Footnote continued from previous page)
automobiles, the OEM demand for shock absorbers has declined, and is expected to continue to decline, as the production of MacPherson suspensions, which require MacPherson struts, has increased and is expected to continue to increase. Report at A-37.

Aftermarket purchasers, in contrast, normally buy shock absorbers with bore sizes of one and three-sixteenth inches or greater. Aftermarket shock absorbers and MacPherson struts, both branded and non-branded, are sold directly to large retailers, to warehouse distributors, and specialty distributors. Report at A-41. Typically, each retailer or distributor has only one supplier of the full line of shock absorbers and MacPherson struts. Id. at A-41. In this connection, Monroe regards its point of sale services as important to its profitability. Tr. at 27-28.

In the aftermarket, demand for shock absorbers and struts is a function of both the need to replace damaged shocks and the customer's desire to improve a vehicle's ride control characteristics. Report at A-38. Marketing, therefore, is very important in promoting aftermarket sales. Report at A-7. Accordingly, U.S. producers invest significantly in programs intended to spur aftermarket sales. See Report at A-41.

57/ Table 1.

82.5 percent in 1987, and from 107.5 percent in January-June 1987 to 104.1 percent in January-June 1988. ^{58/}

Total shipments by U.S. producers dropped, in terms of quantity, from 101.7 million in 1985 to 96.1 million units in 1987, then increased to 61.6 million units in January-June 1988 compared with 60.8 million units in January-June 1987. On a value basis, total shipments increased from \$940.3 million in 1985 to \$1.013 billion in 1987. The value of shipments in January-June 1988 increased to \$731.4 million compared with \$673.3 million in January-June 1987. ^{59/} End-of-period inventories dropped by 32 percent from 1985 to 1987, then dropped by nearly 28 percent in January-June 1988 compared with January-June 1987. As a share of total shipments, inventories dropped from 12.8 percent in 1985 to 9.2 percent in 1987, with a continued decline to 6.1 percent in January-June 1988 compared with 8.6 percent in the corresponding period of 1987. ^{60/}

The number of production and related workers producing shocks and struts increased slightly, by 0.9 percent, from 1985 to 1987, then dropped by 3.6 percent in January-June 1988 compared with January-June 1987. ^{61/} Aggregate operating income for producers of shocks and struts increased from 1985 to 1987 and increased in the interim period ending June 30, 1988, compared with the interim period ending June 30, 1987. Operating income as a percentage of net sales was consistently above 12 percent during the entire period of

58/ Table 2.

59/ Table 3.

60/ Table 4.

61/ Table 5.

investigation. ^{62/} Research and development expenses for shock absorbers and struts decreased by 1.9 percent from 1985 to 1987, and by 15.7 percent in January-June 1988 compared with January-June 1987. ^{63/}

IV. No Reasonable Indication of Material Injury

Under 19 U.S.C. § 1673b(a), the Commission must determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports. ^{64/} In determining whether the domestic industry is materially injured "by reason of" LTFV imports from Brazil, the Commission considers, among other factors, the volume of imports, the effect of imports on prices in the United States for the like product, and the impact of such imports on the relevant domestic industry. ^{65/} The Commission also takes into account any information demonstrating possible alternative causes of injury to the domestic industry, ^{66/} but we do not weigh causes. ^{67/}

62/ Tables 7, 8, and C-1.

63/ Report at A-25.

64/ See Hercules, Inc. v. United States, 673 F. Supp. 454, 479-80, 481-82 (CIT 1987); material injury is "harm which is not inconsequential, immaterial or unimportant." 19 U.S.C. § 1677(7)(A), as amended by the 1988 Act.

65/ 19 U.S.C. § 1677(7)(B), as amended by the 1988 Act.

66/ See S. Rep. No. 249, 96th Cong., 1st Sess. 58 (1979).

67/ "Current law does not . . . contemplate that the effects from the . . . [LTFV] imports be weighed against the effects associated with other factors (e.g., the volume and prices of nonsubsidized [LTFV] imports, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry) which may be contributing to overall injury to an industry." S. Rep. No. 249, 96th Cong., 1st Sess. 57, 74 (1979).

Monroe's sole specific allegation of present material injury consists of lost sales and concomitant lost profits. 68/ Based upon confidential information on the record, 69/ we do not find that this allegation supports a finding of material injury. Consequently, we turn to the information relating to each of the various factors that we are required to examine. 70/

The volume of U.S. imports of shock absorbers from Brazil amounted to 436,000 units in 1985, 405,000 units in 1986, and 427,000 units in 1987. Thus, imports of the subject merchandise, shock absorbers and parts thereof from Brazil, decreased by 2.1 percent from 1985 to 1987. 71/ The value of the subject imports rose from \$2,024,000 in 1985, to \$2,077,000 in 1986, but fell to \$1,843,000 in 1987. Thus, the volume of imports, measured in terms of value, fell by 9.0 percent from 1985 to 1987. 72/

Shock absorber imports from Brazil increased their share of the U.S. market, on a unit basis, from 0.2 percent of the U.S. market in 1985 to 0.5 percent in 1987. 73/ On a value basis, the subject imports from Brazil rose only slightly from 0.1 percent of U.S. consumption in 1985 to 0.2 percent in

68/ Tr. at 53.

69/ Report at A-46.

70/ 19 U.S.C. § 1677(7)(B), as amended by the 1988 Act.

71/ None of the respondents to the Commission's questionnaires reported any imports of parts, components, and subassemblies thereof. Report at A-1, n.2.

72/ Table 11.

73/ Report at A-35.

1987. 74/ In light of the other evidence of record in this investigation, we determine that the volume of imports of shock absorbers from Brazil is insignificant. 75/

We now turn to the effect of the subject imports on the prices in the U.S. for the like product. We find that the subject imports had no significant effect on prices for the like product. 76/ Simply put, imports from Brazil have but a 0.5 share of the U.S. market, and based upon the record they did not lead a single price decrease over the period of investigation. Indeed, Monroe did not change any of its prices in response to imports of shock absorbers from Brazil. 77/

Similarly, we do not find significant price underselling by the subject imports. Under the statute the price underselling must be significant. 78/ Confidential evidence in the record indicates that the subject imports were not underselling the domestic like product in the OEM market. 79/

74/ Id.

75/ See 19 U.S.C. § 1677(7)(C)(i), as amended by the 1988 Act.

76/ 19 U.S.C. § 1677(7)(C)(ii)(II), as amended by the 1988 Act.

77/ Tr. at 61; see also, Tr. at 27, 43.; Petition at 37. Moreover, the last price change by a domestic shock absorber manufacturer of which Monroe was aware was an increase in January 1988. Tr. at 55.

78/ 19 U.S.C. § 1677(7)(C)(ii)(I), as amended by The 1988 Act. See, USX Corp. v. United States, 12 CIT ___, Slip Op. 88-125 (September 16, 1988) (USX IV), Maverick Tube Corp. v. United States, 12 CIT ___, 687 F. Supp. 1569 (1988), Copperweld Corp. v. United States, 12 CIT ___, 682 F. Supp. 552 (1988).

79/ Table 13.

Although confidential evidence on the record indicates that the subject imports generally undersold the domestic like product in the aftermarket, we do not find this underselling to be significant. ^{80/} Price comparisons in the shock absorber aftermarket are colored by the fact that the domestic industry provides numerous incentive programs to purchasers of the domestic like product, which effectively reduces cost to the purchaser of domestic products. ^{81/ 82/} Absent significant volume and price effects, the imports had no material impact on the domestic industry. ^{83/}

Accordingly, we find clear and convincing evidence of no material injury to the domestic industry producing MacPherson struts, shock absorbers, and

80/ Commissioner Liebeler notes that data on underselling (or overselling) alone, although important to the issue of product heterogeneity, are not probative evidence of causation of material injury. See Internal Combustion Engine Forklift Trucks from Japan, Inv. No. 731-IA-377 (Final), USITC Pub. 2082 (May 1988) (Additional Views of Chairman Liebeler). In light of the fact that the Commission's determination in this case rests on other grounds, Commissioner Liebeler finds it unnecessary to write separately on this issue.

81/ These incentives include cash and credit terms, volume discounts, free goods, market development funds, rebates, co-operative advertising allowances, free freight, spiffs, and stock-lift programs. Report at A-41. The domestic industry's expenditures on these programs far exceeded those by the subject imports.

82/ Moreover, because U.S. producers often deliver their products to retailers directly, but Cofap delivers only to a central distribution location, the degree of underselling in the aftermarket is further shaded by the fact that the purchaser of the Cofap product must incur additional costs of warehousing, handling, and delivery. See Keyes Fiber Co. v. United States, ("Keyes I") 682 F. Supp. 583 (CIT 1985).

83/ The condition of the industry section, supra, analyzes several of the impact factors under 19 U.S.C. § 1677(7)(C)(iii).

parts thereof by reason of the subject imports. ^{84/} Further, based upon the high response rate to the Commission's questionnaires and the relatively complete set of data concerning the domestic industry before the Commission, we find no likelihood that contrary evidence will arise in a final investigation.

V. No Reasonable Indication of Threat of Material Injury

Section 771(7)(F) directs the Commission to determine whether a U.S. industry is threatened with material injury "on the basis of evidence that the threat of material injury is real and that actual injury is imminent." ^{85/} The 1988 Act, moreover, amends section 771(7)(F) by increasing the factors that the Commission must take into account in reaching its threat of material injury determination by two. ^{86/} The ten factors we must now consider are:

- (1) if a subsidy is involved, information that the Commission has available to it as to the nature of the subsidy;
- (2) the ability and likelihood of the foreign producers to increase the level of exports to the United States

^{84/} We note that we would have reached the same conclusion had we instead defined the domestic like product to be shock absorbers alone.

^{85/} 19 U.S.C. § 1677(7)(F)(ii).

^{86/} The 1988 Act, section 1329. Section 1329 of the 1988 Act provides that the Commission shall request information regarding dumping in third countries of the merchandise manufactured by a party subject to investigation. Cofap stated that there are no antidumping findings or antidumping remedies against shock absorbers from Brazil in other GATT member countries. Tr. at 151. Monroe was unaware of any antidumping findings. Tr. at 81; Monroe

(Footnote continued on next page)

due to increased production capacity or unused capacity; 87/

- (3) any rapid increase in penetration of the U.S. market by imports and the likelihood that the penetration will increase to injurious levels;
- (4) 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;
- (5) any substantial increase in inventories of the merchandise in the United States;
- (6) underutilized capacity for producing the merchandise in the exporting country;
- (7) any other demonstrable adverse trends that indicate the probability that importation of the merchandise will be the cause of actual injury;
- (8) the potential for product-shifting;
- (9) in investigations involving imports of both raw agricultural product and a product processed from such raw agricultural product, the likelihood there will be an increase in imports due to product shifting due to an affirmative determination with respect to either product; and
- (10) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product. 88/

(Footnote continued from previous page)
post-conference brief at 23, and the Commission staff did not find any evidence to the contrary.

87/ The Commission's previous regulations provided that we shall consider in particular "the availability of other export markets" in making our determination. 19 C.F.R. § 207.26(d)(3), repealed by 53 Fed. Reg. 33039 (August 29, 1988).

88/ When questioned at the conference about this effect, Monroe conceded that there is no relationship between its research and development efforts and the subject imports from Brazil. Tr. at 80. The U.S. domestic industry's research and development expenditures for shock absorbers and struts decreased from \$44 million in 1985 to \$36 million in 1986, but then increased to \$43 million in 1987. Report at A-25.

The threat must be real and actual injury imminent, and a threat determination must not be made on the basis of mere conjecture or supposition.

Monroe alleged throughout this investigation that Cofap is on the verge of nearly doubling its capacity to produce shock absorbers and that the destination of the resulting increased output is the United States. ^{89/} Monroe's claim is based upon statements made in Cofap's promotional material and advertisements, and upon a remark by Steve Heckman, described as Cofap of America's vice president for sales and marketing, that Cofap's "target over the next two to three years is to have ten percent of the U.S. market," which would increase Cofap's current market share by over 1500 percent. ^{90/} These statements allege that Cofap is presently doubling its shock absorber production capacity from approximately 14 million units a year to 28 million. Monroe's petition alleges an increase in Cofap's capacity from 13 million units a year to 20.5 million, based upon the opening of Cofap's new plant in Lavras, Minas Gerais, Brazil. ^{91/} Monroe also refers to Cofap's increased distribution facilities as evidence of Cofap's ability to increase exports to the United States. ^{92/} Indeed, Monroe states that it filed its petition

89/ Petition at 15.

90/ Petition at 17-18; Monroe's post-conference brief at 13-16.

91/ Petition at 15.

92/ Monroe's post-conference brief at 17-18; Petition at 17-18; but see Tr. at 143-144.

based principally upon the alleged capacity expansion. ^{93/} Moreover, Monroe's threat allegation depends upon the plant expansion allegation as the basis for satisfying the remaining enumerated threat criteria.

Cofap, however, provided the Commission with information which indicates that its present capacity is approximately 9 million units a year and that it anticipates an annual capacity of approximately 11-13 million units by

^{94/} Cofap represented in this investigation that its new plant, with a capacity of 7.5 million units, is merely replacing the capacity of its existing plant, which is being converted to the production of electronic automotive components. According to Cofap, the capacity of the new plant should not be added to Cofap's existing capacity, as Monroe does. ^{95/} Taking this into consideration, Cofap claims that at most its capacity will reach 13 million units a year by 1990. ^{96/}

Conversely, petitioners' evidence that Cofap is significantly expanding its capacity to produce shock absorbers (allegedly on the order of 67-100 percent) is Cofap's own advertising and promotional material, related magazine articles, and the statements of Steve Heckman, Cofap of America's purported vice president of sales.

93/ Tr. at 11.

94/ Cofap post-conference brief at 11, Exhibit H, enclosures 8-9; Exhibit C.

95/ See e.g. Cofap's post-conference brief at 11-13; Tr. at 130-132.

96/ Cofap's post-conference brief at 14; note, Cofap's post-conference brief, Exhibit H, enclosure 9 indicates that Cofap anticipates an assembly capacity in 1990 greater than its production capacity, but this assembly capacity, nevertheless, is constrained by Cofap's manufacturing capacity.

In addressing the question of whether there is a reasonable indication of threat to the domestic industry by reason of the subject imports, we regard Cofap's prior statements regarding its capacity to produce shock absorbers and its intention to supply 10 percent of the U.S. market as very important and substantive evidence of threat. As noted previously, however, the threat must be real and the actual injury imminent.

In order to find such a threat, Cofap must not only have the productive capacity to export shock absorbers to the United States in sufficient volume to injure the United States industry, but it must also have taken steps which indicate that such injurious exports are imminent. For the reasons set forth below, we find that the threat to the domestic industry is neither real nor is actual injury imminent.

The sine qua non of petitioner's threat allegations in this investigation is that Cofap is presently, radically expanding its shock absorber productive capacity. Because of this issue's centrality to the entire threat question, we will address it first. In resolving this question, we must weigh Cofap's testimony before the Commission against Cofap's prior inconsistent statements in promoting its product in the United States.

We note that most of the advertising and promotional materials which contain Heckman's statements were not Cofap publications, but instead were reprints of articles prepared by reporters after interviewing Heckman.^{97/} Cofap characterizes Heckman's statement that Cofap's objective is to obtain 10

97/ Tr. at 141.

percent of the U.S. market as a means to persuade prospective purchasers that Cofap is in the U.S. market to stay, for if he had said that Cofap's objective was to obtain one-half of one percent of the United States market, sales would have been inhibited. 98/

Cofap, moreover, supplied the Commission with detailed plans and information regarding its plants in Brazil and their present and future capacity to produce shock absorbers. Upon our review of Cofap's confidential plant capacity submissions, we find that capacity in Brazil to produce shock absorbers is presently increasing moderately from approximately 9 million units in 1987 to approximately 12 million units in 1990.

This determination is based upon our review of the credibility of the witnesses appearing before us, as well as the recognition that representations to the Commission in the course of an investigation are entitled to additional weight due to the criminal sanction attaching to misrepresentations pursuant to 18 U.S.C. § 1001. 99/

Having resolved the prospective capacity issue, we now turn to the remaining threat factors and find that there is no imminent threat to the

98/ Cofap's post-conference brief at 22.

99/ Because we are convinced that Cofap's representations to the Commission regarding their plant capacity are credible, we find there is no likelihood that contrary evidence on this issue would be gained in a final investigation, for instance, by an on-site verification.

domestic industry. There are three producers of shock absorbers in Brazil: Cofap S.A., Nakata S.A. Industria & Comercio (Nakata), and Monroe Brazil. Cofap accounted for virtually all of shock absorbers and strut exports to the U.S. 100/

The combined capacity of these companies grew modestly over the period of 1985-1987. 101/ Their capacity utilization increased from 95.0 percent in 1985 to 97.3 percent in 1986, and receded to 95.3 percent in 1987. 102/ Market penetration rose from 0.2 percent of the U.S. market in 1985 to 0.5 percent of the market in 1987, measured in units of shock absorbers. 103/ Finally, U.S. producers' expenditures on research and development decreased by 1.9 percent from 1985 to 1987, and U.S. importers inventories of shock absorbers from Brazil were 19.6 percent lower at the end of 1987 than they were at the end of 1985. 104/ There is no subsidy involved in this investigation.

Based upon Cofap's limited capacity expansion, the above cited threat factors, and Cofap's representations to the Commission, 105/ we find that a

100/ Report at A-27.

101/ Report at A-28.

102/ Id.

103/ Report at A-36.

104/ Report at A-25-31.

105/ Cofap stated that according to its three-year production plan, the entire programmed increase in production is already allocated to various markets, and it had neither the intention nor the capability to penetrate the U.S. market to a level of more than 1 or 2 percent. Report at A-29.

rapid increase in market penetration is neither real nor imminent. Moreover, given that constraint on Cofap's capacity, which limits imports from Brazil to less than two percent of the market for the immediate future, we similarly find no real and imminent threat of price suppression or depression in the U.S. market.

Accordingly, we find clear and convincing evidence of no threat of material injury to the domestic industry producing MacPherson struts, shock absorbers, and parts thereof by reason of the subject imports. ^{106/} Further, based upon the high response rate to the Commission's questionnaires, and the relatively complete set of data concerning the domestic industry before the Commission, we find no likelihood that contrary evidence will arise, in a final investigation.

Conclusion

For all the reasons set forth above, we determine that there is no reasonable indication that a domestic industry in the United States is materially injured, is threatened with material injury, or that the establishment of an industry in the United States is materially retarded by reason of imports from Brazil of shock absorbers and parts thereof.

106/ We note that we would have reached the same conclusion had we instead defined the domestic like product to be shock absorbers alone.

Views of Commissioner Alfred E. Eckes

Shock Absorbers and Parts, Components
and Subassemblies Therefor from Brazil

Investigation No. 731-TA-241 (Preliminary)

I determine that there is no reasonable indication that an industry is materially injured by reason of imports of shock absorbers from Brazil. I likewise determine that an industry is not threatened with material injury by reason of the subject imports. While concurring in the majority's discussion of like product, domestic industry and related parties, I make my determination of no reasonable indication of material injury or threat of material injury to the domestic industry on different grounds. Specifically, I have employed the "traditional

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approach" to injury determinations which a substantial number of Commissioners have used in many previous antidumping and countervailing duty cases. Further, in making this negative determination I have employed a legal standard which differs in some important respects from that which my colleagues have applied to the facts of this case.

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See USX Corp. v. United States, Slip Op. 88-125 (Sept. 16, 1988) at 5.

Legal Standard for Preliminary Determinations

Before proceeding with my analysis, I would note that this preliminary investigation raises troubling questions about the legal standards used in making the Commission's preliminary determinations. Before addressing my concerns, it may be helpful to review the relevant case law.

The most recent interpretation of the relevant standard in ² Yuasa, decided recently by the Court of International Trade, rests, as does all case law on this issue, on interpretations of the Federal Circuit's views in American Lamb. ³ The key passage is as follows:

Since the enactment of the 1974 Act, ITC has consistently viewed the statutory 'reasonable indication' standard as one requiring that it issue a negative determination, as above indicated, only when (1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation. That view, involving a process of weighing the evidence but under guidelines requiring clear and convincing evidence of 'no reasonable indication,' and no likelihood of later contrary evidence, provides fully adequate protection against unwarranted terminations. Indeed, those guidelines weight the scales in favor of affirmative and against negative determinations. Under the appropriate

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Yuasa General Battery Corp. v. United States, Slip Op. (July 12, 1988) [Yuasa]

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American Lamb Co. v. United States, 785 F.2d. 994, (Fed. Cir. 1986) [American Lamb].

standard of judicial review, ITC's longstanding practice must be viewed as permissible within the
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 statutory framework.

However, in Yuasa the Court of International Trade appears to state the standard differently. There, in reversing the Commission's negative determination, the Court concluded that the majority's opinions were "unpersuasive that the requirement of clear and convincing evidence of no reasonable indication of a threat of material injury and no likelihood of later contrary evidence is sustainable on the existent record."⁵

Indeed, in remand views as well as other preliminary determinations the Commission has focused on the first part of the standard articulated in American Lamb, namely "clear and convincing evidence of no material injury. . . ." I suppose that some may even argue that this language is the Court's standard, and that the language which follows in the same paragraph is merely instructive, but not an essential part of the standard.

My reading of Yuasa, however, raises important and unanswered questions about how the Commission is to implement American Lamb. For example, the following passage clearly suggests the CIT attempted to instruct the Commission why the Court's application of the CAFC

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American Lamb at 1001 [emphasis in original]; Yuasa at 5.

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Yuasa at 5 [emphasis in original].

standard resulted in a determination which differed from the Commission's. The Court states following its review of the factual data on the question of injury and causation: "While this scenario may not reflect, in the Commission's view, present material injury, [a] reasonable indication of threat of such injury cannot be easily discounted in the face of this kind of evidence, and on which the statute focuses." The Court's reference to "present material injury" indicates it was well aware the Commission used the "clear and convincing evidence of no material injury" standard; and, by pointing to the fact that the "reasonable indication of threat of such injury cannot be easily discounted" the CIT affirms that "reasonable indication" is the appropriate standard, not "material injury" and, further it is the "reasonable indication" standard which conforms with the statute.

Again, the CIT, in concluding that the majority's analyses represent an abuse of discretion, suggests a different standard from that used by the Commission in its remand determination: "The requirement of 'clear and convincing evidence of "no reasonable indication"' of a threat of material injury is a standard that the majority's analyses of the present record, however thoughtful, fail to satisfy."

I believe the Court of International Trade is making an important point. The statute itself requires the Commission to determine whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury. Consequently, a key issue emerges. Does a determination that there is "clear and convincing evidence of no material injury" rely on a standard which is compatible with the statutory requirement that the Commission shall make a determination of whether there is a reasonable indication that an industry is materially injured, or is threatened with material injury?

For this Commissioner, and I believe my colleagues, this slight variation in language raises additional fundamental questions about the proper standard for making preliminary title VII decisions.⁶ Indeed, is there one standard, or are there now two? Did the CIT improperly modify the CAFC standard? Or, was the CIT telling the

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For that reason, I initiated an action jacket (CO59-L-001) seeking the Commission's approval to appeal the decision of the Court of International Trade to the Federal Circuit. Three of my colleagues disapproved that action; failing a majority vote, the Commission will not appeal. Likewise, these same disapproving Commissioners in a departure from longstanding Commission practice and collegiality suppressed discussion of these questions with the General Counsel of this agency in a public forum. See Transcript of Commission Meeting of September 20, 1988.

Commission that it has incorrectly implemented the American Lamb standard? Did the CAFC intend a departure from long-established Commission standards for preliminary determinations? To this Commissioner, it is apparent that the CAFC's analysis of the proper standard in American Lamb builds on its restatement of the longstanding practice of the Commission in making its preliminary determinations:

It [the Commission] has, since its very first investigation under the 1974 Act, been determining that there is no 'reasonable indication' of material injury or threat when: (1) there is clear and convincing evidence of the absence of such reasonable indication; and (2) the record shows it extremely unlikely that evidence of a 'reasonable indication' would be developed in a final investigation.

There is no language in the CAFC opinion suggesting the Commission depart from this practice. The "reasonable indication" standard has been preserved through three Trade Acts in which Congress reviewed the operation of our trade laws. Until there is further judicial review of this issue, it is difficult to conclude that American Lamb and Yuasa can be read to justify departure from the Commission's historical standard.

I remain open to future analyses which may answer questions raised by these opinions. And, I look forward to the views of my colleagues and the public we serve on this issue in future

preliminary investigations.

In concluding this section, let me state that for purposes of this investigation, I have employed the complete standard enunciated by the CAFC and recently interpreted by the CIT in the Yuasa decision. Based on the best available information, I find there is clear and convincing evidence of no reasonable indication of material injury or a threat of material injury and no likelihood of contrary evidence in a final
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investigation.

No Reasonable Indication of Material Injury

Based on the record of this preliminary investigation, I find clear and convincing evidence of no reasonable indication that the domestic shock absorber industry is suffering present material injury. Because I find no reasonable indication that the domestic industry is materially injured, I have not analyzed whether, assuming arguendo that the industry were materially injured, such injury is by reason of the subject
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imports. In making my determination I have taken into

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It follows that having found that standard to have been satisfied, my determination would also be in the negative had I employed the "clear and convincing evidence that there is no material injury or threat of such injury" standard.

8

See generally National Association of Mirror
(Footnote continued)

consideration the 100 percent response rate by domestic producers to the Commission's questionnaire, as well as the staff's good coverage of importers and foreign producers. On this basis, I find there is little likelihood of contrary evidence arising in any final investigation.

In determining the condition of the industry I considered those factors set forth in the statute, as amended by section 1328 of the Omnibus Trade and Competitiveness Act of 1988: domestic production and consumption, capacity and capacity utilization, shipments, inventories, employment, wages, financial performance and existing development and production efforts, within the context of the business cycle and conditions of competition that are distinctive to the domestic industry.⁹

The record of this investigation points to one conclusion: that there is no evidence of a reasonable indication that the domestic shock absorber industry is suffering present material injury. All the indicators for the domestic shock absorber

(Footnote continued from previous page)
Manufacturers v. United States, Slip Op. 88-113 (August 25, 1988) [NAMM]. See also Digital Readout Systems and Subassemblies Therefor from Japan, Inv. No. 731-TA-390 (Preliminary), USITC Pub. 2081 (1988), Dissenting Views of Commissioners Eckes, Lodwick and Rohr at 33.

9

19 U.S.C. 1677(7)(C)(iii), as amended. Further, the Commission may only consider the impact of imports on the domestic industry's production operations within the United States. 19 U.S.C. 1677(7), as amended.

industry show good performance during the period of our investigation.

Apparent consumption of shock absorbers and MacPherson struts ("struts") was high during the period of investigation. The quantity of shock absorbers consumed did decline 5.9 percent from 1985 to 1987, but then increased 2.9 percent in the first six months of 1988 as compared with the same period of 1987. Total apparent consumption of struts by quantity increased steadily over the entire period. Considered on the basis of value, consumption of shock absorbers declined somewhat from 1985 to 1987, but increased substantially from interim 1987 to interim 1988. In any case, consumption of shock absorbers by value remained high throughout the period. Consumption of struts by value increased steadily over the entire period, including the interim.¹⁰

Within this burgeoning market, U.S. producers' capacity to produce shock absorbers and struts increased slightly over the period 1985-1987 by 1.9 percent, and by 2.1 percent in the interim period. Production of both shock absorbers and struts declined 6.8 percent from 1985 to 1987. The apparent drop in capacity utilization from 90.3 percent in 1985 to 82.5 percent in 1987 merely reflects an increase in capacity and a small drop in production. Overall, these capacity utilization data

¹⁰

Report at Table 1.

are extremely positive, particularly since utilization rates
¹¹ for interim 1987 and 1988 were slightly over 100 percent.

Shipments of shock absorbers and struts displayed the same rising trend, increasing by value from \$940.3 million in 1985 to a very impressive \$1.013 billion in 1987. Shipments by value also increased as between the interim periods, from \$673.3 million in 1987 to \$731.4 million in 1988. These positive shipment figures reflect the steady rise in unit values for domestic shipments of both shock absorbers and struts over the entire period of investigation. ¹² Given the upward trend in unit values throughout our period of investigation, I attach little significance to the modest drop in shipments of shock absorbers by quantity from 1985 to ¹³ 1987.

End-of-period inventories showed significant declines, a further testament to the healthy condition of the domestic industry. Inventories of shock absorbers dropped by 13.9 percent in 1986 and again by 23.3 percent in 1987, with a corresponding decrease of 25.4 percent in the 1987-1988 interim. Inventories of struts rose by 12.8 percent in 1986,

¹¹
Id. at Table 2.

¹²
Id. at Table 3.

¹³
Id. Note, however, that shipments of struts increased by quantity over the entire period, including the interim.

only to fall sharply by 22.6 percent in 1987, and to plummet by 43.8 percent in the interim. For both shock absorbers and struts, inventories also fell steadily as a percentage of total ¹⁴ shipments.

Employment and productivity indicators for this industry displayed no clear trend, with the number of production workers for shock absorbers decreasing, and those for struts increasing substantially, over the three-year period and the interim. The decline in shock absorber employment reflects the conditions of one producer, which indicated that its layoffs were attributable to productivity improvements and sales declines.

The two other producers reported no layoffs. Hourly wages, the number of hours worked, and total compensation fluctuated throughout the period for both shock absorbers and struts. ¹⁵ Taken together with data on increased capacity, ¹⁶ these employment data probably reflect the increasing automation of the industry along with the steady rise in labor costs ¹⁷ over the period of our investigation.

The financial indicators attest to the industry's health and profitability. Only one firm producing both shocks and

¹⁴
Id. at Table 4.

¹⁵
Id. at Table 5 and A-16.

¹⁶
Id. at Table 5.

¹⁷
Id.

struts experienced an operating loss in 1985, and was profitable thereafter. With this one exception, all producers of both shock absorbers and struts were profitable throughout the three-year period and interim 1988. Aggregate operating income and operating margins showed net increases over the entire period. More importantly, both shock absorbers and struts showed double-digit aggregate operating margins for every year within the period of our investigation, including the interim period.¹⁸ While net sales fell somewhat for shock absorbers from 1985 to 1987, sales nonetheless remained at high levels during that period. Net sales of struts increased markedly during the same period.¹⁹

For these reasons, I find clear and convincing evidence that there is no reasonable indication that the domestic shock absorber industry is currently experiencing material injury. Having so determined, I have not explored whether the condition of the industry was caused by imports of the product under investigation.

¹⁸

Id. at Tables 7 and 8, and a A-20-A-24. The positive trend is even more pronounced for struts.

¹⁹

Id. at Tables 7 and 8. At the same time, research and development expenses for both shock absorbers and struts decreased by 1.9 percent from 1985 to 1987, and by 15.7 percent from interim 1987 to interim 1988. Id. at A-25.

No Reasonable Indication of Threat of Material Injury

In making my threat determination, I have considered the factors enumerated in 19 U.S.C. 1677(7)(F), including two new factors added by the Omnibus Trade and Competitiveness Act of 1988. One of those factors concerns agricultural products, which are not at issue here. The other new factor is as follows:

(10) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.

The petitioner admitted at the Conference that there is no relation between its research and development efforts and the

²⁰
imports at issue. I will now address the remaining factors.

Petitioner has alleged that the Brazilian respondent, Cofap, is on the verge of nearly doubling its capacity to produce shock absorbers, and that the United States market is the target of ²¹ this increased output. This claim is grounded on statements in Cofap promotional materials as well as a statement by Cofap's vice president for sales and marketing to the effect that Cofap's goal is to capture 10 percent of the U.S. market in

²⁰
Conference Transcript at 80.

²¹
Petition at 15.

22

the next two or three years. Monroe also alleges that Cofap's increased distribution facilities demonstrates its ability to increase exports to the United States. This allegation constitutes the principal basis for Monroe's petition, as well as the basis for Monroe's allegations concerning the remaining threat criteria.

Cofap has submitted information indicating that its present capacity is approximately 9 to 10 million units per year and that it expects to increase its capacity to about 11 million units by 1990. ²⁴ Cofap has argued that its new plant at Minas Gerais, Brazil, is merely replacing the capacity of its existing Santo Andre plant, which is being converted to production of electronic automotive components. Cofap estimates that, at most, its capacity will reach 13 million units per year ²⁵ by 1990.

In resolving the question of whether Cofap is doubling its capacity, based on the existing record, I have weighed the evidence keeping in mind Congress's directive that any threat

²²

Petition at 17-18; Cofap Post-Conference Brief at 13-16.

²³

Monroe Post-Conference Brief at 17-18; but see Transcript at 143-144.

²⁴

Cofap Post-Conference Brief, Exhibit 11, enclosures 8-9; and Exhibit C. Because the actual capacity figures are confidential, they are discussed in general terms.

²⁵

Id. at 11-14. Exhibit H, Enclosure 9 indicates that
(Footnote continued)

must be real and imminent, and not based on mere conjecture or supposition. From my perspective, Cofap's explanation of the promotional claims seems credible.²⁶ Likewise, I find Cofap's statement that it has already allocated all of the new capacity to various markets credible,²⁷ particularly given the lack of any rebuttal evidence from petitioner. There is no reason to believe that contrary information will be forthcoming in any final investigation.

Turning to the remaining factors, one notes at the outset that Cofap accounted for the vast majority of Brazil's shock absorber and strut exports to the United States in 1987.²⁸ Thus, the presence of two other shock absorber producers in Brazil does not indicate a real or imminent threat of increased exports to the United States.

There are no subsidies involved in this investigation, nor does the record disclose evidence of third-country

(Footnote continued from previous page)
Cofap anticipates an assembly capacity in 1990 which is higher than noted above. However, this assembly capacity is constrained by Cofap's manufacturing capacity.

26

Cofap explains the statement of its vice president of intent to capture 10 percent of the U.S. market as necessary to give prospective purchasers the impression that Cofap intends to remain in the market. Cofap argued that a less aggressive statement would have had a negative effect on sales. Id. at 22.

27

Report at A-29.

28

Id. at A-27. Because the actual data are confidential, I discuss them in general terms.

²⁹
dumping. Market penetration of imports from Brazil was negligible throughout the period of investigation, rising only slightly from 0.2 percent in 1985 to 0.5 percent in 1987, by ³⁰ units. Moreover, the combined capacity of all the Brazilian producers increased only slightly from 1985 to 1987, and their capacity utilization rose modestly in 1986 only to ³¹ fall back to 1985 levels in 1987.

Based on the above, I find no evidence of any real or imminent rapid increase in market penetration by the product under investigation. Further, given the constraints on Cofap's production capacity, I find no real or imminent threat of price suppression or depression. Accordingly, I find clear and convincing evidence of no reasonable indication of threat of material injury. Based on the high response rate to the Commission's questionnaires and the relative completeness of data in the record concerning domestic and foreign manufacturers, I also find no likelihood that contrary evidence will arise in any final investigation.

²⁹

Section 1329 of the 1988 Act provides that the Commission shall request information regarding dumping in third countries of the merchandise manufactured by a party subject to investigation. Cofap stated that there are no outstanding dumping findings or remedies against shock absorbers from Brazil in other GATT member countries. Transcript at 151. Monroe was unaware of any such findings. Id. at 81. The staff found no evidence to the contrary.

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Report at A-36.

³¹

Id. at A-28.

ADDITIONAL VIEWS OF COMMISSIONER RONALD A. CASS

Shock Absorbers from Brazil
Investigation 731-TA-421
September 23, 1988

I join my colleagues in determining that no reasonable indication exists that an industry in the United States has been materially injured, or is threatened with material injury, by reason of less than fair value imports of shock absorbers from Brazil. I also join the Commission's definition of the like product and treatment of the issue of related parties.

The Commission is required in preliminary antidumping investigations to determine whether there is a reasonable indication that an industry in the United States has been materially injured by allegedly dumped imports.^{1/} The Commission has interpreted this legal standard as requiring that the Commission reach a negative preliminary determination only when the record as a whole persuasively demonstrates that there is no material injury or threat of such injury and, further, it is quite unlikely that a final investigation would adduce contrary evidence sufficient to support an affirmative

^{1/} 19 U.S.C. §1673b(a).

final determination.^{2/} The Court of Appeals for the Federal Circuit has indicated that this standard, now referred to as the American Lamb standard, is a permissible interpretation of the governing statute.^{3/}

This standard is intended to "weight the scales in favor of affirmative and against negative determination,"^{4/} but it is not intended to preclude any possibility of negative determinations in preliminary investigations. As the Court of Appeals made clear in its decision in American Lamb, in designing the standard for preliminary antidumping investigations, Congress sought to balance two competing concerns.^{5/} Congress plainly did not want meritorious petitions rejected, and hence provided that investigations should continue past the preliminary stage even when the evidence of record was not sufficient to support an affirmative final determination. The very reason for

^{2/} See, e.g., Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Inv. No. 731-TA-304-305 (Preliminary), USITC Pub. 1820 (1986); Low-Fuming Brazing Copper Wire and Rod from France, New Zealand, and South Africa, Inv. Nos. 701-TA-237 and 731-TA-247 (Preliminary), USITC Pub. 1673 (1985). See also the court's discussion of Commission practice in Avesta A.B. v. United States, Ct. No. 85-10-01497, Slip Op. 88-72 (C.I.T. June 7, 1988).

^{3/} American Lamb Company v. United States, 785 F.2d 994 (Fed. Cir. 1986)

^{4/} American Lamb, 785 F.2d at 1001; see also Yuasa-General Battery Corp. v. United States, C.I.T. Ct. No. 85-04-00483, Slip Op. 88-89 (July 12, 1988), at 5.

^{5/} See American Lamb, supra, 785 F.2d at 1002-3, citing S. Rep. No. 1298, 93d Cong., 2d Sess. 171.

providing this intermediate step, however, was Congress' belief that the costly process of final investigations both by this Commission and the Department of Commerce, with the attendant disruptive effect upon trade, should not be endured unless there were sufficient injury to a domestic industry at stake to justify the cost.

To state positively the standard suggested by Congress, adopted by the Commission, and approved by the courts, the Commission should reach negative determinations when the evidence of record "on balance does not lend enough support to the Petitioner's claim to provide at least a colorable basis for an affirmative determination and when the relevant information that remains to be gathered does not leave open the prospect that any judgement made on the current record well might be changed at the final determination stage."^{6/} In my view, the case before us today unambiguously meets these criteria.

Material Injury by Reason of LTFV Imports

As in other Title VII investigations, I have evaluated the possible existence of material injury by carrying out the three-part inquiry suggested by the governing statute. This inquiry compares the condition of the domestic industry to the

^{6/} Electrolytic Manganese Dioxide from Greece, Ireland and Japan, Inv. Nos. 731-TA-406-408 (Preliminary), USITC Pub. 2097 (July 1988) (Additional Views of Commissioner Cass), at 24.

condition that would have existed had there been no less than fair value imports by asking the following questions. First, how did the prices and sales of the subject imports change as a result of the alleged dumping? Second, how did these changes in the market for the subject imports affect prices and sales of the domestic like product? Finally, how, if at all, were employment and investment in the domestic industry affected by the changes in the industry's prices and sales that occurred consequent to dumping?

A. LTFV Imports

Taken at face value, the evidence submitted by Petitioner would indicate that the prices of the subject imports substantially decreased as a result of the dumping alleged by Petitioner. Petitioner has alleged that the margins of dumping in the sales under investigation were large, indeed enormous, ranging from a low of approximately 400 percent on some items to a high of over 1300% on other items.^{7/} As I have explained elsewhere, the decline in the price of the subject imports that occurs as result of dumping will generally be less than the full amount of the dumping margin; the actual decrease, as a percentage of the dumping margin,

^{7/} Petition at Exhibit H. These margins are so high as to raise a genuine question as to their reliability. Nevertheless, for the purposes of this preliminary investigation, I have used Petitioner's data in evaluating the effects of dumping on the prices and sales of the subject imports.

will be, in large measure, a function of the proportion of the sales of the subject foreign producer(s) in their combined U.S. and respective home markets that is accounted for by sales in their respective home markets.^{8/} Throughout the period covered by the Commission's investigation, Respondent Cofap's sales of shock absorbers in its home market were substantially greater than Respondent's sales in the United States. Indeed, in 1987 and in the first half of this year, Respondent's Cofap's sales in Brazil accounted for the vast majority of its sales in a combined U.S./Brazil market.^{9/} Respondent's U.S. sales of McPherson struts during the same periods accounted for a negligible share of Respondent's sales in that combined market.^{10/} Accordingly, for the purposes of my analysis of this preliminary investigation, I am prepared to conclude that dumping caused a very substantial decline in the prices of the subject imports.

^{8/} See, e.g., Granular Polytetrafluoroethylene Resin from Japan, Inv. No. 731-TA-385 (Final), USITC Pub. 2112 (August 1988) (Additional Views of Commissioner Cass) at 74; 3.5" Microdisks and Media Therefor from Japan, Inv. No. 731-TA-389 (Preliminary), USITC Pub. 2076 (April 1988) (Additional Views of Commissioner Cass) at 82, n. 100; Certain Bimetallic Cylinders from Japan, Inv. No. 731-TA-383 (Final), USITC Pub. 2080 (May 1988) (Additional Views of Commissioner Cass) at 43-44.

^{9/} Report at A-30, Table 10. The other Brazilian producers, Monroe Brazil and Nakata, sold only a very small number of shock absorbers and McPherson struts in the United States and, as in the case of Cofap, these sales were only a small proportion of these firms' sales in a combined U.S./Brazil market. Id.

^{10/} Id.

The record evidence does not enable me to draw any precise conclusions respecting the effect that this price decrease had on the sales of the subject imports. However, it is plain that the upper bound of this increase is the total amount of the U.S. sales made by Respondent; that is, the maximum amount of sales that could have occurred consequent to dumping is the actual total sales made by Respondent. For the purposes of this preliminary investigation, I have used this figure as the measure of the increase in sales of the subject imports that resulted from dumping, even though this figure probably overstates the actual increase consequent to dumping.

B. Domestic Prices and Sales

The record evidence in this investigation demonstrates clearly and convincingly that, although there may have been substantial changes in the prices and sales of the subject imports accompanying the alleged dumping, this did not have a significant impact on prices or sales of the domestic like product. Notably, the market share of the subject imports was, and continues to be, very small. For example, in 1987 and the first half of 1988, these imports accounted for no more than 0.5 percent of total domestic consumption of shock absorbers and McPherson struts combined.^{11/}

^{11/} Id. at A-36, Table 12.

Admittedly, in the case of shock absorbers (but not in the case of McPherson struts), the market share of the subject imports has risen somewhat compared to earlier periods covered by the investigation. For example, in 1985 and 1986, the shares of the domestic market held by imports from Brazil were 0.2 percent and 0.5 percent, respectively.^{12/} Petitioner claims, in essence, that this increase came entirely at the expense of the domestic industry.^{13/} Although there may be some intuitive appeal to this argument,^{14/} the data collected by the Commission do not support it. In 1987 and the first half of 1988, the domestic industry's share of total domestic shock absorber consumption matched or exceeded its all-time high during the period covered by our investigation.^{15/} Moreover, the slight increase in Respondent's market share occurred contemporaneously with decreases in the market shares of other countries, such as Japan and West Germany.^{16/} It is likely that, to at least some extent, the subject imports replaced imports from these countries, rather than domestic

12/ Id.

13/ Petition at 40-42.

14/ There is, for example, no evidence in the record indicating that there are large differences between the subject imports and the domestic like product that would substantially limit the substitutability of the two products.

15/ Report at A-36, Table 12.

16/ Id.

production.^{17/} Even if, however, the increase in shock absorbers from Brazil wholly displaced sales by the domestic industry, that would not demonstrate a material injury to the domestic industry. The increase in sales -- indeed, the entire volume of sales in the United States by Respondent -- is so small as to fall below the threshold set by our antidumping law.

The record is likewise devoid of any evidence that the subject imports have had an adverse, material impact on domestic prices. At the outset, the very limited volume of the subject imports in the domestic market, both relative to domestic consumption and to domestic production and sales, makes such an effect highly improbable. Consistent with that interpretation of the facts, the data collected by the Commission indicate that, with one minor exception, the price of the domestic like product has been increasing, not decreasing.^{18/} And, despite the sizeable decrease in the price of the imports that can be inferred from the alleged dumping margins and Respondent's relative sales volumes in the United States and Brazil, prices of the subject imports appear

^{17/} See USX Corporation v. United States, slip op. 88-125, at 10 (Ct. Int'l Trade, September 16, 1988).

^{18/} See id. at A-43, Table 14. The only exception is that the weighted-average price of one of the domestic products surveyed by the Commission -- hydraulic light truck shock absorbers -- fell by one percent in the first quarter of this year. Id.

fully comparable to prices of the domestic product.^{19/}

Insofar as one can at times infer downward price pressure from price differences in markets with pricing lags, no such evidence is present in this case. Moreover, Petitioner does not even allege that Respondent has depressed prices for shock absorbers and struts in the United States.^{20/} Thus, no reasonable indication can be found of significant effects on either sales or prices of domestically produced shock absorbers and struts.

C. Investment and Employment

As the Views of the Commission suggest, the data relating to employment and investment in the domestic industry are also not consistent with a finding that the subject imports have materially injured the domestic industry. There is no evidence that the profitability of the domestic industry producing shock absorbers and McPherson struts has declined to

^{19/} Report at A-40, Table 13. In the aftermarket, branded products generally appeared to sell for higher prices than unbranded but otherwise identical products which were nevertheless identified by maker to the consumer; Cofap's product appears to compete largely against nonbranded shock absorbers, and though the domestic products were more expensive in nominal price, Cofap did not provide the incentives and promotional devices used by the domestic manufacturers to lower the price to the consumer.

^{20/} See Tr. at 61. Petitioner does allege, however, that prices will be depressed if dumping continues. See Petition at 37. Petitioner also argues that Respondent's imports may have had some impact on domestic industry's promotional expenditures, but the evidence Petitioner introduced on this point is ambiguous at best. See Tr. at 27, 43.

any significant extent; indeed, profitability is at or close to its all-time high during the period covered by the investigation.^{21/} The same is true of the industry's capital expenditures and research and development expenses.^{22/} The average wage paid to production and related workers is also at an all-time high.^{23/} The number of workers in the industry has dropped during the most-recent periods covered by the investigation, but not substantially.^{24/} Moreover, it is not clear that even this limited decrease reflects actual cutbacks in employment activity; in the first half of 1988, for example, the total hours worked by shock absorber production and related workers increased relative to the same period in 1987 even though the total number of such workers decreased over the same period.^{25/} In short, there is nothing in the data collected by the Commission that would support an inference that employment and investment in the domestic industry have been materially and adversely affected by the subject imports.

^{21/} Id. at A-20, Table 7; A-23, Table 8.

^{22/} Id. at A-25.

^{23/} Id. at A-15, Table 5.

^{24/} Id.

^{25/} Id.

Threat of Future Material Injury

The law requires that a threat of material injury by reason of LTFV imports be "real and imminent" and not merely "speculative" before a threat is deemed sufficient to justify the imposition of antidumping duties. In a preliminary investigation, the quantum of evidence necessary for an affirmative determination is lower than in a final investigation -- the evidence need only be enough to make out a "reasonable indication" of threat -- but the underlying standard of reality and imminence is the same. The Commission's opinion explains why the asserted threat here, which assertedly would come from increased LTFV imports from Brazil, cannot meet that standard. My discussion of threat here is intended to amplify, not to qualify, the Commission's Views.

The Commission opinion advances three arguments, all of which I endorse, for its conclusion on this issue. First, the evidence does not suggest that there is in fact a commitment by Respondent to significantly increased production of shock absorbers. There is some evidence to support a conclusion that such expansion is contemplated by Respondent, but on balance the contrary evidence is persuasive. Second, even assuming that Respondent is significantly expanding production, the expansion does not meet the test of imminence

we have used previously.^{26/} Third, even if the expansion of Respondent's capacity to produce shock absorbers is deemed "real and imminent,"^{27/} the evidence that imports of Respondent's shock absorbers into the United States will significantly increase is insufficient to support a threat finding. Again, there is evidence that supports the possibility that such an increase in imports would occur, but on balance the evidence does not provide a reasonable indication of a real and imminent threat.

Additional reasons for rejecting the Petitioner's assertion that there is a real threat of imminent increased imports, beyond those noted by the Commission, should be noted. One is that the alleged dumping margins, if not completely incompatible with the assertion of a shift of Respondent's product toward increased U.S. imports, at least make such a development questionable. If Respondent sells its output for four times to thirteen times as much in its home market as abroad and sells the great majority of its product in the home market, it seems implausible that Respondent would choose to sell additional output in the United States rather than its home market until its home market price had fallen substantially. I do not believe it necessary to the decision

26/ When the Commission has found a lesser degree of imminence sufficient, its determinations have been reversed by reviewing courts. See, e.g., Alberta Gas Chemical, Inc. v. United States, 515 F. Supp. 780, 791 (Ct. Int'l Trade 1981).

27/ Id.

here to derive any conclusion from this tension between Respondent's assertions on the margin and the threat, but I believe that the tension is worth noting.

Another reason for concluding that increased imports are not imminent is original equipment manufacturers' disinclination to alter rapidly their sources of supply. The small share of the cost of producing automobiles that shock absorbers represent, a point noted by Petitioner,^{28/} indicates that automakers are unlikely to be willing to accept substantial uncertainty with respect to sources of supply for these products to search for lower cost suppliers. Long term contracts with automobile producers are standard, and this practice reduces opportunities for dramatic growth in sales of the subject imports in the near term.

Finally, I note a fourth reason for determining that no reasonable indication of threat of material injury: even if there were a significant increase in imports from Brazil, given the very small volume of imports relative to domestic production and domestic consumption, there is no basis for belief that such an increase would materially injure the domestic industry. Even at a level significantly above their present volume, imports of Respondent's product would not be likely to have any material effect on the sales of the domestic industry's products or on their prices, nor

^{28/} Tr. at 38.

derivatively on the production, profits, and so on of the industry.

Conclusion

For these reasons, I join my colleagues in finding no reasonable indication of material injury, or the threat of material injury.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On August 9, 1988, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce by counsel on behalf of Monroe Auto Equipment Co. (Monroe), Monroe, MI. The petition alleges that an industry in the United States is materially injured and threatened with material injury by reason of imports from Brazil of shock absorbers, 1/ provided for in item 692.32 of the Tariff Schedules of the United States (TSUS), and parts, components, and subassemblies thereof, 2/ however provided for in the TSUS, that are alleged to be sold in the United States at less than fair value (LTFV). Accordingly, effective August 9, 1988, the Commission instituted investigation No. 731-TA-421 (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 is materially retarded, by reason of such imports.

Notice of the institution of the investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of August 17, 1988 (53 F.R. 31113). 3/ The conference was held in Washington, DC, on August 30, 1988. 4/

On August 29, 1988, the U.S. Department of Commerce initiated an antidumping investigation to determine whether the subject merchandise is being, or is likely to be, sold in the United States at LTFV (53 F.R. 34137, Sept. 2, 1988).

The Commission's briefing and vote in this investigation was held on September 20, 1988. The statute directs the Commission to make its determination within 45 days after receipt of a petition, or in this case by September 23, 1988.

1/ For purposes of this investigation, the term "shock absorbers" is defined as suspension devices designed to dissipate energy from road disturbances; consisting of a piston, a fluid or gaseous medium, and a metal cylinder; primarily used in the suspension system on motor vehicles; provided for in item 692.3282 of the Tariff Schedules of the United States Annotated (1987) (TSUSA); they are also provided for in subheading 8708.80.50 of the Harmonized Tariff Schedule of the United States (USITC Publication 2030).

2/ None of the respondents to Commission questionnaires reported any imports of parts, components, and subassemblies thereof.

3/ Copies of cited Federal Register notices are presented in app. A.

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

The Product

Description and uses

A shock absorber is a cylindrically shaped device designed to limit unwanted oscillations and vibrations in a motor vehicle. The industry categorizes shock absorbers as dampers, which include several products, such as the hydraulic damper, the MacPherson strut (strut), the steering damper, and the engine damper. However, the product subject to this investigation (the traditional shock absorber (hydraulic damper)) and the MacPherson strut ^{1/} are the only products used in conjunction with the suspension of an automobile. ^{2/}

A hydraulic damper is the traditional oil-filled shock absorber used in an automotive suspension system. When mounted as a component in the suspension system, sometimes surrounded by a spring, the hydraulic damper is designed to dissipate energy from road disturbances. If a small amount of nitrogen is added to increase the hydraulic pressure and therefore the spring rate of the shock, it is commonly referred to as a gas shock absorber.

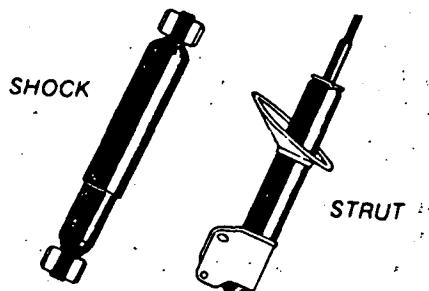
A MacPherson-strut unit contains a hydraulic damper within it. This damper may either be an integral part of the sealed strut, as is common practice with struts made for the U.S. market, or be a replaceable cartridge unit within the strut, as is more common on European and some Japanese cars. Struts with replaceable cartridges usually have oil added to the strut casing prior to the new cartridge being inserted, as this assists in the conduction of heat away from the cartridge unit. When the damper is an integral part of the strut, the upper or outside tube functions as the reserve tube for the damper, and the inside portion of the strut performs as the pressure tube. MacPherson struts are designed to be load-bearing items of a vehicle's suspension; shock absorbers are not. To accomplish this added function, the strut is made with thicker metal than a traditional shock absorber. Whereas both units are designed to absorb axial movements, the MacPherson strut also absorbs side and rotational loads. These struts take the place of other suspension components, such as the upper control arm and upper ball joint, while serving to locate the wheel within the manufacturer's initial design parameters. Because of the integral nature of such a unit, MacPherson struts are designed for specific car and light truck applications. The two units are distinct visually (fig. 1), with the strut having a skirt for a spring attached to the body of the damper as well as a variety of attachment hardware affixed to the body of the strut.

^{1/} Counsel for Companhie Fabricadore de Pecos S.A. (Cofap S.A.) and its U.S. subsidiary, Cofap of America, contend that the correct like or competitive product that should be analyzed in this investigation should include MacPherson struts as well as the traditional shock absorbers. The staff collected data for both shock absorbers and MacPherson struts and, hence, such data are presented separately in the report.

^{2/} Although both shock absorbers and MacPherson struts are used in automobile suspension systems, they are not interchangeable.

There are no differences between the uses of an imported shock absorber or MacPherson strut and their domestically produced counterparts. There are no substitute products for either a shock absorber or a MacPherson strut.

Figure 1.--Shock absorber and MacPherson strut



Source: Monroe Auto Equipment Co.

Manufacturing process

The manufacturing process for the shock absorber is highly automated and consists of two major fabrications (rod and reservoir tube) and two like subassemblies that are combined to form the final assembly. The rod is first cold formed, machined in multisindle chucking equipment, and then prepared for subsequent finishing processes. The finishing process begins with an induction hardening and heat-treatment operation, which feeds the article into a series of grinding and finishing equipment. The rod is chrome plated in an automatic plater and finished in thru-feed "superfinishing" machines.

The rod assembly begins with the welding of a cold-headed piston to the rod. Valving components, which are made on high-speed presses, are then automatically assembled to the piston for each specific model, and the piston and rod subassembly is then ready for transfer to the final assembly area.

The reservoir tube subassembly begins with the formation of the basic tube in the tube-processing area, where the steel strip is rolled to the desired diameter and resistance-welded in one continuous operation. After heat treatment, automatic cranes transfer the "tubing bar" through the subsequent drawing and cutoff operations. The cut tubes are then end faced, chamfered, and washed to prepare for the subassembly and final assembly operations. At this point, a hydraulic damper made for use in a strut is sent to multistation assembly modules to complete the reservoir subassembly with automated assembly and welding stations for the strut spring, bracket, and base cup.

At the final assembly station, the piston and rod assembly, the reservoir tube subassembly, and the compression valve assembly are mated with the cylinder (or pressure) tube (which is made like the reservoir tube but on different equipment), filled with oil, and stroke tested prior to painting and shipping.

U.S. tariff treatment

Imports of shock absorbers and MacPherson struts for automotive use are not differentiated in the TSUS, both being reported under TSUSA item number 692.3282; comparable products imported from Canada that fall under the provisions of the Automobile Parts Trade Act (APTA) are reported under TSUSA item 692.3380. Shock absorbers for automotive use include those for the suspension of the vehicle, steering and engine dampers, units used to control the sway of trailers, and gas struts used to assist a motorist in lifting the hatchback of cars so equipped. In the Harmonized Tariff Schedule (HTS), both shock absorbers and MacPherson struts are classified in subheading 8708.80.50 as suspension shock absorbers for nonenumerated vehicles. In general, designated beneficiary developing countries are eligible for duty-free entry of shock absorbers and MacPherson struts under the Generalized System of Preferences (GSP). However, Brazil, Mexico, and Taiwan have exceeded the competitive-need limits under TSUS item 692.32 (covering nonenumerated motor vehicle parts) and are therefore ineligible for GSP benefits for shock absorbers and MacPherson struts. The change to the HTS is not expected to affect GSP status for these products.

Shock absorbers, including MacPherson struts, classified in TSUS item 692.32 from countries afforded most-favored-nation (MFN) treatment are generally dutiable at the column 1 rate of 3.1 percent ad valorem. This represents the final staged rate negotiated under the Tokyo Round of the Multilateral Trade Negotiations. The column 2 rate of duty is 25 percent ad valorem. Shock absorbers, if imported from designated beneficiary countries, are eligible for duty-free entry under the Caribbean Basin Economic Recovery Act (CBERA). Additionally, they are eligible for preferential tariff treatment under the United States-Israel Free Trade Area Implementation Act (UIFTA). In December 1983, in accordance with the General Agreement on Tariffs and Trade (GATT), the President signed a proclamation of compensatory concessions to lower the tariff rates on a range of TSUS items, including that covering shock absorbers. Pursuant to sections 203(a)(1) and 203(e)(1) of the Trade Act of 1974 (19 U.S.C. 2253(a)(1) and 2253(e)(1)), in accordance with Articles I and XIX of the GATT, the President proclaimed temporary increased rates of duty on an MFN basis on certain nonelectric cooking ware of steel, enameled or glazed with vitreous glasses. To balance these tariff increases and restore the overall level of benefits of U.S. tariff concessions to Japan and Spain, the President proclaimed that shock absorbers and 41 other categories of imported goods would be temporarily afforded reduced column 1 rates of duty. ^{1/} For this purpose, shock absorbers were dutiable under TSUSA item 947.36 in the appendix to the TSUSA (axle spindles and shock absorbers for motor vehicles). The reduced column 1 rate of duty ranged between 2.3 percent ad valorem and 2.6 percent ad valorem during the period 1984-87. This temporary duty terminated on December 31, 1987, at which time the column 1 duty rate on shock absorbers reverted to the regular column 1 rate of 3.1 percent ad valorem.

^{1/} Proclamation 5140 of Dec. 19, 1983 (48 F.R. 56553, Dec. 22, 1983).

Nature and Extent of Alleged Sales at LTFV

The petition alleges that, on the basis of a comparison of the U.S. price and the foreign-market value of the subject shock absorbers in the Brazilian market, these shock absorbers are being sold in the United States at less than fair value. 1/ The U.S. price is calculated using the prices at which Cofap S.A.'s U.S. subsidiary, Cofap of America, has sold or agreed to sell Cofap shock absorbers to unrelated purchasers in the United States, with adjustments for such items as freight, brokerage fees, customs fees, warehousing costs, etc., to arrive at a Brazilian ex-factory price. This price is compared to the price at which substantially identical shock absorbers are currently being sold in Brazil. The alleged estimated LTFV margin ranges from a low of 399 percent to a high of 1,305 percent in the seven comparisons offered in the petition.

U.S. Producers

There have been four U.S. producers of shock absorbers and/or MacPherson struts during the period of investigation. However, Ford Motor Co. (Ford), which produced only MacPherson struts, ceased domestic production during the summer of 1988 and will out-source its strut requirements in the future. Monroe, the petitioner and largest U.S. shock absorber producer, is headquartered in Monroe, MI; Maremont Corp. (Maremont), a subsidiary of Arvin Industries, is headquartered in Nashville, TN; and the Delco Products Division of General Motors Corp. (Delco), is based in Dayton, OH. Presently, three new firms are being established by their Japanese corporate parents to produce shock absorbers and MacPherson struts in the United States. These are: Kayaba (KYB), with production facilities located in Franklin, IN; Tokico, located in Berea, KY; and ***. ***. Following is a list of the locations of the shock absorber and/or MacPherson strut production facilities used by each of the current U.S. producers to serve the U.S. market, with a description of what each facility produces and the U.S. market segment (OE=Original equipment) for which these products are destined:

Firm & location	Product produced	Target market
<u>Delco</u>	*	*
<u>Ford</u>	*	*
<u>Maremont</u>	*	*
<u>Monroe</u>	*	*

1/ All of petitioner's allegations and calculations with respect to alleged LTFV sales involve Cofap S.A., the largest Brazilian producer of the subject shock absorbers. There are two other Brazilian producers, Nakata S.A. Industria and Comercio (Nakata) and Monroe's Brazilian subsidiary Monroe Auto Pecas S.A. (Monroe Brazil). In the petition, as well as the Director of Operations' conference, Monroe stated it has no reason to believe Nakata is selling shock absorbers at LTFV. Further, petitioner has stated that MacPherson struts imported from Brazil are not being sold at LTFV.

During the period of investigation, Monroe *** reported imports of shock absorbers and/or MacPherson struts from Brazil. All of Monroe's imports came from its Brazilian subsidiary, Monroe Brazil, and amounted to *** percent of total shock absorber imports from Brazil in 1987 as reported by respondents to Commission questionnaires. ***.

As noted earlier, four U.S. firms accounted for all of U.S. shock absorber and/or MacPherson strut production during the period of investigation. All of these firms have provided data in response to the Commission's questionnaire. Their U.S. plant locations, production, and share of total production in 1987 are shown in the following tabulation:

Item and firm	Plant location	Production 1,000 units	Share Percent
Shock absorbers:			
Delco.....	Kettering, OH	***	***
Maremont.....	Chickasha, OK		
	Pulaski, TN	***	***
Monroe.....	Paragould, AR		
	Hartwell, GA		
	Cozad, NE	***	***
Total.....		73,413	1/ 100.0
MacPherson struts:			
Delco.....	Kettering, OH	***	***
Maremont.....	Chickasha, OK		
	Pulaski, TN	***	***
Monroe.....	Hartwell, GA		
	Cozad, NE	***	***
Ford Motor Co 2/.....	Ypsilanti, MI	***	***
Total.....		20,497	1/ 100.0

1/ Figures may not add to 100 due to rounding.

2/ Ford ceased production of MacPherson struts in July 1988.

U.S. Importers

There are approximately 30-40 major importers of shock absorbers and MacPherson struts from all countries. U.S. manufacturers, themselves, are importers, bringing shock absorbers and MacPherson struts into the United States from their facilities located in Latin America, Europe, South Africa, Canada, and Australia as well as purchasing from foreign producers. In addition, the U.S. divisions of various foreign car manufacturers import the products for both their U.S. automobile assembly facilities and as replacement parts for their automobiles sold in the United States. Of the importer questionnaire respondents, the majority were the U.S. subsidiaries of foreign car manufacturers. However, most of these importers brought product in from Japan and West Germany, rather than Brazil.

The primary importer of shock absorbers and MacPherson struts from Brazil was Cofap of America, the U.S. subsidiary of Cofap, S.A., the largest Brazilian producer as well as the largest supplier to the domestic market in Brazil. In 1987, Cofap of America accounted for *** percent of shock absorber imports from Brazil reported by questionnaire respondents. ***, ***, accounted for the next largest share of imports from Brazil in 1987, at *** percent. *** and *** were the next largest importers among the respondents, accounting for nearly *** and *** percent, respectively, of reported imports from Brazil in 1987. ***. With respect to imports of MacPherson struts from Brazil, Cofap of America accounted for *** percent of imports reported by respondents, with *** accounting for an additional *** percent.

The Domestic Market

The U.S. market for shock absorbers and MacPherson struts is divided between the OE market and the aftermarket. The OE market, which consists primarily of automobile and light truck manufacturers, constituted approximately 41 percent of the market for shock absorbers in 1987, with the remaining 59 percent going to the aftermarket. For MacPherson struts, the OE market accounted for 72 percent of shipments in 1987, with 28 percent going to the aftermarket. Of the U.S. producers, Delco is the largest participant in the OE market for both shock absorbers and MacPherson struts, followed by Monroe and Maremont. In the aftermarket, Monroe is the largest participant, followed by Maremont, with Delco having a relatively small presence. Imports from Brazil have generally competed in the aftermarket, but have recently begun to increase their presence in the OE market, with Cofap's contract with Chrysler to provide approximately *** shock absorbers beginning with the 1989 model year.

Demand for both shock absorbers and MacPherson struts in the OE market is derived from the demand for automobiles and light trucks. Suspension systems generally require four shock absorbers, two shocks and two struts, or four struts. Beginning in the late 1970s and throughout the 1980s, an increasing number of automobiles and light trucks have been manufactured with MacPherson struts in the front of the vehicle and conventional shock absorbers on the rear of the car. Use of this suspension set-up grew from near zero in 1977 to a point at which it was used on nearly 80 percent of the automobiles and light trucks manufactured in the United States from 1985 to 1987. The use of MacPherson struts has increased as the construction of more and more automobiles and light trucks has incorporated front-wheel drive and transverse-mounted engines.

Demand in the aftermarket is largely related to a need to replace damaged and worn shock absorbers and struts. Additionally, demand depends on the automobile owner's perception of improving ride-control characteristics. Consequently, marketing is a very important factor in developing that perception and in the promotion of aftermarket sales. Monroe, the petitioner, is very active in this area, reporting that more than *** percent of its general, selling, and administrative expenses during 1985-87 were related to marketing of shock absorbers for the aftermarket. Other factors affecting demand include the age and type of automobile (the industry considers vehicles over 2 years old as aftermarket targets), miles driven, and road conditions.

Replacement shock absorbers and struts are sold through dealers, auto repair shops, auto parts stores, or department stores that carry automotive supplies.

U.S. consumption

The Commission sent questionnaires to all the producers of shock absorbers and/or MacPherson struts in the United States. Questionnaires were also sent to importers of the subject product from Brazil as well as all significant importers of the subject product from other countries. Official import statistics on the shock absorbers subject to this investigation are maintained only on a value basis. In addition to shock absorbers, TSUSA item 692.3282 includes MacPherson struts, strut cartridges, steering dampers, engine dampers, dampers for use on exercise machines, etc. Apparent U.S. consumption is based on the shipments reported by these producers and importers. The information on U.S. producers' shipments accounts for all such shipments. With regard to Brazil, the information may be understated to the extent that some firms who import directly from Cofap S.A., rather than through Cofap of America, did not respond to the Commission questionnaire. However, staff believes the data reported account for a large portion of imports from Brazil. Like data on imports from Brazil, import and shipment data on Canada, Japan, West Germany, and all other countries may be understated to the extent that not all these importers responded to the Commission questionnaire.

Apparent U.S. consumption of shock absorbers, based on quantity, declined steadily from 1985 to 1987, falling by 12.8 percent. Consumption in January-June 1988 increased slightly by 0.2 percent compared with January-June 1987 (table 1).

Table 1

Shock absorbers and MacPherson struts: Apparent U.S. consumption, by sources, 1985-87, January-June 1987, and January-June 1988

Item and source	1985	1986	1987	January-June	
				1987	1988
Quantity (1,000 units)					
Shock absorbers:					
U.S.-produced shipments...	81,154	75,757	70,545	43,797	43,478
Shipments of imports from:					
Brazil.....	158	399	456	116	262
Canada.....	593	392	628	300	289
Japan.....	1,095	864	885	430	424
West Germany.....	747	638	592	272	317
All other countries.....	784	788	606	241	480
Subtotal.....	3,377	3,081	3,167	1,359	1,772
Total apparent consumption.....	84,531	78,838	73,712	45,156	45,250
MacPherson struts:					
U.S.-produced shipments...	16,406	19,826	20,703	14,324	15,530
Shipments of imports from:					
Brazil.....	***	***	***	***	***
Canada.....	***	***	***	***	***
Japan.....	435	636	878	400	439
West Germany.....	527	518	269	115	125
All other countries.....	489	524	730	59	503
Subtotal.....	1,471	1,695	1,903	581	1,081
Total apparent consumption.....	17,877	21,521	22,606	14,905	16,611
Value (1,000 dollars)					
Shock absorbers:					
U.S.-produced shipments...	565,510	542,465	526,935	321,342	335,468
Shipments of imports from:					
Brazil.....	877	2,320	2,196	614	1,433
Canada.....	3,303	3,751	6,479	3,215	2,936
Japan.....	15,116	14,375	15,279	7,318	7,813
West Germany.....	9,434	9,953	10,977	13,142	6,039
All other countries.....	8,238	10,909	16,175	3,941	7,273
Subtotal.....	36,968	41,308	51,106	28,230	25,494
Total apparent consumption.....	602,478	583,773	578,041	349,572	360,962
MacPherson struts:					
U.S.-produced shipments...	336,101	429,963	448,787	330,165	371,896
Shipments of imports from:					
Brazil.....	***	***	***	***	***
Canada.....	***	***	***	***	***
Japan.....	10,102	13,453	16,895	7,673	9,398
West Germany.....	2,106	7,307	4,082	1,812	2,231
All other countries.....	7,139	8,423	11,308	1,336	8,116
Subtotal.....	19,505	29,330	32,574	10,901	19,890
Total apparent consumption.....	355,606	459,293	481,361	341,066	391,786

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

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

In order to evaluate the condition of the U.S. industry producing shock absorbers, the Commission sent questionnaires to the three firms that accounted for all the domestic production of shock absorbers in the United States during the period of investigation. Additionally, the Commission sent a questionnaire to the Ford Motor Co., which produced MacPherson struts, but not shock absorbers, during the period of investigation.

U.S. production, capacity, and capacity utilization

Production of shock absorbers declined from 83.7 million units in 1985 to 73.4 million units in 1987, a decline of 10.3 million units or 12.3 percent. Production in January-June 1988 was off 3.1 percent compared with production in January-June 1987 (table 2). For MacPherson struts, production increased from 17.1 million units in 1985 to 20.5 million units in 1987, a net increase of 19.6 percent. For January-June 1988, strut production was up 5.7 percent over production in January-June 1987. ***.

Average-for-period capacity for shock absorbers rose slightly, from 88.8 million units to 89.7 million units over the 1985-87 period. During the same period, average-for-period capacity for MacPherson struts rose by 5.8 percent from 22.8 million units to 24.1 million units, and capacity for January-June 1988 was 2.3 percent higher than in the corresponding period of 1987. As noted earlier, Ford ceased production of MacPherson struts in July 1988 and will out-source its strut needs for the foreseeable future from both domestic and foreign producers. ***. In 1987, Ford accounted for slightly more than *** percent of MacPherson-strut capacity in the United States.

With production declining and capacity showing a slight increase, capacity utilization for shock absorbers declined from 94.2 percent in 1985 to 81.8 percent in 1987. Capacity utilization in January-June 1988 stood at 98.4 percent compared with 103.7 percent in January-June 1987. For MacPherson struts, capacity utilization trended upward from 75.2 percent in 1985 to 85.1 percent in 1987. Capacity utilization figures for both January-June 1987 and January-June 1988 stood at more than 100 percent of average-for-period capacity.

Table 2

Shock absorbers and MacPherson struts: U.S. production, capacity, 1/ and capacity utilization, 1985-87, January-June 1987, and January-June 1988

Item	1985	1986	1987	January-June	
				1987	1988
Shock absorbers:					
Production (1,000 units)	83,667	78,549	73,413	46,329	44,892
Percent change.....	2/	-6.1	-6.5	2/	-3.1
Capacity (1,000 units)...	88,780	89,280	89,680	44,640	45,590
Percent change.....	2/	+0.5	+0.4	2/	+2.1
Capacity utilization (percent).....	94.2	88.0	81.8	103.7	98.4
MacPherson struts					
Production (1,000 units)	17,136	20,841	20,497	14,579	15,416
Percent change.....	2/	+21.6	-1.6	2/	+5.7
Capacity (1,000 units)...	22,771	23,246	24,083	12,042	12,323
Percent change.....	2/	+2.0	+3.6	2/	+2.4
Capacity utilization (percent).....	75.2	89.6	85.1	121.0	125.0

1/ ***.

2/ Not applicable.

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

U.S. producers' shipments

U.S. producers' total shipments of shock absorbers declined from 84.0 million units in 1985 to 74.0 million units in 1987, a drop of 12.0 percent, then dropped by 0.9 percent in January-June 1988 compared with shipments in January-June 1987 (table 3). Domestic shipments followed the same trend throughout the period, declining by *** million units, or 13.8 percent, during 1985-87 and declining by 1.3 percent in January-June 1988 compared with January-June 1987. For MacPherson struts, total shipments increased throughout the period of investigation. Domestic shipments rose from 1985 to 1986, then showed a slight decline in 1987. Domestic shipments had a net increase of 17.0 percent from 1985 to 1987 and increased by 11.5 percent in January-June 1988 compared with January-June 1987.

The value of domestic shipments of shock absorbers declined by 7.1 percent from 1985 to 1987, then increased by 3.8 percent in January-June 1988 compared with that in the corresponding period of 1987. The value of MacPherson-strut shipments had a net increase of 30.7 percent from 1985 to 1987, then grew by 18.1 percent in January-June 1988. The average unit value of domestic shipments of shock absorbers increased from *** in 1985 to *** in 1987, then increased further to *** in January-June 1988. The average unit value of MacPherson-strut domestic shipments grew from *** in 1985 to *** in 1987, with a further increase to *** in January-June 1988. ***.

Table 3

Shock absorbers and MacPherson struts: U.S. producers' shipments, by types, 1985-87, January-June 1987, and January-June 1988

Item and type of shipment	1985	1986	1987	January-June				
				1987	1988			
<u>Quantity (1,000 units)</u>								
Shock absorbers:								
Domestic shipments.....	***	***	***	***	***			
Intra/intercompany transfers.....	***	***	***	***	***			
Export shipments.....	***	***	***	***	***			
Total.....	84,021	78,790	73,970	45,611	45,186			
MacPherson struts:								
Domestic shipments.....	***	***	***	***	***			
Intra/intercompany transfers.....	***	***	***	***	***			
Export shipments.....	***	***	***	***	***			
Total.....	17,608	21,337	22,140	15,200	16,438			
<u>Value (1,000 dollars)</u>								
Shock absorbers:								
Domestic shipments.....	***	***	***	***	***			
Intra/intercompany transfers.....	***	***	***	***	***			
Export shipments.....	***	***	***	***	***			
Total.....	583,239	558,787	543,223	331,214	346,896			
MacPherson struts:								
Domestic shipments.....	***	***	***	***	***			
Intra/intercompany transfers.....	***	***	***	***	***			
Export shipments.....	***	***	***	***	***			
Total.....	357,108	450,955	470,501	342,142	384,523			
<u>Unit value (dollars)</u>								
Shock absorbers:								
Domestic shipments.....	\$ ***	\$ ***	\$ ***	\$ ***	\$ ***			
Intra/intercompany transfers.....	***	***	***	***	***			
Export shipments.....	***	***	***	***	***			
Average.....	7.17	7.09	7.34	7.26	7.67			
MacPherson struts:								
Domestic shipments.....	\$ ***	\$ ***	\$ ***	\$ ***	\$ ***			
Intra/intercompany transfers.....	***	***	***	***	***			
Export shipments.....	***	***	***	***	***			
Average.....	17.59	21.13	21.25	22.50	23.39			

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

Export shipments of shock absorbers accounted for between *** and *** percent of total shipments by U.S. producers, increasing by 19.5 percent from 1985 to 1987. January-June 1988 export shipments dropped 5.8 percent compared with exports in January-June 1987. MacPherson-strut exports accounted for between *** and *** percent of total shipments by U.S. producers during the period of investigation. From 1985 to 1987, strut exports increased 19.5 percent, and January-June 1988 exports were 3.6 percent above January-June 1987 export totals. The principal export markets for both shock absorbers and MacPherson struts are Canada, Europe, and Australia.

The value of export shipments of shock absorbers decreased by 8.1 percent from 1985 to 1987, then increased by 15.8 percent in January-June 1988 compared with January-June 1987. The value of MacPherson-strut exports increased by 3.4 percent from 1985 to 1987 and by 5.4 percent in January-June 1988 compared with January-June 1987.

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

End-of-period inventories of shock absorbers declined from 11.8 million units in 1985 to 7.8 million units in 1987, a drop of 34.1 percent (table 4). Inventories dropped by an additional 25.4 percent in January-June 1988 compared with inventories in January-June 1987. Inventories as a percent of shipments also declined, from 14.0 in 1985 to 10.5 in 1987, with a continued drop to 7.6 percent in January-June 1988 compared with 10.1 percent in the corresponding period of 1987. End-of-period inventories of MacPherson struts showed a net drop of 12.6 percent from 1985 to 1987, then declined 43.8 percent in January-June 1988. As a share of shipments, inventories declined from 7.1 percent in 1985 to 4.9 percent in 1987. For January-June 1988, the ratio stood at 2.2 percent compared with 4.2 percent for the comparable period of 1987.

Table 4
Shock absorbers and MacPherson struts: U.S. producers' end-of period inventories and inventory-to-shipment ratios, 1985-87, January-June 1987, and January-June 1988.

Item	1985	1986	1987	January-June--	
				1987	1988
Shock absorbers:					
Inventories (1,000 units)...	11,776	10,133	7,763	9,246	6,891
Percent change.....	1/	-13.9	-23.3	1/	-25.4
Inventory-to-shipment ratio (percent).....	14.0	12.8	10.5	2/ 10.1	2/ 7.6
MacPherson struts:					
Inventories (1,000 units)...	1,249	1,410	1,091	1,292	726
Percent change.....	1/	+12.8	-22.6	1/	-43.8
Inventory-to-shipment ratio (percent).....	7.1	6.6	4.9	2/ 4.2	2/ 2.2

1/ Not applicable.

2/ Based on annualized shipments.

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

Employment and productivity

The number of production and related workers producing shock absorbers declined from 3,820 workers in 1985 to 3,453 in 1987, a drop of 9.6 percent (table 5). The number of hours worked declined steadily as well, falling from 8.5 million hours in 1985 to 7.2 million hours in 1987, a drop of 15.8 percent. Hourly wages rose slightly during this time, from \$10.85 in 1985 to \$11.24 in 1987, an increase of 3.6 percent. From 1985 through 1987 there was a decline in both wages and total compensation paid. Labor productivity, measured in units per hour, increased from 9.79 in 1985 to 10.20 in 1987, then dropped slightly in January-June 1988, measuring 11.91 compared with 12.52 for the corresponding period in 1987. Unit labor costs rose from \$1.38 in 1985 to \$1.43 in 1987. For January-June 1988, unit labor costs stood at \$1.31 compared with \$1.17 during the same period of 1987.

With regard to MacPherson struts, the number of production and related workers increased from 1,557 workers in 1985 to 1,963 in 1987, an increase of 26.1 percent. The number of hours worked also increased, from 3.5 million hours in 1985 to 4.5 million hours in 1987, an increase of 27.1 percent. Hourly wages dropped during this time, from \$13.80 in 1985 to \$13.07 in 1987, a decline of 5.3 percent. Both wages and total compensation paid increased from 1985 through 1987. Labor productivity decreased from 4.83 units per hour in 1985 to 4.54 units per hour in 1987. Unit labor costs rose during the same period, climbing from \$3.97 in 1985 to \$4.15 in 1987.

Delco was the only one of the three producers of shock absorbers the production workers of which were represented by unions, whereas MacPherson strut production workers had union representation at both Delco and Ford. Thus, for 1987, *** percent of shock-absorber production workers and *** percent of MacPherson-strut production workers were represented by unions.

Table 5

Shock absorbers and MacPherson struts: Employment of production and related workers and their hours worked, wages paid, total compensation, productivity, and unit labor costs, 1985-87, January-June 1987, and January-June 1988

Item	1985	1986	1987	January-June				
				1987	1988			
Shock absorbers:								
Production and related								
workers.....	3,820	3,562	3,453	3,548	3,274			
Percent change.....	1/	-6.7	-3.0	1/	-7.7			
Hours worked (1,000 hours).....	8,542	7,737	7,192	3,698	3,768			
Percent change.....	1/	-9.4	-7.0	1/	+1.8			
Wages paid (1,000 dollars).....	92,731	87,223	80,904	40,588	44,183			
Percent change.....	1/	-5.9	-7.2	1/	+8.8			
Total compensation (1,000 dollars).....	115,505	112,422	105,472	54,532	58,911			
Percent change.....	1/	-2.6	-6.1	1/	+8.0			
Wages per hour.....	\$10.85	\$11.27	\$11.24	\$10.97	\$11.72			
Productivity (units per hour).....	9.79	10.15	10.20	12.52	11.91			
Unit labor costs.....	\$1.38	\$1.43	\$1.43	\$1.17	\$1.31			
MacPherson struts:								
Production and related								
workers.....	1,557	1,846	1,963	1,996	2,070			
Percent change.....	1/	+18.5	+6.3	1/	+3.7			
Hours worked (1,000 hours).....	3,544	4,364	4,506	2,253	2,484			
Percent change.....	1/	+23.1	+3.2	1/	+10.2			
Wages paid (1,000 dollars).....	48,938	56,120	58,933	29,006	35,170			
Percent change.....	1/	+14.6	+5.0	1/	+21.2			
Total compensation (1,000 dollars).....	68,112	80,536	85,081	43,062	51,576			
Percent change.....	1/	+18.2	+5.6	1/	+19.8			
Wages per hour.....	\$13.80	\$12.85	\$13.07	\$12.87	\$14.15			
Productivity (units per hour).....	4.83	4.77	4.54	6.47	6.20			
Unit labor costs.....	\$3.97	\$3.86	\$4.15	\$2.95	\$3.35			

1/ Not available.

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

In its questionnaire, the Commission requested U.S. producers to provide detailed information concerning reductions in the number of workers producing shock absorbers and/or MacPherson struts from 1985 through June 1988, if such reductions involved at least 5 percent of the workforce or 50 workers. *** and *** reported no layoffs for either shock-absorber or MacPherson-strut operations during the period of investigation. *** reported total permanent layoffs of *** people for its shock-absorber operations from 1985 through June 1988. *** attributed *** percent of the layoffs to productivity improvements, with the balance attributed to sales declines. Ford, as noted earlier, ceased its domestic production of MacPherson struts this summer and has permanently laid off its *** production and related employees at its Ypsilanti, MI, facility. Ford indicated it would out-source its MacPherson-strut needs. A summary of these actions is provided in the tabulation that follows:

Firm and item	No. of Workers	Date	Duration	Reason
Shock absorbers:				
***..... ***	1985		Permanent	Sales decline
***	1985		Permanent	Productivity improvements
***	1987		Permanent	Sales decline
***	1988		60 days	Temporary sales decline
MacPherson struts:				
Ford..... *** 1/	1988		Permanent	Corporate decision to out-source struts

1/ Ypsilanti, MI plant.

Financial experience of U.S. producers

Three producers, accounting for all shock-absorber shipments in 1987, provided usable income-and-loss data on the overall operations of their establishments within which shock absorbers and MacPherson struts are produced, as well as on their operations producing shock absorbers and MacPherson struts. 1/ Another firm 2/ produced only struts during the period of investigation; therefore, its data for these operations are shown separately in appendix C.

Overall establishment operations.--Aggregate income-and-loss data on overall establishment operations are presented in table 6. Overall establishment sales of the U.S. producers (excluding Ford) increased from \$1.064 billion in 1985 to \$1.126 billion in 1986, representing an increase of 5.8 percent. Compared with the level of sales in 1986, sales in 1987 declined slightly to \$1.108 billion, or by 1.6 percent. Overall, there was an increase of 4.1 percent in net sales from 1985 to 1987. During the interim period ended June 30, 1988, aggregate net sales totaled \$829.8 million, up 6.2 percent from net sales of \$781.5 million reported during interim 1987.

Operating income increased in 1986 to \$182.1 million, up 16.6 percent from the \$156.2 million reported for 1985. The increase continued in the 1987 accounting year, with income of \$183.1 million, or an increase of 0.5 percent from 1986 and 17.2 percent from 1985. The operating margins during the 1985-87 period were 14.7 percent, 16.2 percent, and 16.5 percent, respectively. One firm experienced an operating loss in 1985 but was profitable thereafter, whereas the other firms were profitable throughout the investigative period. Operating income fell to \$132.2 million during interim 1988, down 6.0 percent from the \$140.6 million reported during interim 1987. The operating margins for the 1987 and 1988 interim periods were 18.0 percent and 15.9 percent, respectively.

1/ Delco, Maremont, and Monroe.

2/ Ford.

Table 6

Income-and-loss experience of U.S. producers on the overall operations of their establishments within which shock absorbers and MacPherson struts are produced, accounting years 1985-87 and interim periods ended June 30, 1987, and June 30, 1988

Item	1985	1986	1987	Interim period ended June 30--	
				1987	1988
Value (1,000 dollars)					
Net sales.....	1,064,555	1,126,619	1,108,305	781,450	829,814
Cost of goods sold....	762,055	798,929	777,443	557,292	605,691
Gross profit.....	302,500	327,690	330,862	224,158	224,123
General, selling, and administrative expenses.....	146,319	145,604	147,780	83,562	91,932
Operating income.....	156,181	182,086	183,082	140,596	132,191
Interest expense.....	2,194	1,922	2,549	1,251	1,518
Other income, net.....	(8,055)	(11,969)	(12,956)	(6,468)	(10,079)
Net income before income taxes.....	145,932	168,195	167,577	132,877	120,594
Depreciation and amortization included above.....	32,080	31,385	33,720	25,210	26,134
Cash-flow 1/.....	178,012	199,580	201,297	158,087	146,728
Share of net sales (percent)					
Cost of goods sold....	71.6	70.9	70.1	71.3	73.0
Gross profit	28.4	29.1	29.9	28.7	27.0
General, selling, and administrative expenses.....	13.7	12.9	13.3	10.7	11.1
Operating income.....	14.7	16.2	16.5	18.0	15.9
Net income before income taxes.....	13.7	14.9	15.1	17.0	14.5
Number of firms reporting					
Operating losses.....	1	0	0	0	0
Net losses.....	1	0	0	0	0
Data.....	3	3	3	3	3

1/ Cash-flow is defined as net income or (loss) plus depreciation and amortization.

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

Operations producing shock absorbers.--Aggregate income-and-loss data on shock-absorber operations are presented in table 7. Shock absorber sales of the U.S. producers fell from \$579.8 million in 1985 to \$555.3 million in 1986, representing a decrease of 4.2 percent. Compared with the level of sales in 1986, sales in 1987 declined slightly to \$538.9 million, or by 3.0 percent. Overall, there was a decrease of 7.1 percent in net sales from 1985 to 1987. During the interim period ended June 30, 1988, aggregate net sales totaled \$343.1 million, up 8.3 percent from net sales of \$316.9 million reported during interim 1987.

Operating income increased in 1986 to \$83.9 million, up 18.5 percent from the \$70.8 million reported for 1985. There was a decline, however, in the 1987 accounting year, with income of \$78.9 million, or a decrease of 5.9 percent from 1986 but, nevertheless, a level 11.5 percent greater than that attained in 1985. The operating margins during 1985-87 were 12.2 percent, 15.1 percent, and 14.6 percent, respectively. One firm experienced an operating loss in 1985 and was profitable thereafter. Operating income increased slightly during interim 1988, up 1.7 percent to \$40.9 million from \$40.2 million reported during interim 1987. The operating margins for the 1987 and 1988 interim periods were 12.7 percent and 11.9 percent, respectively. No firm reported an operating loss in either of the interim periods.

Table 7

Income-and-loss experience of U.S. producers on their operations producing shock absorbers, accounting years 1985-87 and interim periods ended June 30, 1987, and June 30, 1988

Item	1985	1986	1987	Interim period ended June 30--	
				1987	1988
Value (1,000 dollars)					
Net sales.....	579,811	555,313	538,882	316,867	343,119
Cost of goods sold.....	399,292	367,763	347,739	214,333	237,812
Gross profit.....	180,519	187,550	191,143	102,534	105,307
General, selling, and administrative expenses.....	109,753	103,692	112,272	62,338	64,443
Operating income.....	70,766	83,858	78,871	40,196	40,864
Share of net sales (percent)					
Cost of goods sold.....	68.9	66.2	64.5	67.6	69.3
Gross profit	31.1	33.8	35.5	32.4	30.7
General, selling, and administrative expenses....	18.9	18.7	20.8	19.7	18.8
Operating income.....	12.2	15.1	14.6	12.7	11.9
Unit value (dollars per unit)					
Net sales.....	\$6.97	\$7.08	\$7.39	\$7.03	\$7.69
Cost of goods sold.....	4.80	4.69	4.77	4.75	5.33
Gross profit.....	2.17	2.39	2.62	1/ 2.27	2.36
General, selling, and administrative expenses.....	1.32	1.32	1.54	1.38	1.44
Operating income.....	.85	1.07	1.08	.89	.92
Number of firms reporting					
Operating losses.....	1	0	0	0	0
Data.....	3	3	3	3	3

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

The profitability of each producer of shock absorbers is shown in the following tabulation (in thousands of dollars except where noted):

<u>Item</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>Interim period ended June 30--</u>	
	<u>1987</u>	<u>1988</u>			
Net sales:					
Monroe.....	***	***	***	***	***
Maremont.....	***	***	***	***	***
Delco.....	***	***	***	***	***
Total.....	579,811	555,313	538,882	316,867	343,119
Operating income or (loss):					
Monroe.....	***	***	***	***	***
Maremont.....	***	***	***	***	***
Delco.....	***	***	***	***	***
Total.....	70,766	83,858	78,871	40,196	40,864
Operating income or (loss) as a percent of sales:					
Monroe.....	***	***	***	***	***
Maremont.....	***	***	***	***	***
Delco.....	***	***	***	***	***
Weighted-average.....	12.2	15.1	14.6	12.7	11.9

The *** of general, selling, and administrative (GS&A) expenses of the petitioner are related to marketing shock absorbers for the replacement market. The MacPherson strut is a somewhat recent innovation and during the period of investigation had less significance in the replacement market than did shock absorbers. The petitioner's marketing expense is detailed for shock absorbers and struts for both the aftermarket and original equipment manufacturers (OEM) segments in the following tabulation (in thousands of dollars except where noted):

	<u>Shock absorbers</u>		<u>Struts</u>	
	<u>Aftermarket</u>	<u>OEM</u>	<u>Aftermarket</u>	<u>OEM</u>
Petitioner's marketing expense:				
1985.....	***	***	***	***
1986.....	***	***	***	***
1987.....	***	***	***	***
Total.....	***	***	***	***
Percent of GS&A (1985-87).....				
	***	***	***	***

An automobile replacement parts industry survey in 1987 1/ projected a moderate and steady growth for this industry.

"...General Motors has estimated sales growth of automotive aftermarket parts at 2.5%-3% over the next few years, excluding the effects of inflation. MEMA has estimated that the number of vehicles in use would rise at an average compound rate of 3.3% through 1990, which should benefit replacement parts makers..."

...The replacement parts business should maintain its moderate, long-range demand growth trend, and its superior stability relative to the automotive original equipment field is virtually assured. Sales will be aided by the expanding car and truck population, stepped-up automotive inspections by states, a price structure that should at least offset inflationary impacts, and the constantly growing complexity of motor vehicles..."

Approximately *** percent of the petitioner's shock absorber shipments and *** percent of its strut shipments in 1987 were to the replacement market. On the other hand, an official 2/ of Delco indicated that practically all of its marketing is directed to the original equipment manufacturers and, thus, the shock absorber aftermarket is not significant for it. According to this same official, the imported product is competing primarily in the replacement market with little, or no, effect on its profitability.

Operations producing MacPherson struts.--Aggregate income-and-loss data on strut operations (for all producers except Ford) are presented in table 8. Strut sales of the U.S. producers increased from \$272.8 million in 1985 to \$369.5 million in 1986, representing an increase of 35.4 percent. Compared with the level of sales in 1986, sales in 1987 increased by 6.4 percent to \$393.0 million. Overall, there was a substantial increase of 44.0 percent in net sales from 1985 to 1987. During the interim period ended June 30, 1988, aggregate net sales totaled \$342.3 million, up 9.8 percent from net sales of \$311.8 million reported during interim 1987.

Operating income increased in 1986 to \$60.4 million, up 43.7 percent from the \$42.1 million reported for 1985. There was a decline, however, in the 1987 accounting year with income of \$57.4 million, or a decrease of 5.1 percent from 1986 but, nevertheless, up 36.3 percent from 1985. The operating margins during 1985-87 were 15.4 percent, 16.4 percent, and 14.6 percent, respectively. No operating losses on strut operations were experienced by the U.S. producers during the period of investigation. Operating income fell to \$60.7 million during interim 1988, down 3.3 percent from the \$62.8 million reported during interim 1987. The operating margins for the 1987 and 1988 interim periods were 20.1 percent and 17.7 percent, respectively. No firm reported an operating loss in either of the interim periods.

1/ Standard & Poor's Industry Surveys, Automobile Industry, Nov. 19, 1987.

2/ ***.

Table 8

Income-and-loss experience of U.S. producers on their operations producing MacPherson struts, accounting years 1985-87 and interim periods ended June 30, 1987, and June 30, 1988

Item	1985	1986	1987	Interim period ended June 30--	
				1987	1988
Value (1,000 dollars)					
Net sales.....	272,812	369,495	392,960	311,767	342,315
Cost of goods sold.....	207,027	280,615	306,481	232,481	262,119
Gross profit or (loss).....	65,785	88,880	86,479	79,286	80,196
General, selling, and administrative expenses.....	23,716	28,433	29,119	16,494	19,489
Operating income or (loss).....	42,069	60,447	57,360	62,792	60,707
Share of net sales (percent)					
Cost of goods sold.....	75.9	75.9	78.0	74.6	76.6
Gross profit	24.1	24.1	22.0	25.4	23.4
General, selling, and administrative expenses....	8.7	7.7	7.4	5.3	5.7
Operating income or (loss)...	15.4	16.4	14.6	20.1	17.7
Unit value (dollars per unit)					
Net sales.....	\$20.09	\$23.00	\$25.04	\$30.04	\$28.17
Cost of goods sold.....	15.24	17.47	19.53	22.40	21.57
Gross profit or (loss).....	1/ 4.84	5.53	5.51	7.64	6.60
General, selling, and administrative expenses.....	1.75	1.77	1.86	1.59	1.60
Operating income or (loss).....	1/ 3.10	3.76	3.65	6.05	5.00
Number of firms reporting					
Operating losses.....	0	0	0	0	0
Data.....	3	3	3	3	3

1/ Numbers do not foot due to rounding.

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

Selected financial data for the strut operations of Ford Motor Company, which did not have shock-absorber operations during the period of investigation, are shown below with the aggregate strut data of producers with both shock-absorber and strut operations during the period (in thousands of dollars):

<u>Item</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>Interim period ended June 30--</u>	
				<u>1987</u>	<u>1988</u>
Strut net sales:					
Combination producers.....	272,812	369,495	392,960	311,767	342,315
Ford Motor Co.....	***	***	***	***	***
Total.....	***	***	***	***	***
Operating income or (loss):					
Combination producers.....	42,069	60,447	57,360	62,792	60,707
Ford Motor Co.....	***	***	***	***	***
Total.....	***	***	***	***	***
Operating income or (loss) as a percent of sales:					
Combination producers....	15.4	16.4	14.6	20.1	17.7
Ford Motor Co.....	***	***	***	***	***
Weighted-average.....	***	***	***	***	***

Complete income-and-loss data on Ford Motor Company's strut operations are shown in appendix C.

Value of plant, property, and equipment--The data provided by the producers on their end-of-period investment in productive facilities in which shock absorbers and struts are produced are shown in the following tabulation (in thousands of dollars):

<u>Item</u>	<u>As of end of accounting year--</u>			<u>As of June 30--</u>	
	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1987</u>	<u>1988</u>
All products of establishments:					
Original cost.....	479,844	429,131	515,960	495,123	547,310
Book value.....	207,429	216,189	253,152	237,447	260,244
Shock absorbers:					
Original cost.....	208,209	178,605	197,982	194,702	207,232
Book value.....	81,430	95,974	92,671	93,933	91,564
Struts:					
Original cost.....	154,237	185,543	208,797	191,029	232,682
Book value.....	97,931	96,499	130,835	114,034	142,903

Capital expenditures.--The data provided by the producers relative to their capital expenditures for land, buildings, and machinery and equipment used in the production of shock absorbers and struts are shown in the following tabulation (in thousands of dollars):

<u>Item</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>Interim period ended June 30--</u>	
				<u>1987</u>	<u>1988</u>
All products of establishments:					
Land and land improvements...	603	631	502	403	67
Buildings and leasehold improvements.....	2,289	2,579	2,415	1,572	1,783
Machinery, equipment, and fixtures.....	30,221	35,369	43,069	22,594	14,635
Total.....	33,113	38,579	45,986	24,569	16,485
Shock absorbers:					
Land and land improvements...	124	127	127	78	27
Buildings and leasehold improvements.....	593	687	689	352	632
Machinery, equipment, and fixtures.....	7,579	7,676	7,012	3,955	3,376
Total.....	8,296	8,490	7,828	4,385	4,035
Struts:					
Land and land improvements...	342	359	279	231	35
Buildings and leasehold improvements.....	1,231	1,396	1,400	911	1,060
Machinery, equipment, and fixtures.....	18,398	23,166	33,081	15,410	9,431
Total.....	19,971	24,921	34,760	16,552	10,526

Research and development expenses.--Research and development expenses for shock absorbers and struts are shown in the following tabulation (in thousands of dollars):

<u>Item</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>Interim period ended June 30--</u>	
				<u>1987</u>	<u>1988</u>
Shock absorbers.....	15,836	13,210	17,051	8,771	7,481
Struts.....	28,212	22,468	26,161	17,789	14,887

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/--

(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,

(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,

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."

(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product. 1/

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 information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in the section entitled "Consideration of alleged material injury to an industry in the United States." Available information on U.S. inventories of the subject product (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), (VIII) and (IX) above); any other threat indicators, if applicable (item (VII) above), follows.

The shock absorber industry in Brazil

There are three producers of shock absorbers in Brazil: Companhia Fabricadora de Pecas (Cofap S.A.), Nakata S.A. Industria & Commercio (Nakata), and Monroe Auto Pecas S.A. (Monroe Brazil). All three firms produce MacPherson struts as well.

Cofap S.A., headquartered in Sao Paulo, Brazil, is Brazil's largest automotive parts manufacturer. In 1987, Cofap accounted for nearly *** percent of shock-absorber and *** percent of MacPherson-strut sales in the Brazilian domestic market. Additionally, Cofap S.A. is the largest Brazilian exporter of shock absorbers and struts to the U.S. market. In 1987, Cofap S.A. accounted for more than *** percent of shock-absorber and *** strut exports from Brazil to the United States. The major portion of Cofap's exports to the United States goes to the aftermarket, but recently, with sales to Chrysler, it has begun to participate in the OE market. In addition to

1/ Section 771(7)(F)(iii) of the Act (19 U.S.C. (1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry." There are presently no dumping findings or antidumping remedies in other GATT member markets against shock absorbers from Brazil.

shock absorbers, Cofap S.A. produces piston rings, gas springs, cylinder sleeves, piston and liner assemblies, camshafts, engine blocks, cylinder heads, castings, sintered parts, polyurethanes, and automotive exhaust systems.

Nakata, located in Sao Paulo, had domestic sales of *** shock absorbers (including struts) in 1987. In addition to its sales in the domestic market, Nakata sold *** shock absorbers in the export markets with *** of those units going to the United States. As noted earlier, petitioner stated in the petition that it has "no reason to believe that Nakata is selling shock absorbers at LTFV in the U.S. market at this time". 1/

Monroe Brazil, also headquartered in Sao Paulo, is a wholly owned subsidiary of Monroe that produces both shock absorbers and MacPherson struts. Monroe Brazil is the second largest producer in Brazil and accounted for *** percent of Brazilian shock-absorber sales and *** percent of strut sales in 1987. Monroe Brazil's shock-absorber and strut exports to the U.S. market are quite limited, with most of its exports going to the Latin American market.

Information on production, capacity, 2/ and capacity utilization of these companies in Brazil is presented in table 9. 3/ The combined capacity for the companies grew from *** million units in 1985 to *** million units in 1987. January-June 1988 capacity figures stood at *** million units compared with *** million units for January-June 1987. Production increased from *** million units in 1985 to *** million units in 1987. Production in January-June 1988 increased to *** million units compared with *** million units in January-June 1987. Capacity utilization increased from 95.0 percent in 1985 to 97.3 percent in 1986, then declined to 95.3 percent in 1987. Capacity utilization declined to 90.0 percent in January-June 1988 compared with 94.0 percent in the corresponding period of 1987. ***.

1/ Petition at p. 16.

2/ In the petition and at the staff conference, Monroe made note of magazine articles and a Cofap of America advertisement indicating that Cofap S.A. has recently completed a new production facility in Lavras, Minas Gerais, Brazil, which allegedly will be able to produce an additional 7.5 million units per year. Monroe believes that approximately 70 percent of this capacity is intended for shock absorber production. (Petition at p. 39 and app. C.) At the staff conference, Mr. Fernand Setton, Executive Vice-President of Operations at Cofap S.A. and President of Cofap of America, stated that the new facility is to replace, rather than add to, its current facility, which is to be used for other facets of Cofap S.A.'s automotive parts operations. Mr. Setton stated that the new facility will increase its current shock absorber capacity "only slightly." (Transcript at pp. 130-31.)

3/ Counsel for both Monroe and Cofap S.A., as well as the Department of State cablegram concerning Nakata provided capacity information only on an aggregate basis rather than separating it for shock absorbers and MacPherson struts. Thus, the capacity, production, and capacity utilization data in table 9 are presented on an aggregated basis.

Table 9

Shock absorbers and MacPherson struts: Production, capacity, and capacity utilization of Brazilian producers, aggregated, 1985-87, January-June 1987, and January-June 1988

Item and source	1985	1986	1987	January-June				
				1987	1988			
Quantity (1,000 units)								
Shock absorbers and MacPherson struts:								
Production:								
Cofap.....	***	***	***	***	***			
Monroe Brazil.....	***	***	***	***	***			
Nakata.....	***	***	***	***	***			
Total.....	***	***	***	***	***			
Capacity:								
Cofap.....	***	***	***	***	***			
Monroe Brazil.....	***	***	***	***	***			
Nakata.....	***	***	***	***	***			
Total.....	***	***	***	***	***			
Percent								
Capacity utilization:								
Cofap.....	***	***	***	***	***			
Monroe Brazil.....	***	***	***	***	***			
Nakata.....	***	***	***	***	***			
Average.....	95.0	97.3	95.3	94.0	90.0			

Source: Compiled from data submitted by counsel for Cofap S.A. and Monroe and Department of State cablegram.

As noted earlier, Cofap S.A. is moving to a new production facility. In its posthearing submission, Cofap S.A. projects it will have total capacity of *** million units for automobile shocks (including MacPherson struts) plus a line for miscellaneous production, mostly special pieces, samples, and developmental work. Additionally, Cofap S.A. stated that according to its 3-year production plan, the entire programmed increase in production is already allocated to various markets, and it has neither the intention nor the capability to penetrate the U.S. market to a level of more than 1 or 2 percent. 1/

Monroe Brazil indicated it had no plans for big changes in its production capacity or domestic sales in the near future, hoping to make whatever improvements it could in productivity in order to raise capacity. Nakata's response to the Commission's inquiry gave no indications of its plans.

The Brazilian producers also provided information on their shipments and inventories of shock absorbers and MacPherson struts. This information, which is presented in table 10, shows that shipments of shock absorbers in Brazil increased by 27.4 percent from 1985 to 1986, then declined by 13.0 percent in 1987. Shipments in Brazil decreased by 6.4 percent in January-June 1988 compared with those in January-June 1987. Shipments of shock absorbers to the

1/ Posthearing brief on behalf of Cofap S.A. and Cofap of America at pp. 13-14.

Table 10

Shock absorbers and MacPherson struts: Shipments and inventories of Brazilian producers, 1985-87, January-June 1987, and January-June 1988

<u>Item and source</u>	(In thousands of units)					<u>January-June</u>	
	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1987</u>	<u>1988</u>		
Shock absorbers:							
Shipments in Brazil:	*	*	*	*	*	*	*
Shipments to the U.S.:	*	*	*	*	*	*	*
Shipments to other countries:	*	*	*	*	*	*	*
End-of-period inventories:	*	*	*	*	*	*	*
MacPherson struts:							
Shipments in Brazil:	*	*	*	*	*	*	*
Shipments to the U.S.:	*	*	*	*	*	*	*
Shipments to other countries:	*	*	*	*	*	*	*
End-of-period inventories:	*	*	*	*	*	*	*

Source: Compiled from data submitted by counsel for Cofap S.A. and Monroe and Department of State cablegram.

United States dropped by 3.3 percent from 1985 to 1986, then rose by 72.8 percent in 1987. Shipments to the United States increased by 10.3 percent in January-June 1988 compared with those in the corresponding period of 1987. Shipments to the United States accounted for 6.0 percent of total shock absorber shipments by Brazilian producers in 1987. Yearend inventories of shock absorbers in Brazil dropped by 61 percent from 1985 to 1986, then increased by 97 percent in 1987. End-of-period inventories were 21 percent higher at the end of June 1988 compared with the end of June 1987. The ratio of inventories to shipments ranged from approximately 2 to 7 percent.

Shipments of MacPherson struts in Brazil increased 10.6 percent from 1985 to 1987, then increased by 34.9 percent during January-June 1988 compared with January-June 1987. Shipments of struts to the United States stayed at relatively low levels from 1985 through January-June 1988, ranging between 1 and 2 percent of total producer shipments. The ratio of end-of-period inventories to total shipments of struts ranged from 2 to 6 percent during the period of investigation.

U.S. inventories of shock absorbers and MacPherson struts from Brazil

U.S. importers of shock absorbers and MacPherson struts from Brazil reported that the following inventories were being held in the United States (in thousands of units):

<u>Item and period</u>	<u>End-of-period inventories</u>
Shock absorbers:	
1985.....	***
1986.....	***
1987.....	***
June:	
1987.....	***
1988.....	***
MacPherson struts:	
1985.....	***
1986.....	***
1987.....	***
June:	
1987.....	***
1988.....	***

U.S. importers' inventories of shock absorbers from Brazil were 19.6 percent lower at the end of 1987 than they were at the end of 1985. At the end of June 1988, they were 17.8 percent higher than at the end of June 1987. Inventories of MacPherson struts remained at essentially the same level during the period of investigation. ***.

Consideration of the Causal Relationship Between Imports of the
Subject Merchandise and the Alleged Injury

U.S. imports

U.S. imports of the shock absorbers covered by this investigation are provided for in TSUSA item 692.3282. In addition to shock absorbers, this tariff classification includes MacPherson struts, engine dampers, steering dampers, and dampers for exercise machines, among other items. Thus, for purposes of this report, data on U.S. imports and U.S. shipments of imports were compiled from responses to the Commission questionnaire. With regard to Brazil, the information may be understated to the extent that some firms that import directly from Cofap S.A., rather than through Cofap of America, did not respond to the Commission questionnaire. However, staff believe the data reported do account for the large majority of imports from Brazil. Like imports from Brazil, import and shipment data on Canada, Japan, West Germany, and all other countries may be understated to the extent that not all importers responded to the Commission questionnaire.

Total imports of shock absorbers from all countries declined by 19.3 percent from 1985 to 1986, then increased by 2.7 percent in 1987. Total imports increased by 34.3 percent in January-June 1988 compared with the corresponding period of 1987 (table 11). Japan and West Germany were generally the largest suppliers of imported shock absorbers during the period of investigation.

Brazil accounted for 11.3 percent of total shock absorber imports in 1985, 13.1 percent in 1986, and 13.4 percent in 1987. In January-June 1988, Brazil held a 17.7 percent share of total imports compared with 3.7 percent in January-June 1987.

For MacPherson struts, total imports from all sources rose 32.4 percent from 1985 to 1986, then dropped by 4.9 percent in 1987. Total strut imports for January-June 1988 were up 52.0 percent over the comparable period of 1987. Japan and West Germany were generally the largest suppliers of imported MacPherson struts for the period of investigation. Imports from Brazil, as a share of total strut imports, did not exceed *** percent in any of the reporting periods.

Table 11

Shock absorbers and MacPherson struts: U.S. imports, by principal sources, 1985-87, January-June 1987, and January-June 1988

Item and source	1985	1986	1987	January-June--				
				1987	1988			
Quantity (1,000 units)								
Shock absorbers:								
Imported from:								
Brazil.....	436	405	427	48	307			
Canada.....	745	324	728	340	272			
Japan.....	1,132	805	902	447	410			
West Germany.....	734	764	538	229	250			
All other countries....	798	803	589	229	497			
Total.....	3,845	3,101	3,184	1,293	1,736			
MacPherson struts:								
Imported from:								
Brazil.....	***	***	***	***	***			
Canada.....	***	***	***	***	***			
Japan.....	428	664	954	418	440			
West Germany.....	798	992	300	151	123			
All other countries....	414	537	812	76	419			
Total.....	1,669	2,209	2,100	657	999			
Value (1,000 dollars) 1/								
Shock absorbers:								
Imported from:								
Brazil.....	2,024	2,077	1,843	230	1,344			
Canada.....	5,239	2,492	5,708	2,701	2,235			
Japan.....	10,186	9,392	10,243	5,044	5,313			
West Germany.....	8,896	12,007	10,593	4,978	4,601			
All other countries....	8,321	10,902	8,861	4,075	7,296			
Total.....	34,666	36,870	37,248	17,028	20,789			
MacPherson struts:								
Imported from:								
Brazil.....	***	***	***	***	***			
Canada.....	***	***	***	***	***			
Japan.....	7,976	11,088	13,755	6,817	8,772			
West Germany.....	8,927	11,850	4,483	2,265	1,788			
All other countries....	5,439	8,467	13,319	1,261	7,548			
Total.....	22,550	31,521	31,868	10,442	18,233			

Table continued on next page

Table 11--continued

Shock absorbers and MacPherson struts: U.S. imports, by principal sources, 1985-87, January-June 1987, and January-June 1988

Item and source	1985	1986	1987	January-June--				
				1987	1988			
Unit value								
Shock absorbers:								
Imported from:								
Brazil.....	\$ 4.64	\$ 5.12	\$ 4.31	\$ 4.79	\$ 4.37			
Canada.....	7.03	7.69	7.84	7.94	8.22			
Japan.....	9.00	11.67	11.36	11.28	12.96			
West Germany.....	12.12	15.72	19.69	21.74	18.40			
All other countries....	10.42	13.57	15.04	17.79	14.68			
Average.....	9.02	11.89	11.70	13.17	11.98			
MacPherson struts:								
Imported from:								
Brazil.....	\$ ***	\$ ***	\$ ***	\$ ***	\$ ***			
Canada.....	***	***	***	***	***			
Japan.....	18.64	16.70	14.42	16.31	19.94			
West Germany.....	11.19	11.95	14.94	15.00	14.54			
All other countries....	13.14	15.77	16.40	16.59	18.01			
Average.....	13.51	14.27	15.18	15.89	18.25			

1/ Values reported are c.i.f., duty-paid.

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

Market shares

Market penetration of imports of shock absorbers from all sources, based on quantity, increased from 4.0 percent of consumption in 1985 to 4.3 percent in 1987. Imports from all sources increased from 3.0 percent of consumption in January-June 1987 to 3.9 percent of consumption in January-June 1988. On the basis of value, imports from all countries increased from 6.1 percent of consumption in 1985 to 8.8 percent in 1987, then dropped to 7.1 percent in January-June 1988 compared with 8.1 percent in the corresponding period of 1987 (table 12).

Shock-absorber imports from Brazil increased their share of the U.S. market, based on quantity, from 0.2 percent in 1985 to 0.6 percent in 1987. Their share of the market stood at 0.6 percent in January-June 1988 compared with 0.2 percent in the corresponding period of 1987. On a value basis, imports from Brazil rose from 0.1 percent of consumption in 1985 to 0.4 percent in 1987. In January-June 1988, the Brazilian imports' market share was 0.4 percent compared with 0.2 percent in the same period of 1987.

For MacPherson struts, imports from all sources dropped from 8.2 percent of consumption in 1985 to 7.9 percent in 1986, then increased to 8.4 percent in 1987. Imports from all sources increased to 6.5 percent of consumption in January-June 1988 compared with 3.9 percent for the comparable period of 1987. On a value basis, imports from all sources rose from 5.5 percent to 6.8 percent from 1985 to 1987. Imports in January-June 1988 accounted for 5.1 percent of consumption compared with 3.2 percent in January-June 1987.

MacPherson-strut imports from Brazil held steady at *** percent of the market throughout the period of investigation. On the basis of value, strut imports from Brazil accounted for *** percent of the market in 1987. For the other reporting periods, they accounted for less than *** percent.

Table 12
 Shock absorbers and MacPherson struts: Market penetration, 1/ by principal sources, 1985-87, January-June 1987, and January-June 1988

Item and source	(In percent)				<u>January-June-</u> <u>1987</u>
	1985	1986	1987	1988	
(Based on quantity)					
Shock absorbers:					
U.S. produced.....	96.0	96.1	95.7	97.0	96.1
Imported from--					
Brazil.....	0.2	0.5	0.6	0.2	0.6
Canada.....	0.7	0.5	0.8	0.7	0.6
Japan.....	1.3	1.1	1.2	0.9	0.9
West Germany.....	0.9	0.8	0.8	0.6	0.7
All other countries...	0.9	1.0	0.8	0.5	1.1
Subtotal.....	4.0	3.9	4.3	3.0	3.9
Total apparent consumption.....	100.0	100.0	100.0	100.0	100.0
MacPherson struts:					
U.S. produced.....	91.8	92.1	91.6	96.1	93.5
Imported from--					
Brazil.....	***	***	***	***	***
Canada.....	***	***	***	***	***
Japan.....	2.4	2.9	3.9	2.7	2.6
West Germany.....	2.9	2.4	1.2	0.8	0.8
All other countries...	2.7	2.4	3.2	0.4	3.0
Subtotal.....	8.2	7.9	8.4	3.9	6.5
Total apparent consumption.....	100.0	100.0	100.0	100.0	100.0
(Based on value)					
Shock absorbers:					
U.S. produced.....	93.9	92.9	91.2	91.9	92.9
Imported from--					
Brazil.....	0.1	0.4	0.4	0.2	0.4
Canada.....	0.5	0.6	1.1	0.9	0.8
Japan.....	2.5	2.5	2.6	2.1	2.2
West Germany.....	1.6	1.7	1.9	3.7	1.7
All other countries...	1.4	1.9	2.8	1.1	2.0
Subtotal.....	6.1	7.1	8.8	8.1	7.1
Total apparent consumption.....	100.0	100.0	100.0	100.0	100.0
MacPherson struts:					
U.S. produced.....	94.5	93.6	93.2	96.8	94.9
Imported from--					
Brazil.....	***	***	***	***	***
Canada.....	***	***	***	***	***
Japan.....	2.8	2.9	3.5	2.2	2.4
West Germany.....	0.6	1.6	0.8	0.5	0.6
All other countries...	2.0	1.8	2.3	0.4	2.1
Subtotal.....	5.5	6.4	6.8	3.2	5.1
Total apparent consumption.....	100.0	100.0	100.0	100.0	100.0

1/ Market penetration calculations are based on producer and importer shipments. Values used are f.o.b. point-of-shipment.

2/ Less than 0.05 percent.

Note.--Numbers may not add to totals due to rounding.

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

Prices

Shock absorbers and struts are manufactured by the same U.S. and Brazilian producers. They are used in suspension systems of automobiles and are sold through the same channels of distribution. Prices for shock absorbers and struts are determined by several factors: physical characteristics, technological improvements, marketing differences, and vehicle application.

Shocks are priced differently according to size. The industry has been producing larger, typically more expensive, shock absorbers. The price for shock absorbers generally increases as the bore size, the piston diameter, and the reserve tube become larger. There is only one sized strut for each car application due to their integral function in a car suspension system. Shock absorbers and struts are also priced higher if features such as springs or rubber boots are added to the product.

Technological improvements have also increased prices. Gas-charged shock absorbers and struts have improved the performance and durability of these products and are more expensive than conventional hydraulic shock absorbers and struts. Struts are manufactured for vehicles with MacPherson suspension systems and are significantly more expensive than conventional shock absorbers. At the conference, respondents stated that although shock absorbers cannot be substituted for struts, it is also true that some types of shock absorbers cannot be substituted for other shock absorbers for specific car applications.

Shock absorbers and struts that are marketed and sold with a brand name, e.g., Monroe-matic, Gabriel, are more expensive than those sold with a private label (nonbranded), e.g., K-Mart, Sears, Wards, etc. The physical differences between the branded product and nonbranded product are minor, except for the labeling and packaging. Monroe estimates that its branded product is approximately 30 percent more expensive than its nonbranded product. Shock absorbers are also priced differently according to whether the application is for a car or truck, whereas struts are priced differently by car application depending on the specific construction of the suspension system.

Shock absorbers and struts are sold on a per unit basis to two distinct markets in the United States: the original equipment manufacturer (OEM) market, i.e., Chrysler, Ford, and General Motors (GM); and the replacement market (aftermarket). In each market, U.S. producers and importers use distinct sales practices and offer a different price structure for shock absorbers and struts. OEMs purchase these products via a bidding process and are able to extract lower prices for their purchases than those offered in the aftermarket. OEMs purchase shock absorbers and struts on an f.o.b. plant or warehouse basis, whereas these products are sold on a delivered basis to the aftermarket. Furthermore, different size shock absorbers are sold to each market. Shocks with a 1-inch bore size are sold to the OEMs, whereas those with a 1-3/16-inch and larger bore size are sold in the aftermarket. U.S. producers and importers of the Brazilian shock absorber do not sell this

type of shock absorber in the aftermarket. 1/ The petitioner, Monroe, stated at the conference that there was no relationship between OEM pricing and aftermarket pricing primarily because of the buying power of the OEMs. 2/

Demand for shock absorbers and struts in the OEM market is derived from the demand for U.S.-produced automobiles. The demand for shock absorbers by OEMs has been declining as production of suspension systems that contain struts has increased. Demand for shock absorbers and struts in the aftermarket is directly related to the need to replace damaged/worn shock absorbers and struts, but also depends upon the consumer's (car-owner) perception of improving ride-control characteristics. As such, several factors determine sales in the aftermarket: the type and age of the vehicle and shock absorber or strut in use, miles traveled, road conditions, driving habits, technological factors, and economic factors (e.g., new car prices, disposable income, inflation).

Sales practices to OEMs.--In 1987, 41 percent of U.S. domestic shipments of shock absorbers and 72 percent of struts were sold to OEMs for use in automobiles. The big three, General Motors, Ford, and Chrysler, accounted for approximately 91 percent of OEM shock-absorber and strut purchases. 3/ OEMs usually purchase shock absorbers and struts on an as-needed basis pursuant to annual or multiyear contracts. Typically, the contracts cover the expected life of the model automobile or truck. As a result of their purchasing size, OEMs command the negotiations for shock absorbers and struts. They often set design requirements and specifications for the shock absorber and strut product, require potential suppliers to meet specific quality and technology standards, establish delivery and supply reliability standards, and insist on a low price.

The bid process generally begins 20 to 30 months prior to production of a new model, although Monroe reports that it has seen the initiation of a bid process as short as 6 months prior to car production. If a new product or a variation of an existing product is being designed by the OEM, typically a prototype is requested from one or more potential suppliers. After the design is established, a request for quotes (RFQ) is sent to potential vendors. Generally, the vendors are already qualified by the OEM, but occasionally non-qualified vendors are asked to bid to determine alternative pricing possibilities. The OEMs generally work with nonqualified vendors to assist them in becoming qualified.

The RFQ includes a set of specifications and criteria for the shock absorbers and struts. This may include design goals and objectives, styling requirements, performance and material standards, warranty goals, statistical process controls, and volume goals. The vendor is requested to supply delivery schedules and may also be required to supply specific production costs (e.g. labor, material, packaging). U.S. producers and importers report that after the bids are received, OEMs make their selection based on the following factors: quality, engineering support, logistic costs, price, delivery, manufacturing technology, and communications. Although the bids are made on individual part numbers, OEMs generally award a group of parts to

1/ ***.

2/ Conference transcript, p. 57.

3/ ***.

one supplier corresponding to a specific platform (model of car) or a specific plant. The bidding process is closed and suppliers are usually not allowed to make a second bid. ***. 1/

The terms of the contract for the winning vendor specify general release times for the product and the price per unit. ***. ***. ***.

There are primarily three types of bidding situations between OEMs and shock absorber and strut producers: the market test, presourcing, and a theme variation.

Market test.--In a market test, the OEM sends out RFQs for a specified percentage of its business. The primary reason for a market test is to determine whether the OEM is getting the best possible deal. Typically, this practice begins 2 years in advance of the car application when RFQs are sent to potential vendors. ***. ***.

Presourcing.--Recently, OEMs have started to presource new technology shock absorbers and struts in an attempt to lower design costs. In a presourcing practice, the shock producer provides a significant investment in the research and development of a new product. In return, the OEM assures that the supplier will recover its investment. Often, the supplier initiates OEM interest by showing a prototype of the product. ***. ***. ***. 2/

Theme variation.--In this practice, a slight change of an existing product is required by the OEM. Typically, only the current supplier is requested to develop the prototype for this new product variation. After a prototype is produced and tested, an RFQ is sent to either the supplier of the prototype or to the supplier as well as five or six other vendors as a market test. In general, the supplier of the previous product receives the contract for the new product.

Bid competition.--U.S. producers and importers of shock absorbers were requested to provide information on the three largest winning bids and the three largest losing bids submitted by the firms between January 1986 and June 1988 that involved competition between U.S. and Brazilian suppliers (table 13). U.S. automobile producers were requested to provide information on the three largest shock part numbers awarded to domestic and Brazilian suppliers. ***.

Chrysler.--

* * * * *

General Motors.--

* * * * *

1/ ***.

2/ ***.

Table 13

Table 15
Shock absorbers: Bid information on selected OEM projects that involved competition between U.S. and Brazilian shock absorber producers, January 1986-June 1988

OEM and shock absorber model	Number of shocks (000's)	Bidding firm	Country of origin	High bid/ low bid	Bid (\$/unit)	Winner
------------------------------	-----------------------------	--------------	-------------------	----------------------	---------------	--------

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

Sales practices in the aftermarket.--Shock absorbers and struts are sold in the aftermarket primarily to retailers such as Sears and K-Mart, warehouse distributors such as NAPA, and specialty distributors such as muffler shops and tire stores. Each purchaser typically has only one supplier of the full line of shock absorbers and struts. 1/ When purchasers do have more than one supplier, the mix is usually based on technology standards. ***.

In the aftermarket, both branded and nonbranded shock absorbers and struts are sold. The nonbranded product also specifies the manufacturer, e.g., K-Mart's Motivator "manufactured by Monroe," Sears' Steadyrider "from the maker of Gabriel." 2/ Respondents argue that since nonbranded products identify the producer, the product also benefits from name-brand recognition. Cofap states that it competes against the nonbranded domestic shock absorbers in the U.S. market.

Historically, retailers were the primary market for the nonbranded product and distributors were the primary market for the branded product. However, the increasing importance of retailers in the U.S. aftermarket has changed this traditional pattern. Retailers had two major advantages over the distributor. They were selling a lower cost product directly to the consumer, whereas distributors were selling the higher priced branded product and had to go through an additional distribution channel, the jobber, to reach the consumer. The distributors believed that they were becoming uncompetitive and started forming buying groups and purchasing the nonbranded product. In addition, some retailers have also started purchasing branded product for the top-of-the-line shock absorbers to provide a mixed product approach for the consumer, e.g., K-Mart purchases the branded gas-charged Monroe shock and the nonbranded hydraulic Monroe product.

Overall, the trend in the aftermarket has been toward the lower priced nonbranded product. ***. The trend toward the lower priced, nonbranded product in the aftermarket is shown in the tabulation below, compiled from questionnaire data (in percent):

Type	1985	1986	1987
Branded.....	***	***	***
Nonbranded.....	***	***	***

Approximately *** percent of the shock absorbers sold in the aftermarket in 1987 were nonbranded product, whereas *** percent of the shock absorbers sold in 1985 were nonbranded product.

Incentive programs.--U.S. producers and importers of shock absorbers and struts offer a variety of incentive programs to encourage the sales of their product. Such incentives include free shock absorbers, cash, prizes, etc. These programs have been used in conjunction with sales of both shocks and struts or for each product separately. ***. ***. These programs are described in appendix D.

1/ At the conference, William Laughlin, sales manager for Monroe, stated that in his sales area comprising the southwest United States, only 5 to 8 percent of purchasers buy from more than one supplier. Conference transcript, p. 76.

2/ Gabriel is the brand name of the Maremont shock absorber.

Questionnaire price data.--The Commission requested U.S. producers and importers to provide quarterly price data between January 1985 and March 1988 for five shock absorber products sold in the aftermarket. For each product, price data were requested for sales of branded and nonbranded shock absorbers to the largest customer in each quarter. The specified products for which price data were requested are listed below:

Product 1: Entry level hydraulic non-gas-charged shock absorbers, piston size ranging between 1-3/16"-1-1/4", reserve tube diameter ranging between 1.6"-1.8".

Product 2: Entry level gas-charged passenger car shock absorbers, piston size ranging between 1-3/16"-1-1/4", reserve tube diameter ranging between 1.6"-2.0".

Product 3: Premium gas-charged passenger car shock absorbers, piston size ranging between 1-3/16"-1-1/4", reserve tube diameter ranging between 1.8"-2.0".

Product 4: Gas-charged light truck shock absorbers, piston size 1-3/8", reserve tube diameter ranging between 2.25"-2.38".

Product 5: Hydraulic (non-gas-charged) light truck shock absorbers, piston size 1-3/8", reserve tube diameter ranging between 2.25"-2.38".

Three U.S. producers, Delco, Maremont, and Monroe, ***. 1/ The U.S. producers accounted for 100 percent of all reported U.S.-produced domestic shipments of shock absorbers to the aftermarket. Their shipments of these five products accounted for 76.6 percent of the total reported U.S. producers' shipments of shock absorbers to the aftermarket in 1987; product 1 accounted for 21.9 percent and product 3 accounted for 19.8 percent. ***. 2/

Price trends.--In general, prices fluctuated for most products during the period of investigation (table 14). Prices for U.S.-produced branded product 1 and Brazilian-produced branded products 1 and 2 generally fell during 1985-88, although prices increased slightly for U.S.-produced branded and nonbranded product 5 and Brazilian-produced product 4. Prices for U.S.-produced nonbranded product were lower than branded product throughout the period, ***.

1/ ***.

2/ ***.

Table 14

Shock absorbers: Weighted-average net delivered selling prices of products 1-5 reported by U.S. producers and importers of Brazilian shock absorbers, by products, by branded or nonbranded, and by quarters, January 1985-March 1986

Period	(In dollars per unit)									
	Product 1		Product 2		Product 3		Product 4		Product 5	
	U.S.	Brazil	U.S.	Brazil	L.S.	Brazil	U.S.	Brazil	L.S.	Brazil
	Non-	Branded	Non-	Branded	Branded	Non-	Branded	Non-	Branded	Non-
	Branded	Branded	Branded	Branded	Branded	Branded	Branded	Branded	Branded	Branded

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

Price comparisons.--Price comparisons were made between domestic shipments of both the U.S.-produced branded and nonbranded product and the Brazilian-produced branded product. Cofap has argued that it competes with U.S. producers only against their nonbranded shock absorbers. The reported sales information for U.S. producers' and importers' quarterly shipments of the five products to unrelated customers during January 1985 to March 1987 resulted in 32 direct quarterly price comparisons between the weighted-average unit values of the Brazilian shock absorbers and the domestic branded shock absorbers (table 15), and 37 direct quarterly price comparisons with the domestic nonbranded shock absorbers (table 16).

The imports from Brazil were less expensive in all of the 32 price comparisons with the domestic branded product. Margins of underselling during the entire period ranged from 10.5 percent to 51.9 percent. The Brazilian shocks were less expensive in 31 of the 37 price comparisons with the domestic nonbranded shock absorbers. The Brazilian product's price was lower than or equal to the domestic nonbranded price for products 1, 2, and 5, and higher for products 3 and 4. Margins of underselling ranged between 3.2 percent and 37.4 percent. Margins of overselling ranged between 10.9 percent and 41.8 percent.

Table 15

Shock absorbers: Average margins of underselling by the branded imports from Brazil compared with the branded U.S.-produced shock absorbers, by quarters, January 1985-March 1988

(In percent)

Period	Product 1	Product 2	Product 3	Product 4	Product 5
*	*	*	*	*	*

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

Table 16

Shock absorbers: Average margins of underselling (overselling) by the branded imports from Brazil compared with the nonbranded U.S.-produced shock absorbers, by quarters, January 1985-March 1988

(In percent)

Period	Product 1	Product 2	Product 3	Product 4	Product 5
*	*	*	*	*	*

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

Exchange rates

Nominal and real exchange-rate indexes for the U.S. dollar and Brazilian cruzado are presented in table 17. The currency of Brazil depreciated relative to the U.S. dollar by 95.9 percent during January 1985-March 1988. Inflation of 2,901.9 percent in Brazil, compared with a 1.2-percent inflation rate in the United States during this period, resulted in an appreciation of 21.5 percent in the real value of the Brazilian cruzado relative to the U.S. dollar by March 1988.

Table 17

Indexes of the nominal and real exchange rates between the U.S. dollar and the Brazilian cruzado, 1/ and indexes of producer prices in the United States and Brazil, 2/ by quarters, January 1985-March 1988

Period	(January-March 1985=100)			
	Nominal exchange- rate index	Real exchange- rate index	U.S. producer price index	Brazilian producer price index
1985:				
Jan.-Mar....	100.0	100.0	100.0	100.0
Apr.-June...	71.9	91.9	100.1	127.9
July-Sept...	55.4	93.6	99.4	168.0
Oct.-Dec....	41.8	99.4	100.0	237.9
1986:				
Jan.-Mar....	29.6	108.4	98.5	361.0
Apr.-June...	27.2	105.6	96.6	375.2
July-Sept...	27.2	108.0	96.2	382.1
Oct.-Dec....	26.5	110.8	96.5	404.0
1987:				
Jan.-Mar....	20.6	111.0	97.7	525.2
Apr.-June...	12.0	113.6	99.2	937.9
July-Sept...	8.0	107.3	100.3	1354.2
Oct.-Dec....	6.3	115.5	100.8	1857.3
1988:				
Jan.-Mar....	4.1	121.5	101.2	3001.9

1/ Based on exchange rates expressed in U.S. dollars per Brazilian cruzado.

2/ The real exchange rate index is derived from the nominal exchange rates adjusted by the producer price indexes of each country. These indexes are derived from line 63 of the International Financial Statistics.

Source: International Monetary Fund, International Financial Statistics, June 1988.

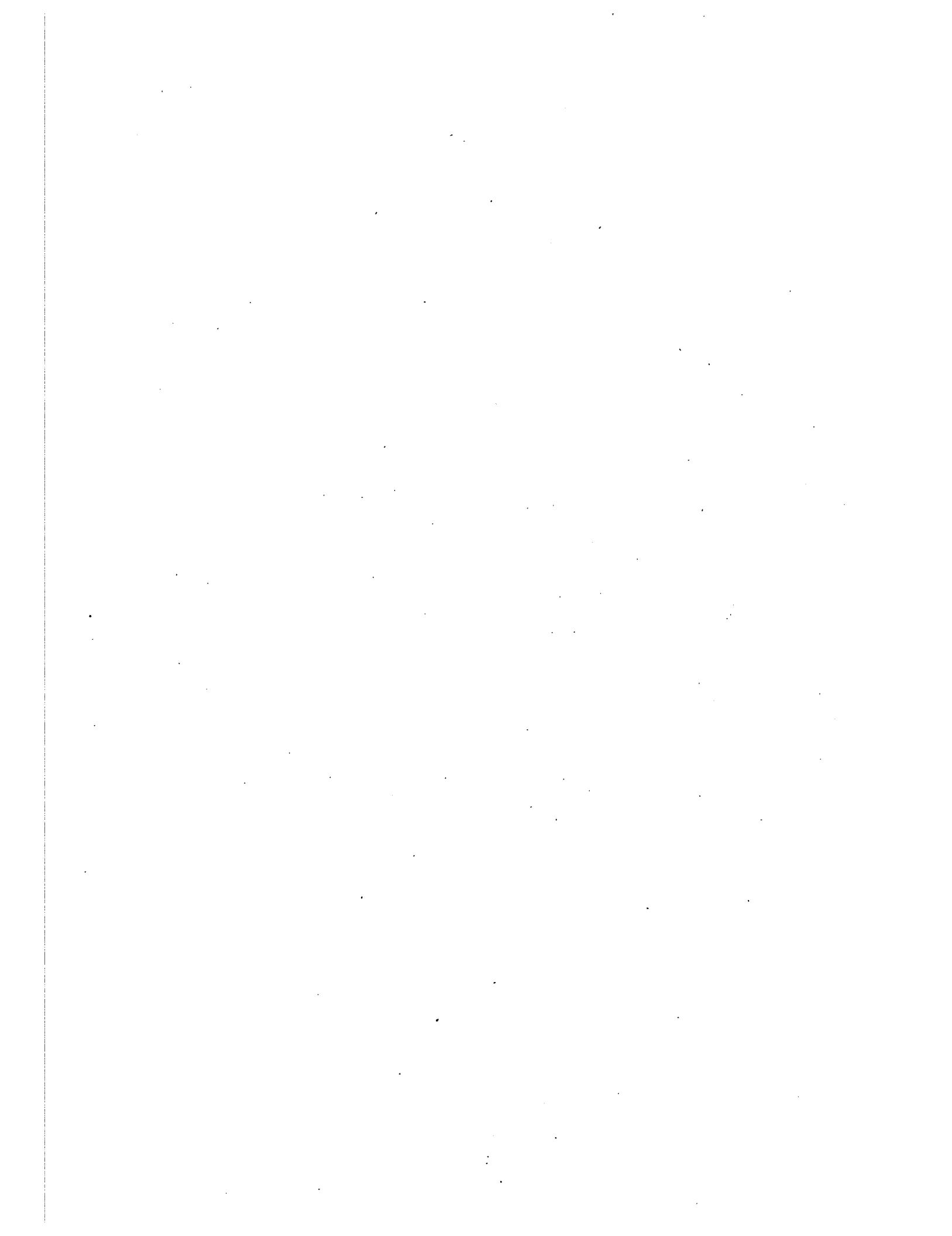
Lost sales/lost revenues

*** allegations of lost sales were supplied to the Commission by ***. ***. Alleged lost sales amounted to *** and alleged lost revenues amounted to ***. Lost sales represented approximately *** percent of U.S. producers' shock absorber sales and *** percent of sales made by the ***, over the period of investigation. Lost revenues represented less than *** percent of sales made by the ***, over the period under investigation. Commission staff contacted 10 of the purchasers cited, accounting for alleged lost sales of ***, approximately 81 percent of all lost sale allegations.

* * * * *

APPENDIX A

**FEDERAL REGISTER NOTICES OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION
AND THE DEPARTMENT OF COMMERCE**



[Investigation No. 731-TA-421
(Preliminary)]

**Shock Absorbers and Parts,
Components, and Subassemblies
Thereof From Brazil**

AGENCY: International Trade
Commission.

ACTION: Institution of 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-
421 (Preliminary) under section 733(a) of
the Tariff Act of 1930 (19 U.S.C.
1673b(a)) to determine whether there is
a reasonable indication that an industry
in the United States is materially
injured, or is threatened with material
injury, or the establishment of an
industry in the United States is
materially retarded, by reason of
imports from Brazil of shock absorbers,¹
provided for in item 692.32 of the Tariff
Schedules of the United States (TSUS),
and parts, components, and
subassemblies thereof, however
provided for in the TSUS, that are
alleged to be sold in the United States at
less than fair value.

As provided in section 733(a), the
Commission must complete its

¹ For purposes of this investigation, the term
"shock absorbers" is defined as suspension devices
designed to dissipate energy from road
disturbances; consisting of a piston, a fluid or
gaseous medium, and a metal cylinder; primarily
used in the suspension system on motor vehicles,
provided for in item 692.3282 of the Tariff Schedules
of the United States Annotated (1987) (TSUSA);
they are also provided for under subheading
8708.80.50 of the proposed Harmonized Tariff
Schedule of the United States (USTC Pub. 2330).

preliminary antidumping duty investigation in 45 days, or in this case by September 23, 1988.

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

EFFECTIVE DATE: August 9, 1988.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202-252-1191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on August 9, 1988, by counsel on behalf of the Monroe Auto Equipment Co. Monroe, MI.

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

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

Conference.—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on August 30, 1988, at the U.S. International Trade

Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Jim McClure (202-252-1191) not later than August 25, 1988, 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 September 2, 1988 a written statement of information pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.8 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).

By order of the Commission.

Issued: August 12, 1988.

Kenneth R. Mason,

Secretary.

[FR Doc. 88-18663 Filed 8-16-88; 8:45 am]

BILLING CODE 7020-20-00

**International Trade Administration,
Import Administration**

[A-351-803]

**Initiation of Antidumping Duty
Investigation; Shock Absorbers From
Brazil**

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

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of shock absorbers from Brazil are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before September 23, 1988, and we will make our preliminary determination on or before January 17, 1989.

EFFECTIVE DATE: September 2, 1988.

FOR FURTHER INFORMATION CONTACT:
Michael Ready or Louis Apple, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone (202) 377-2613 or (202) 377-1769.

SUPPLEMENTARY INFORMATION:

The Petition

On August 9, 1988, we received a petition filed in proper form by the Monroe Auto Equipment Company of Monroe, Michigan, on behalf of the industry in the United States which manufactures shock absorbers. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petitioner alleges that imports of shock absorbers from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these

imports materially injure, or threaten material injury to, a U.S. industry.

Petitioner's estimate of United States price was based on a Brazilian manufacturer's price list to a warehouse distributor in the United States. Petitioner made deductions for inland freight in Brazil and the U.S., ocean freight, insurance, brokerage and customs charges in Brazil, warehousing costs, promotional expenses, warranty costs, inventory returns, credit expense, cash discounts, and U.S. duty.

Petitioner based foreign market value on prices to a warehouse distributor in Brazil. Deductions were made for sales tax, credit expense, freight, insurance, advertising and promotion expense, warranty cost, and inventory carrying cost.

Based on a comparison of United States price and foreign market value, petitioner alleges dumping margins ranging from 399 to 950 percent.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on shock absorbers from Brazil and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of shock absorbers from Brazil are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by January 17, 1989.

Scope of Investigation

The products covered in this investigation are shock absorbers and parts thereof, as provided for in item 692.3282 of the *Tariff Schedules of the United States Annotated (TSUSA)* and currently classifiable under Harmonized System (HS) item number 8703.80.50. The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules will be fully converted to this Harmonized System (HS). Until that time, the Department will be providing both the appropriate TSUSA item number(s) and the appropriate HS item number(s) with its product descriptions. As with the TSUSA, the HS item numbers are provided for convenience and customs purposes. The written description remains dispositive as to the scope of the product coverage.

We are requesting petitioners to include the appropriate HS item number(s) as well as the TSUSA item number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation in the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Additionally, all U.S. Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

For purposes of this investigation, a shock absorber is a cylindrically-shaped motor vehicle suspension component made essentially of sheet steel which is designed to limit the motions, vibrations and oscillations that affect a vehicle due to uneven road surfaces, centrifugal forces, or other disturbances. This investigation covers all conventional front and rear shock absorbers manufactured in Brazil that are suitable for use in front and rear motor vehicle suspension systems. The investigation also covers all parts, components, and subassemblies manufactured in Brazil for use in the final assembly of shock absorbers. Covered parts include, but are not limited to, pistons, rods, valving components, reserve tubes, pressure tubes, rod guides, base cups, and mounting stems, loops, and bushings.

The investigation does not cover other types of dampers such as MacPherson struts, MacPherson strut cartridges, steering dampers, engine dampers, trailer stabilizers, hatchback supports, exercise dampers, and other types of dampers which are not suitable for use in motor vehicle suspension systems.

Notification of ITC

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

Preliminary Determination by the ITC

The ITC will determine by September 23, 1988, whether there is a reasonable indication that imports of shocks absorbers from Brazil materially injure, or threaten material injury to, a U.S.

industry. If its determination is negative, this investigation will terminate; otherwise it will proceed according to statutory and regulatory procedures.

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

Jan W. Mares,

Assistant Secretary for Import Administration.

August 29, 1988.

[FR Doc. 88-20044 Filed 9-1-88; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX B

CALENDAR OF THE PUBLIC CONFERENCE

CALENDAR OF THE PUBLIC CONFERENCE

Investigation No. 731-TA-421 (Preliminary)

SHOCK ABSORBERS AND PARTS, COMPONENTS, AND SUBASSEMBLIES THEREOF FROM BRAZIL

Those persons listed below appeared at the United States International Trade Commission's conference held in connection with the subject investigation on August 30, 1988, in the Hearing Room of the U.S. International Trade Commission, 500 E St., SW, Washington, DC.

In support of the imposition of antidumping duties

Baker and McKenzie--Counsel
Washington, DC
on behalf of--

Monroe Auto Equipment Co.

Samuel Mostkoff
Legal Counsel, Monroe Auto Equipment Co.
Kevin Hagerty
Product Manager, Monroe Auto Equipment Co.
William Laughlin
Regional Sales Manager, Monroe Auto Equipment Co.

John Reilly
Temple, Barker, and Sloane, Inc.

Bruce E. Clubb)
Thomas Peele)--OF COUNSEL
Herbert F. Riband)

In opposition to the imposition of antidumping duties

Bishop, Cook, Purcell & Reynolds--Counsel
Washington, DC
on behalf of--

COFAP of America and COFAP, S.A.

J.T. Harris
Director, COFAP of America

Steven Heckman
Sales Manager, InterAmerican Trade Corporation

Fernand Setton
Executive Vice President, COFAP, S.A.

Renato Kasinsky
Executive Vice President, COFAP, S.A.

Royal Daniel, III)
Bill Alberger)--OF COUNSEL

APPENDIX C

**FINANCIAL RESULTS OF FORD MOTOR COMPANY ON ITS STRUT OPERATIONS, 1985-87,
AND INTERIM PERIODS ENDED JUNE 30, 1987, AND JUNE 30, 1988**

Table C-1

Income-and-loss experience of Ford Motor Company on its operations (all inter-company) producing MacPherson struts, accounting years 1985-87 and interim periods ended June 30, 1987, and June 30, 1988

Item	1985	1986	1987	Interim period <u>ended June 30--</u>	
				1987	1988

* * * * *

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

APPENDIX D

INCENTIVE PROGRAMS

Stock lifts.-- ***.

Free goods.-- ***.

Rebates.-- ***.

Market development funds (MDF).-- ***.

Co-operative advertising allowance.-- ***.

Spiffs.-- ***.

Cash/credit terms.-- ***.

Other incentive programs.-- ***.

