

CERTAIN TELEPHONE SYSTEMS AND SUBASSEMBLIES THEREOF FROM JAPAN, KOREA, AND TAIWAN

Determinations of the Commission in
Investigations Nos. 731-TA-426-428
(Preliminary) Under the Tariff Act
of 1930, Together With the
Information Obtained in
the Investigations



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Washington, DC 20436**

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-426-428 (Preliminary)

CERTAIN SMALL BUSINESS TELEPHONE SYSTEMS AND SUBASSEMBLIES THEREOF
FROM JAPAN, KOREA, AND TAIWAN

Determinations

On the basis of the record 1/ developed in the subject investigations, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan, Korea, and Taiwan of small business telephone systems and subassemblies thereof, 2/ provided for in subheadings 8504.40.00, 8517.10.00, 8517.30.20, 8517.30.25, 8517.30.30, 8517.81.00, 8517.90.10, 8517.90.15, 8517.90.30, 8517.90.40, and 8518.30.10 of the Harmonized Tariff Schedule of the United States, 3/ that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On December 28, 1988, a petition was filed with the Commission and the Department of Commerce by American Telephone & Telegraph Co., Parsippany, NJ, and Comdial Corp., Charlottesville, VA, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of small business telephone systems and subassemblies thereof from Japan, Korea, and Taiwan. Accordingly, effective December 28, 1988, the

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/ For the purposes of these investigations, the term "small business telephone systems and subassemblies thereof" means telephone systems with intercom or internal calling capability and total nonblocking port capacities of between 2 and 256 ports, units of such systems, and subassemblies for use principally in such units, including control and switching equipment, circuit cards and modules, and proprietary corded telephone sets and consoles, whether complete or incomplete, assembled or unassembled.

3/ Formerly provided for in items 682.60, 684.57, 684.58, and 684.59 of the Tariff Schedules of the United States

Commission instituted preliminary antidumping investigations Nos. 731-TA-426-428 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of January 6, 1989 (54 F.R. 495). The conference was held in Washington, DC, on January 18, 1989, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

On the basis of the information gathered in these preliminary investigations, we determine that there is a reasonable indication that the domestic industry producing equipment dedicated for use in small business telephone systems is materially injured by reason of the allegedly LTFV imports from Japan, Korea, and Taiwan.

I. Like product

To determine whether there is a "reasonable indication of material injury," the Commission must make threshold factual determinations with respect to the appropriate "like product" and "domestic industry." Section 771(4)(A) of the Tariff Act of 1930 defines the relevant domestic industry as the "domestic producers as a whole of the like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." ^{1/} "Like product" is defined as a "product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation." ^{2/}

The Commission's decision regarding the appropriate like product(s) in an investigation is a factual determination, and the Commission has applied the

^{1/} 19 U.S.C. § 1677(4)(A).

^{2/} 19 U.S.C. § 1677(10).

statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis. ^{3/} In analyzing like product issues, the Commission generally considers a number of factors relating to characteristics and uses including: (1) physical appearance, (2) interchangeability, (3) channels of distribution, (4) customer perceptions, (5) common manufacturing facilities and production employees, and, where appropriate, (6) price. ^{4/} No single factor is necessarily dispositive, and the Commission may consider other factors it deems relevant based on the facts of a given investigation. The Commission has found minor variations to be an insufficient basis for a separate like product analysis. Rather, the Commission has looked for clear dividing lines among possible like products. ^{5/}

When considering whether "semifinished" or "component" articles are "like" the finished product, the Commission examines: (1) the necessity for, and the costs of, further processing, (2) the degree of interchangeability of articles at the different stages of production, (3) whether the article at an

^{3/} Asociacion Colombiana de Exportadores de Flores v. United States, 12 CIT ___, 693 F. Supp. 1165, 1168, n.4 (1988) (Asocoflores); Digital Readout Systems and Subassemblies Thereof from Japan, Inv. No. 731-TA-390 (Final), USITC Pub. 2150 (January 1989).

^{4/} Asocoflores 693 F. Supp. at 1170, n.8; Digital Readout Systems, supra n.3, at 4.

^{5/} Digital Readout Systems, supra n.3, at 4; Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom, Inv. Nos. 303-TA-19 and 20, 731-TA-391-399 (Preliminary), USITC Pub. 2083 (May 1988).

earlier stage of production is dedicated to use in the finished article, (4) whether there are significant independent uses or markets for the finished and unfinished articles, and (5) whether the article at an earlier stage of production embodies or imparts to the finished article an essential characteristic or function. ^{6/}

A. Background information

The imported articles subject to these investigations are small business telephone systems (SBTSs) and subassemblies thereof from Japan, Korea, and Taiwan. ^{7/} Commerce's Notice of Initiation identified three principal subassemblies that comprise a SBTS: (1) control and switching equipment, including "key service units" (KSUs), (2) circuit cards, modules, and power supplies, and (3) proprietary corded telephone sets and consoles. The separation of subassemblies into three categories is not as clear as

^{6/} Light-Duty Integrated Hydrostatic Transmissions and Subassemblies Thereof, With or Without Attached Axles, from Japan, Inv. No. 731-TA-425 (Preliminary), USITC Pub. 2149 at 19, n.64 (January 1989); Antifriction Bearings, supra n.5, at 7; Certain Forged Steel Crankshafts from the Federal Republic of Germany and the United Kingdom, Inv. Nos. 731-TA-351 and 353 (Final), USITC Pub. 2014 (September 1987); 64K Dynamic Random Access Memory Components from Japan (DRAMs), Inv. No. 731-TA-270 (Final), USITC. Pub. 1862 (June 1986).

^{7/} The Department of Commerce (Commerce) Notice of Initiation states that the scope of the investigation covers "certain small business telephone systems, whether complete or incomplete, assembled or unassembled, with intercom or internal calling capability and total non-blocking port capacities between 2 and 256 ports, and discrete subassemblies thereof designed and dedicated for use in such systems." 54 Fed. Reg. 3516-20 (January 24, 1989).

Commerce's Notice or the parties' submissions suggest. For example, circuit cards are often incorporated into control and switching equipment or telephone sets and consoles, and some functions performed by the telephone set or console in some systems are performed by the control equipment in other systems. ^{8/} The actual operating STBS requires a significant amount of installation work such that the cost of an installed system is considerably more than the cost of the three categories of subassemblies identified by Commerce and the parties. ^{9/}

Importers generally reported that they import subassemblies, not

^{8/} In addition, the three categories include articles that are significantly different from one another. For example, power supplies are included in the circuit card category, but are segregated from other circuit cards for production and shipment and provide a function distinctly different from other circuit cards. Further, there are significant differences between telephone sets and telephone consoles. These differences led several respondents to suggest that there are more than three categories of subassemblies. For example, Fujitsu suggests that the "appropriate" categories of subassemblies are as follows: (1) telephone hand sets, (2) telephone base sets, (3) telephone cards, (4) switching units, (5) power units, (6) printed wiring cards, and (7) cabinets. Post Conference Brief of Fujitsu at 12-13. Economists Incorporated, a representative of all Japanese respondents collectively, implied that there should be more than three subassemblies. See Post Conference Economic Submission of Japanese Respondents at II, 2, n.6.

^{9/} The term "small business telephone system" is defined in the petition as an uninstalled system and, thus, should not be confused with an installed system. The former merely refers to a collection of subassemblies that are the essential pieces of equipment in a SBTS; the latter refers to a fully configured and operating system installed on the end user's premises. In this opinion, we will use the term "uninstalled system" or "equipment dedicated for use in a SBTS" when referring to the product subject to investigation and produced by the domestic industry, and the term "installed system" when referring to the product purchased by the end user.

"systems." ^{10/} Notwithstanding this allegation, questionnaire responses indicated a significant volume of imported "systems." ^{11/} ^{12/} Imports of uninstalled systems and subassemblies are typically sold to unrelated distributors and retailers, while domestic systems and subassemblies are more often sold directly to the end user. ^{13/} Regardless of whether the supplier is an integrated producer or an unrelated retailer (referred to as an "interconnect"), that supplier configures a system based upon the mix of

^{10/} Report of the Commission (Report) at A-29.

^{11/} Id. at A-30, Table 17.

^{12/} Commissioner Rohr and Commissioner Newquist note that the "like product" issue in these investigations was made unnecessarily complicated by the use of the term "system," which was apparently defined and interpreted in different ways by Commerce, the petitioner, and those in opposition to the petition. Petitioner argued for inclusion of systems in the like product, defined as the aggregation of the subassemblies. Those in opposition opposed inclusion of systems, defined as installed systems. Commissioner Rohr and Commissioner Newquist agree with those in opposition to the petition that "installed systems" are not the appropriate like product. However, they also agree with the petitioner that the aggregation of assemblies should be included in the like product. Whether such an aggregation is called a system is merely a question of semantics.

Unfortunately, the reiteration of the parties' arguments, which incorporate these divergent uses of the term "systems," may cause confusion in understanding this opinion. In their view, the key question is whether the aggregation of subassemblies, which the Commission, in an effort to avoid confusion, refers to as "equipment dedicated for use in SBTSSs" constitutes a single like product or a number of separate like products. This is the issue that the Commission decides in its discussion of the appropriate like product. See infra p. 13-19. See also Commissioner Rohr and Commissioner Newquist's additional remarks regarding the effect on the analysis of looking at a single, as opposed to multiple, like products, infra n. 30.

^{13/} Report at A-11. AT&T, the dominant U.S. producer, has its own sales force. The remaining domestic producers market their equipment in a manner similar to the importers.

subassemblies that meets a particular end user's needs. ^{14/}

Purchases by the end user consist of either the installation of a complete system, which includes significant value added as part of the installation in addition to the cost of the subassemblies, or the purchase of additional subassemblies to expand the capacity or add other functions to the existing system. There is no effective competition for expansion sales because such expansion or additional functions require the purchase of subassemblies made by the producer of the installed system. Expansion or add-on subassemblies are a significant component of total sales to end users because the installed system typically is set up to operate at between 40 to 60 percent of its capacity. Thus, the installed system is flexible enough to expand as the needs of the end user change and sales of expansion subassemblies are large enough to constitute a significant factor in the overall profit of domestic producers.

There are three different types of small business telephones systems: "key" systems, private branch exchange systems (PBX), and hybrid systems. The key system is the predominant type used in the small business market. In a key system each telephone set has several lighted buttons, each of which provides access to an external line. PBX systems use more sophisticated

^{14/} The subject subassemblies of each producer, both foreign and domestic, are all dedicated for use in an installed SBTS proprietary to that same producer. In other words, subassemblies of one producer cannot be combined with those of another producer to construct a functional SBTS.

technology to give every phone in the system access to a group of external lines. Hybrid systems combine some of the technological elements of the key and PBX systems. ^{15/}

Small business telephone systems are distinguished in the petition from individual consumer phones, on the one hand, and large business systems, on the other, in terms of their capacity to handle a number of stations and external lines. The presence of more than one port and internal or intercom capability apparently distinguishes SBTS, both physically and functionally, from individual consumer phones. ^{16/} The 256 non-blocking port limit on SBTS apparently provides a relatively clear and distinct break between small and large systems. For example, AT&T's smallest large business phone system (the PBX System 75) has 800 ports, 483 of them non-blocking. ^{17/}

B. The issues

Five like product issues have arisen in these preliminary investigations. The primary issue is whether the three principal subassemblies should be considered separate like products or part of a single like product. This issue will be dealt with in some detail. The secondary issues are whether all like products should be divided into analog and digital,

^{15/} Petition at 2-3. See Report at A-4.

^{16/} None of the parties disputes this difference or has argued that consumer telephones should be part of the like product.

^{17/} Petition at 12, n.14.

like products, whether small business telephone systems are distinct from large business telephone systems, whether there are other subassemblies that require separate treatment, and whether "incomplete" subassemblies constitute separate like products. Each of these secondary issues will be briefly analyzed. ^{18/}

1. Systems versus subassemblies

The principal like product issue in these investigations concerns whether all equipment dedicated for use in a SBTS (i.e., an uninstalled system) should be considered a single like product or whether the individual pieces of equipment should be considered separately, and, if so, how many pieces of equipment should be separately identified. In order to evaluate this issue,

^{18/} Several respondents have argued that the Commission is without jurisdiction to investigate imports of "systems" since they include a service component. Such an argument is without merit. The service component is installation that is domestic, not foreign, value added. Moreover, the petition's scope specifically excludes installation in its definition of a "system."

It has also been argued that AT&T has no standing to bring an investigation of systems since a majority of the installers of systems have not come forward in support of the petition. Even if the Commission considered standing questions, installers are not producers of the equipment they install nor would their active support be necessary in any case.

Others have argued that the Commission is prohibited from using any pricing data or that AT&T's inclusion in the domestic industry should be limited to open market sales of subassemblies. Such arguments amount to little more than reworked captive/merchant market arguments that the Commission has consistently determined have no relevance to domestic industry issues, although they are market factors that may have relevance to the analysis of the pricing data and causation. See, e.g. DRAMS, supra n.6, at 11, n.18. For a discussion of the effect of these market factors on prices, see p. 37-39, infra.

one must understand the key difference between the major domestic producer of the subject merchandise, AT&T (by far the largest domestic producer), and most other domestic and foreign producers. AT&T is a fully integrated company that manufactures its own equipment for SBTS through its General Business Systems division (GBS). AT&T also has its own sales force and distribution system so that most of its direct, head-to-head competition with domestic and imported systems and subassemblies occurs at the end user level for installed systems. The end user, however, is concerned principally with the cost and functionality of an installed system configured to meet its individual needs. The end user usually does not purchase subassemblies or uninstalled systems from GBS or from importers and foreign producers. Instead, the end user purchases a fully installed system from either a fully integrated producer (such as GBS) or from an independent domestic "interconnect."

a. Petitioners' argument

Petitioners insist that systems and subassemblies constitute a single like product. They allege that subassemblies and systems are manufactured by the same producers, in the same facilities, using the same employees. Further, subassemblies and systems reach the end user through the same channels of distribution. For AT&T, the end user generally acquires installed systems and subassemblies through the GBS sales force. For other domestic producers and importers, the end user can purchase installed systems and subassemblies from independent interconnects. Regardless of whether an end user purchases from an integrated producer or an independent interconnect,

that supplier sells both the installed system and the expansion subassemblies. Further, petitioners allege that end users perceive the product as a system, not as separate subassemblies.

Regarding the factors that the Commission traditionally analyzes in considering whether "semifinished" products are like a "finished" product, petitioners argue that the term "systems" as defined in the petition refers merely to an aggregation of the subject subassemblies, and does not include installation and other services. Thus, according to this definition, subassemblies require no significant further processing to produce an uninstalled system. Further, subassemblies have no use, in and of themselves, but are dedicated solely for use in a functioning SBTS. In addition, there allegedly are no independent markets for the subassemblies. Marketing of subassemblies is merely the first step in the channel of distribution, with the marketing of the system being the last step. There is no sale of a subassembly that is not itself dependent upon the sale of an installed system to the end user or the expansion of that system by the end user. Finally, while no individual subassembly imparts the essential characteristics of a system, the subassemblies collectively impart most of those characteristics, and no system can function without each of the subassemblies.

b. Respondents' argument

Respondents focus their argument primarily on the five factors that the Commission generally evaluates in "semifinished" product cases. First, they insist that systems require significant further processing in order to produce

a functioning, installed system. ^{19/} Second, they emphasize the fact that the separate subassemblies are not interchangeable with one another. Respondents concede that subassemblies are dedicated for use in an installed system, but they argue that the markets for subassemblies and systems are independent of one another because subassemblies are sold to independent distributors and retailers. ^{20/} Finally, they note that none of the subassemblies imparts the essential characteristic to a system. Instead, each subassembly provides a different function.

c. Analysis

Our analysis of these factors, based upon the record developed in these preliminary investigations, leads us to conclude that all equipment dedicated for use in a SBTS should be considered a single like product. ^{21/}

First, a consideration of the extent of further processing leads to the conclusion that the equipment dedicated for use in a SBTS is merely a collection of subassemblies. The second factor, interchangeability between

^{19/} In this regard, respondents and petitioners are referring to two different things. As noted previously, petitioners' definition of a "system" refers to an uninstalled system. Respondents' definition refers to an installed system and they argue that there is no such thing as an uninstalled system, in a commercial sense.

^{20/} Respondents do not address the question of the dependence of the sale of subassemblies on sales of systems.

^{21/} Should any final investigations occur, we would reconsider this issue, if appropriate, in light of the information available at that time.

the subassemblies and the equipment as a whole, would support a finding of several like products. Subassemblies are not interchangeable with one another, nor are they interchangeable with the equipment as a whole. However, we have not found such interchangeability to exist, nor would we expect to, when dealing with component parts and subassemblies generally, because they are, by definition, something less than a finished product. In fact, several investigations involving subassemblies or components have resulted in a single like product finding, notwithstanding the absence of such interchangeability. ^{22/}

The third criterion, dedication to use in the finished product, favors a single like product. Subassemblies of small business telephone systems have no other use other than incorporation into a system manufactured by the same producer. Similarly, the fourth criterion - whether there are independent markets for such subassemblies - suggests that the Commission should find one like product since sales of subassemblies are entirely dependent on sales of systems. ^{23/} SBTS subassemblies are complementary products and the demand

^{22/} Antifriction Bearings, supra n.5, at 21-22; DRAMs, supra n.6, at 10; Erasable Programmable Read Only Memories from Japan (EPROMs), Inv. No. 731-TA-288 (Final), USITC Pub. 1927 (December 1986).

^{23/} This is not to suggest that subassemblies are not sold separately. They frequently are sold separately as add-on components, as it is a standard marketing technique for interconnects to sell end users a SBTS that operates at substantially less than full capacity. This allows for expansion of the installed systems to serve the increasing needs of the end user without
(Footnote continued on next page)

for subassemblies is derived from the demand for systems. ^{24/} While a subassembly may be sold to expand an existing system, as opposed to original installation, such subassemblies generally can only function in a SBTS made by the same producer. ^{25/} Thus, consideration of this fourth category suggests that there is one like product. Finally, while no subassembly imparts the essential characteristic to a system (indeed, there is no single essential characteristic to a system but, rather, a collection of characteristics), each subassembly is essential to the operation of a system. ^{26/}

(Footnote continued from previous page)

requiring the end user to purchase a new system. However, the end user cannot use the subassemblies of one producer to expand the system of another producer.

^{24/} See, e.g., Certain Granite from Italy and Spain, Inv. Nos. 701-TA-289, 731-TA-381-382 (Final), USITC Pub. 2110 at 8-9 (August 1988).

^{25/} It is true that, to a limited extent, certain telephone sets produced by GBS (the Merlin system) can function in some of AT&T's larger systems. However, the extent of this interchangeability and the practical problems that would arise if one used a Merlin telephone set in a large AT&T System 75 are not yet clear. Transcript of Preliminary Transcript at 106. Should final investigations occur, we will pursue this issue further.

^{26/} Essential characteristics and interchangeability have more significance when considering semifinished products that merely go through additional processing stages than when considering groups of components that must be combined together to form the finished product. Compare Antifriction Bearings, supra n.5, at 21-22 (four separate and distinct component parts and finished bearing constitute one like product), DRAMs, supra n.6, at 10 (wafers, dice, and finished DRAM constitute single like product), and EPRoMs, supra n.22 (wafers, dice, and finished EPROM constitute single like product) with Granite, supra n.24, at 3-11 (all granite at various stages of processing possessed the essential characteristic, no additional components added at various stages of production).

In Digital Readout Systems, the Commission addressed the question of the proper like product determination when considering a "system" and its subassemblies. In that investigation the Commission determined that consoles and transducers, the principal subassemblies in a DRO system, constituted separate like products. Further, the Commission held that DRO systems did not constitute an additional like product since such a finding would be "redundant" in that an order covering either of the two subassemblies would apply whether imported separately or with the other subassembly. ^{27/}

Comparing the underlying facts in DROs with the present investigations reveals that, unlike DROs where different producers made the different subassemblies, the principal subassemblies of a SBTS are produced by the same firms in the same facilities. Further, there is no "independent" market for subassemblies. All subassemblies are either incorporated into a system for sale to the end user or are added on to a system. Thus demand for subassemblies is completely dependent on the sale of systems. In DROs, by contrast, transducers could be used in constructing a digital readout system

^{27/} While Acting Chairman Brunsdale and Commissioner Cass found four like products based upon their view that glass and magnetic transducers and consoles should be analyzed separately, they essentially concurred with the majority in finding that the appropriate like products were subassemblies, not systems. Digital Readout Systems, supra n.3, at 74-79 (Views of Commissioner Cass); Digital Readout Systems, supra n.3, at 26 (Views of Acting Chairman Brunsdale).

or could be incorporated into a "computerized numerical control." ^{28/}
Regarding "systems," in DROs the Commission found that the system was no different than the combination of the two subassemblies, but that the subassemblies had other independent markets. Subassemblies of small business telephone systems have no use independent of the system to which they are dedicated; subassemblies of DROs were independent products that had other uses, but could be "stuck together" to make a DRO.

While we find one like product for the purposes of these preliminary investigations, we note that the question whether the equipment dedicated for use in a SBTS constitutes separate like products or a single like product would not significantly affect our analysis of the available data, given that all producers produce all of the subassemblies, and all purchasers buy a system (whether installed, for end users, or uninstalled, for wholesalers and distributors). Thus, any analysis of prices and profitability would have to be made at the aggregate level. In addition, because SBTSs come in such varying size configurations, production and shipment of the subassemblies would have to be analyzed separately, at least on a unit basis. Further, all the equipment is sold through the same channels of distribution (although AT&T's channel of distribution is fully integrated), to the same end users, and usually in combination with one another. Any analysis of the condition of separate subassembly industries, therefore, would have to take into account the interdependent nature of the marketing of these subassemblies.

^{28/} Digital Readout Systems, *supra* n.3, at 8.

Finally, assuming that we found that it appropriate to consider subassemblies separately, the underlying reasons for doing so (the lack of interchangeability, amount of further processing, and lack of the "essential" characteristic) do not necessarily lead to the conclusion that there are only three like products. Instead, the three subassemblies noted by the petitioners could be subdivided into their components, ^{29/} which are not interchangeable and do not impart the essential characteristic to a "finished" subassembly. ^{30/} Further, all subassemblies and components of subassemblies could be divided into digital and analog categories, or even key, hybrid, and PBX categories. In light of the absence of clear dividing lines at the subassembly level, we do not believe that such fragmentation is appropriate. Therefore, in these preliminary investigations, we determine that the domestic

^{29/} Such as (1) telephone hand sets, (2) telephone base sets, (3) telephone cards, (4) switching units, (5) power units, (6) printed wiring cards, and (7) cabinets.

^{30/} Commissioner Rohr and Commissioner Newquist note that as a practical matter the finding that there is a single like product means only that the Commission will make a single material injury determination which will apply to all the subject subassemblies. They do not believe that this finding precludes the Commission from seeking or analyzing data on an individual subassembly basis to the extent that such an analysis is appropriate. For example, although employment and financial data might best be analyzed on the aggregate "equipment dedicated for use in SBTSS" basis, production indicators might be more revealing when looked at on an individual subassembly basis. Further, in looking at individual subassemblies, they do not believe they are bound by Commerce's identification of three subassemblies. Separate data may be available to some extent on power supplies, telephone consoles, telephone sets, and control and switching units. In collecting and analyzing such data, care must be taken to ensure that it will be possible to aggregate the data to the "equipment dedicated for use in SBTSS" level.

product like the subject imports includes small business telephone equipment, including uninstalled systems and all the dedicated subassemblies.

2. Secondary like product issues

One respondent, Matsushita, insists that digital and analog subassemblies and systems constitute separate like products. ^{31/} Matsushita maintains that analog systems are simply voice communication systems, while digital systems can distribute voice and data communications allowing the customer to send information to and from computers, facsimile machines, and other office equipment. Matsushita maintains that the architecture of these systems is different, and that they appeal to different groups of consumers, are produced by different companies on different equipment, and differ significantly in terms of price.

No other respondent concurred in this distinction, and the petitioners object to it on factual grounds. They point out that various systems cannot be categorized as digital or analog because the many systems in the small business market employ varying amounts of digital technology, together with analog. They also argue that most small business end users are indifferent to digital technology since transmission of data is possible with analog systems. Further, petitioners note that AT&T produces all types of small

^{31/} Post Conference Brief of Matsushita at 4. Matsushita also insists that subassemblies be considered separately so that, in aggregate, there could be as many as 16 or as few as 6 like products.

business telephone systems in the same facilities, with the same employees, and markets them through the same channels of distribution. ^{32/}

We believe that the balance of factors, especially production, distribution, and customer perceptions, favors a rejection of Matsushita's argument. Moreover, petitioners are correct when they assert that a SBTS can employ varying degrees of digital and analog technology. Both digital and analog systems are put to the same use and are capable of providing data, as well as voice, transfer capabilities. ^{33/}

Respondents also suggested that the Commission consider large business telephones for inclusion in the like product, especially AT&T's System 75 because it has been sold on occasion to the small business market. ^{34/} We do not believe that inclusion of large systems is warranted, based on the information available at this time. Large systems rely on more sophisticated and costly switching equipment than small systems. The market for small systems is centered around customers who require less than 40 stations. ^{35/} Approximately 95 percent of this market is served by systems having a maximum

^{32/} Post Conference Brief of Petitioners at 8-10.

^{33/} Report at A-6.

^{34/} The main thrust of their argument regarding large systems, however, is in the context of additional causation factors. See *infra* p. 39-44.

^{35/} See Report at A-6.

capacity of fewer than 256 non-blocking ports. ^{36/} The only significant exception is the AT&T System 75, which has a capacity of 483 non-blocking ports but which can be "configured down" to 100 lines. Therefore, we do not believe that the physical characteristics of the two systems are similar, nor that the systems are readily interchangeable. In addition, except for AT&T, virtually all producers, both foreign and domestic, produce systems for either the small or large systems market, but not both. ^{37/}

We further note that there is a significant break in the capacities of small and large systems in terms of the available ports, although AT&T has sold a small percentage of its System 75 "configured down" to below 100 lines. Finally, it appears that most SBTSSs are produced "to stock," with configuration of the system performed by the installer. By contrast, large systems are generally made to the customer's order at the plant. ^{38/} Thus, small and large systems are distinguishable, not only because of the obvious differences in physical characteristics and the lack of interchangeability, but also in terms of channels of distribution, customer perceptions, manufacturing facilities, and production employees.

^{36/} Petition at 13, n.17.

^{37/} We note, however, that AT&T produces for the two markets through different divisions. Its General Business Systems division (GBS) produces systems solely for the small business market. Thus, production facilities, employees, marketing, and distribution for small and large systems are associated with entirely separate entities.

^{38/} Post Conference Brief of Petitioners at 6--7.

II. The domestic industry and related parties

Respondent Executone alleges that it is a domestic producer in opposition to the petition and that it has inappropriately been included in this investigation as an importer. It notes that it is predominantly domestically owned and its only foreign source of capital is a small percentage of stock held by Goldstar. It alleges that it imports components of subassemblies from Korea and produces "finished" subassemblies in the United States. ^{39/} Executone argues that its research and development, design and engineering, market research and production activities in the United States impart substantial domestic value to its products. Executone claims that its domestic value-added is substantial. ^{40/}

Petitioners characterize Executone as an importer and assert that Executone does not conduct significant manufacturing operations in the United

^{39/} In evaluating the "domestic" status of a party that conducts manufacturing operations in part in the United States and in part in a country subject to investigation, the Commission traditionally considers a number of factors, including:

the extent and source of a firm's capital investment, the technical expertise involved in production activity in the United States, the value added to the product in the United States, employment levels, the quantity and type of parts sourced in the United States, and any other costs and activities in the United States directly leading to production of the like product.

Digital Readout Systems, *supra* n.3, at 13; Generic Cephalexin Capsules from Canada, Inv. No. 731-TA-423 (Preliminary), USITC Pub. 2143 at 9 (December 1988).

^{40/} Post Conference Brief of Executone at 12.

States. Moreover, petitioners insist that even if Executone were considered a domestic producer, it should be excluded under the related parties provision of the statute because it imports a significant volume of the subject imports from Korea and, thus, is shielded from the effects of alleged LTFV imports. ^{41/}

The data submitted by Executone indicates that domestic manufacturing (including "manufacturing engineering/component/assembly") constitutes a very small percentage of the value of a SBTS. ^{42/} A significantly higher percentage of its claimed value-added is domestic "engineering," but it is not clear whether that "engineering" is directly related to production activity. ^{43/} ^{44/} Executone has not provided further details regarding

^{41/} Petitioners' Comments an APO Material at 12-15.

^{42/} See Post Conference Brief of Executone at Exhibit A. The exact figures are confidential.

^{43/} In considering Executone's request to be included in the domestic industry and the importance of domestic production activity, we note that section 1328 of the Omnibus Trade and Competitiveness Act of 1988 underscored congressional concern with actual production in the United States by adding to the material injury definition, 19 U.S.C. § 1677(7), the following passage: "the Commission, in each case -- (i) shall consider . . . (III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations in the United States. 19 U.S.C. § 1677(7)(B)(i)(III) (emphasis added).

^{44/} Acting Chairman Brunsdale notes that, in prior cases involving electronic devices comprised of one or more components produced and/or assembled abroad, the Commission has found domestic engineering and design activities to be a significant factor in determining which firms are

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the nature of its production activity, nor any information regarding the number of its production employees in the United States. However, it appears from the data submitted in response to a Commission request that Executone engages in limited production activity in the United States. ^{45/}

In light of the foregoing, we determine, for the purposes of these preliminary investigations, that Executone is a domestic producer. However, we base this determination, not on a value-added analysis regarding Executone's imported components, but on its somewhat limited U.S. production. ^{46/}

Even though we conclude that Executone is, to a limited extent, a domestic producer of the like product, we also determine that it is a related

(Footnote continued from previous page)

domestic. See Cellular Mobile Telephones from Japan, Inv. No. 731-TA-207 (Final), USITC Pub. 1786 at 9, n.15 (December 1985) ("Research and development expense does represent a significant factor in a 'high technology' industry"); Certain Radio Paging and Alerting Devices from Japan, Inv. No. 731-TA-102 (Final), USITC Pub. 1410 at 9-11 (August 1983) (Views of Chairman Eckes and Commissioner Haggart). There is also precedent for including all United States activities related to production of the like product within the domestic industry regardless of the origin of the component parts used to make the finished product and regardless of the site (U.S. or foreign) of final assembly. See 3.5-Inch Microdisks and media Therefor from Japan, Inv. No. 731-TA-389 (Preliminary), USITC Pub. 2076 (April 1988); DRAMs, supra n.6, at 12, n.29; EPROMs, supra n.22, at 11, n.29.

^{45/} See Report at Appendix C, B-16.

^{46/} Should any final investigations occur, we would require further explanation of the "domestic activities" relating to Executone's imported components, before we could conclude that such activities constitute domestic production.

party pursuant to 19 U.S.C. § 1677(4)(B). ^{47/}

Application of the related parties provision to Executone clearly indicates that it is a related party, that it represents only a minuscule

^{47/} That section provides that, 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." Application of the related parties provision is within the Commission's discretion based upon the facts presented in each case. *Empire Plow Co. v. United States*, ___ CIT ___, 675 F. Supp. 1348, 1352 (1987). The Commission generally applies a two-step analysis for applying the related parties provision. The Commission considers (1) whether the firm is a "related party" within the meaning of section 771(4)(B), and (2) 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 industry. 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).

After determining that the company in question is a domestic producer and is "related" within the meaning of the statute, the Commission examines three factors in deciding whether appropriate circumstances exist to exclude related parties. Those factors include:

- (1) the percentage of domestic production attributable to the importing producer;
- (2) the reasons the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies--or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and
- (3) the position of the related producers vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry.

Thermostatically Controlled Appliance Plugs and Probe Thermostats Therefor from Canada, Hong Kong,, Japan, Malaysia, and Thailand, Inv. Nos. 701-TA-290-292, 731-TA-400-404 (Preliminary), USITC Pub. 2087 at 7-8 (June 1988); Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 at 11 (January 1986).

portion of total domestic production, and that it benefits from the allegedly LTFV imports. However, given the predominant position of AT&T in the domestic industry and the small share of total production represented by Executone, inclusion (or exclusion) of Executone will not have a significant effect on aggregate domestic industry data. Thus, although we conclude that Executone is, to a limited extent, a domestic producer, most of the small business telephone equipment that it sells is imported from Korea, ^{48/} and it has thus benefitted from alleged LTFV sales. Therefore, we determine that it should be excluded as a related party. ^{49/}

We note that the data available regarding the financial condition of Executone would not have a significant impact on the overall financial condition of the domestic industry, even if it were included, given Executone's share of total domestic production. We also note that, even if we did not exclude Executone from the domestic industry, we would not consider

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49/ Acting Chairman Brunsdale notes that the extent to which a domestic firm benefits from dumped or subsidized imports has been a central factor in recent Commission determinations involving related parties issues. See n.47, *supra*. Generally, the lower the value of dumped imports relative to the value of the firm's domestic shipments, the less the domestic firm may be viewed as benefitting from its allegedly dumped or subsidized imports. For this reason, she finds that the value added arguments are clearly relevant in resolving related parties issues that have arisen with increased frequency as the number of cases before the Commission involving globalized firms and industries has increased.

its shipments of systems produced from imported subassemblies to be shipments of "domestic" products, given the information available at this time. In sum, the question of whether Executone is a domestic producer and, if so, whether it should be excluded as a related party is one of minimal significance in evaluating the impact of allegedly LTFV imports on the domestic industry.

III. The condition of the domestic industry

In determining the condition of the domestic industry, the Commission considers, among other factors, domestic consumption, domestic production, capacity, capacity utilization, shipments, inventories, employment, and profitability. ^{50/} Evaluation of these factors in these investigations requires a separate analysis of most of these factors for each of the three general categories of subassemblies, at least on a unit basis, as the wide diversity in the capacity and costs of different systems makes consideration of much of the data at the system level inappropriate. ^{51/}

Domestic consumption of equipment for SBTS declined irregularly

^{50/} 19 U.S.C. § 1677(7)(C)(iii).

^{51/} Some of these analytical problems remain at the subassembly level but to a significantly lesser degree. For example, control units vary widely in terms of the number of lines that they can carry and the costs of producing them. Also, telephone sets are typically much less complex and costly than a telephone console.

throughout the period of investigation. ^{52/} Consumption declined by approximately 25 percent from 1985 to 1986, but recovered somewhat in both 1987 and interim 1988. ^{53/} Consumption of control and switching equipment, the subassembly that appears to most closely correspond to systems in terms of quantity, declined steadily and significantly, in terms of units, throughout the period. In terms of value, consumption declined more dramatically, but irregularly. ^{54/} Available data for circuit cards indicate that consumption, on a unit basis, declined steadily, but increased irregularly in terms of value. ^{55/} Apparent consumption of telephone sets and consoles for SBTSS rose steadily in terms of volume, but declined steadily in terms of value. ^{56/}

Production of equipment for SBTSSs, in unit terms, declined irregularly

^{52/} Given AT&T's dominant position in the domestic industry, most of the U.S. industry data in these investigations are confidential and any public discussion necessarily must be in general terms. The citations to the Report direct those who have access to the confidential record in these investigations to the actual figures that form the basis of the general characterizations in this opinion.

^{53/} Report at Appendix D, B-17, Table D. The interim period includes the nine month period of January through September.

^{54/} Id. at A-12-A-14 and Table 2.

^{55/} Id. at A-13. Because circuit cards are also included in other subassemblies, the data regarding circuit cards are believed to represent only separate shipments and, thus, understate and may be unrepresentative of actual shipments of all circuit cards.

^{56/} Id. at A-14 and Table 3.

for both systems and the various subassemblies. ^{57/} The decline for systems production was significant. Declines in production of control and switching equipment and circuit cards and modules were slightly higher, while the decline for telephone sets and consoles was smaller.

Domestic capacity to produce systems is problematical at this stage as the information available does not include a significant share of the domestic industry. ^{58/} For control and switching equipment, capacity declined steadily throughout the period of investigation, but capacity utilization declined irregularly. For telephone sets and consoles, capacity declined steadily and more dramatically than for control and switching equipment, but recovered slightly in interim 1988. Capacity utilization, however, increased throughout the period as capacity to produce telephone sets declined more rapidly than production. ^{59/}

Shipments of U.S. produced systems, both in terms of units and value, declined significantly from 1985 through 1987, but recovered slightly in interim 1988. ^{60/} Shipments of control and switching equipment declined significantly and steadily throughout the period of investigation, in terms of units. In value terms, the decline was equally dramatic, though

^{57/} Id. at A-15-A-16, Table 4.

^{58/} See id. at A-15-A-16.

^{59/} Id.

^{60/} Id. at A-17, Table 5.

irregular. ^{61/} Circuit cards and modules registered a steady decline in units terms, but actually increased in value terms beginning in 1987. ^{62/} For telephone sets and consoles, shipments declined steadily through 1987, but recovered slightly in interim 1988, both in terms of units and value. ^{63/}

Inventories of systems and subassemblies all declined in the same irregular pattern during the period. The ratio of inventories to shipments, however, increased irregularly for systems, control and switching equipment, and circuit cards. The ratio of inventories to shipment for telephone sets followed the same irregular pattern, but did not register an overall increase. ^{64/}

Employment data for the vast majority of the domestic industry were provided only at the level of all equipment dedicated for use in a SBTS. Those data indicate that employment dropped dramatically from 1985 to 1986, recovered almost entirely in 1987, but declined again in interim 1988. Trends in hours worked and wages paid followed the same pattern as did trends in employment. Hourly wages rose slightly, however, as did unit labor costs. ^{65/}

Financial trends for the domestic industry generally registered consistent declines. However, the data originally provided by AT&T did not

^{61/} Id. at A-17, Table 6.

^{62/} Id. at A-18, Table 7.

^{63/} Id. at A-18, Table 8.

^{64/} Id. at A-18-A-19.

^{65/} Id. at A-19, Table 9.

separate the production of equipment from the installation or rental of that equipment. ^{66/} Net sales, operating income, and gross profits declined throughout the period. Operating income as a share of net sales also declined. The domestic industry as a whole, however, registered profits throughout the period. ^{67/}

The consistent downward trends in profitability, production, and shipments, together with the irregular declines in employment and increasing inventories relative to shipments, both for the equipment as a whole (where available) and for the individual subassemblies, lead us to conclude that there is a reasonable indication that the domestic industry producing equipment for small business telephone systems is experiencing material injury. ^{68/ 69/}

^{66/} AT&T did provide a financial summary of revenue and profitability for sales and for rental separately. Should any final investigations occur, we would try to obtain more detailed profitability data that more closely correspond with our domestic industry definition. This would allow a more thorough analysis of the effect of rental income on overall profitability.

^{67/} Id. at A-21, Table 12. For a discussion and comparison of the financial condition of the individual domestic producers, see id. at A-21.

^{68/} Acting Chairman Brunsdale considers the foregoing to adequately describe the condition of the domestic industry given the limitations in the information available in these preliminary investigations, but does not join in the conclusion. The condition of the industry does not necessarily reveal the impact of imports. See Certain Electrical Conductor Redraw Rod from Venezuela, Inv. Nos. 701-TA-287, 731-TA-378 (Final), USITC Pub. 2103 at 43 (August 1988) (Additional Views of Acting Chairman Brunsdale).

^{69/} Commissioner Cass does not join in this statement. Commissioner Cass believes that the statute under which the Commission conducts title VII investigations does not contemplate an inquiry into the existence of material injury to a domestic industry that is divorced from the question of causation of material injury by reason of LTFV imports. See Digital Readout Systems, supra n.3, at 95-117 (Concurring and Dissenting Views of Commissioner Cass).

IV. Cumulation

The Commission is required to cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports compete with one another and with the like product of the domestic industry in the United States market. 19 U.S.C. § 1677(7)(C)(iv). In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors, including:

(1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;

(2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product;

(3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and

(4) whether the imports are simultaneously present in the market. ^{70/}

Section 1330 of the Omnibus Trade and Competitiveness Act of 1988 provides, however, that the Commission is not required to cumulate in any case in which it determines that imports of the merchandise subject to

^{70/} Antifriction Bearings, supra n.5, at 30; Appliance Plugs, supra n.47, at 15.

investigation are negligible and have no discernible adverse impact on the domestic industry. 19 U.S.C. § 1677(7)(C)(v). In determining whether imports are negligible, the Commission shall consider all relevant economic factors including whether:

(I) the volume and market share of the imports are negligible,

(II) sales transactions involving the imports are isolated and sporadic, and

(III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price depression or suppression.

19 U.S.C. § 1677(7)(C)(v).

Both the Korean and Taiwan respondents insist that the statutory requirements for cumulation have not been met. The Taiwan respondent alleges that its imports consisted of a product that no domestic producer was willing to make for Bell South and that its share of the domestic market was less than 0.02 percent. ^{71/} The Korean respondents allege that their imports do not compete with the domestic product or with imports from Japan and Taiwan. ^{72/} Based upon the available data, we do not believe that either of these arguments is valid.

With respect to imports from Taiwan, it is apparent from a comparison of total imports from Taiwan and the data provided by Sun Moon Star that Sun Moon

^{71/} Post Conference brief of Sun Moon Star at 4-5; Sun Moon Star Comments on APO Material at 2-3.

^{72/} Post Conference Brief of Goldstar at 14-17.

Star is not the only producer of the subject imports in Taiwan. The cumulation provision, however, is to be applied by the Commission on a country-by-country basis, regardless of the significance of any individual foreign producer's imports. A review of the aggregate data regarding imports from Taiwan persuades us that the volume and market share of those imports cannot be characterized as negligible.^{73/} For example, in 1987 (the last full year for which data are available) the aggregate value of Taiwanese imports of systems and subassemblies was significant.^{74/} Such volumes and market share do not require an extensive analysis of the "negligible imports" provision to conclude that they are not negligible and that cumulation is appropriate.

With respect to imports from Korea, several Korean respondents argue that their imports are "custom made" subassemblies that are not interchangeable with subassemblies from Japan and Taiwan or with domestic subassemblies. Such an argument is unavailing in as much as all subassemblies are proprietary to the particular manufacturer and so are "custom made." Moreover, all such subassemblies compete with one another, either at the wholesale level as an

^{73/} We note that Congress stated that the negligible imports exception to cumulation should be a limited one. H.R. Rep. 576, 100 Cong., 2d Sess. at 621 (1988).

^{74/} See Report at A-30-A-34, Tables 17-20. The aggregate value was \$28,628,000. In terms of market share, by quantity, Taiwanese control and switching equipment constituted * * * percent of domestic consumption, circuit cards and modules constituted * * * percent, and telephone sets constituted * * * percent in 1987. *Id.* at A-36-A-38, Tables 21-23. No data are available regarding uninstalled systems.

uninstalled system or at the end user level as an installed system. ^{75/}

For these reasons, in these preliminary investigations, we cumulatively assess the volume and price effects of all the imports from Japan, Korea, and Taiwan.

V. Reasonable indication of material injury by reason of allegedly LTFV imports ^{76/}

In determining whether there is a reasonable indication that the domestic industry is materially injured by reason of allegedly LTFV imports, the Commission is required to consider a number of factors. They include the volume of imports of the merchandise subject to investigation, the effect of such imports on domestic prices, and the impact of such imports on the domestic industry. ^{77/} Evaluation of these factors involves a consideration of (1) whether the volume of imports or increase in volume is significant, (2) whether there has been significant price underselling by the imported products, and (3) whether imports have otherwise depressed prices to a significant degree or prevented price increases. ^{78/}

^{75/} See, e.g., Certain Forged Steel Crankshafts from the Federal Republic of Germany and the United Kingdom, Inv. No. 731-TA-351 and 353 (Final), USITC Pub. 2014 (September 1987).

^{76/} Commissioner Cass does not join in this section of the Commission's opinion. His analysis of the question of whether there is a reasonable indication of material injury to the domestic industry by reason of alleged LTFV imports is described separately in his Additional Views.

^{77/} 19 U.S.C. § 1677(7)(B).

^{78/} 19 U.S.C. § 1677(7)(C).

The Commission is not to weigh the various causes of material injury. ^{79/} Nor must the Commission decide whether LTFV imports are the principal, a substantial, or a significant cause of material injury. ^{80/} However, the Commission may take into account any information demonstrating possible alternative causes of injury to the domestic industry. ^{81/}

In these preliminary investigations, we find that the volume of imports and the increase in market share of imports relative to the domestic like product are significant and probative of a reasonable indication of a causal connection between the allegedly LTFV imports and the material injury being experienced by the domestic industry. ^{82/} The value of imported equipment decreased from \$335 million in 1985 to \$320 million in 1986, but increased to \$405 million in 1987, for an overall increase from 1985 to 1987 of 20.9 percent. Imports increased slightly from interim 1987 to interim 1988, moving from \$216 million to \$235 million. ^{83/}

^{79/} See, e.g., *Citrosuco Paulista v. United States*, Slip Op. 88-176 at 64 (CIT 1988); *Hercules, Inc. v. United States*, 673 F. Supp. 454, 481 (CIT 1987); *British Steel Corp. v. United States*, F. Supp. 405, 413 (CIT 1984); S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979).

^{80/} S. Rep. No. 249, 96th Cong., 1st Sess. at 74.

^{81/} *Id.* at 75 (1979). Such alternative causes may include "the volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade, restrictive practices of competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry." *Id.* at 74.

^{82/} While Acting Chairman Brunsdale believes that data on import penetration are relevant, her approach to causation is outlined in her Additional Views.

^{83/} Report at Appendix D, B-18.

Figures on market share, in value terms, of imported equipment used in SBTS increased steadily, from 26.2 percent in 1985 to 32.7 percent in 1986 to 39.0 percent in 1987, and continued to climb from 31.8 percent in interim 1987 to 32.1 percent in interim 1988. ^{84/}

The data collected in the preliminary investigations shed somewhat limited light on the effects of imports on prices for equipment dedicated for use in a SBTS. Most data for domestic production were provided at the installed systems level, while imported prices were at the equipment level. Thus, direct price comparisons between the subject imports and the domestic like product are difficult. Systems are sold to end users as part of a package, which includes installation, service, and other support services. These additional items, which are not within the scope of the investigation, may account for a substantial proportion of the price of a system sold to an end user. ^{85/} Thus, price comparisons between the subject imports and the domestic like product at the end user level are not particularly informative because differences in end user prices may reflect differences in the cost of these services to the end user. ^{86/}

^{84/} These figures may understate the value of imports relative to domestic production, since the value of imports used in compiling market share is primarily a wholesale value, while the value of domestic sales used in compiling market share is primarily an end user value. Id.

^{85/} Report at A-40; Post Conference Brief of Economists Incorporated at IV, 5-6.

^{86/} See Certain Fabricated Structural Steel from Canada, Inv. No. 731-TA-387 (Preliminary), USITC Pub. 2062 at 13-14 (February 1988) (Commission majority found price comparisons unreliable where the price to the end user was part of the package that included significant value in the form of engineering, erection and other services, all of which were not subject to investigation, and the product subject to investigation was not sold separate from the services).

Even without such additional services, there is a more fundamental difficulty with price comparisons at all levels of trade. There is limited direct competition between imported and domestic products at the same level of trade. Whereas AT&T, by far the dominant domestic producer of SBTS, has its own sales force and sells almost exclusively directly to end-users, importers make all but a small fraction of their sales to wholesalers and distributors. Thus, only a small fraction of the importers provided data on sales of systems to end users. ^{87/} Likewise, data collected on sales to wholesalers and retailers reflect only a small percentage of the sales of domestic producers, and an even smaller percentage of the sales of AT&T. ^{88/} Therefore, the data thus far collected do not clearly demonstrate whether there has been significant underselling by the imported product. ^{89/}

^{87/} Report at A-45.

^{88/} Id. at A-39. An additional factor that must be considered in greater detail in any final investigations is the proper analysis of the sales of expansion subassemblies. As noted previously, supra p.8, sales of expansion subassemblies are a significant percentage of net sales of all equipment dedicated for use in a SBTS. However, the opportunity to sell expansion equipment is tied to the sale of the original system and, thus, is lost if the end user purchases a competitor's SBTS. Further, the price of an expansion subassembly is allegedly not as competitive as the price of the original SBTS, given these same supply limitations.

^{89/} A further difficulty with price comparisons concerns the comparability of various systems. Questionnaire respondents were asked to provide data that excluded all non-standard features from systems. See id. at A-41. However, models of phone systems vary greatly in their standard features. Should there be final investigations, the Commission will consider alternative methods of

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Price trends provide some indication that subject imports may have caused prices of domestically produced systems to decrease. Despite limitations in the quality of the data thus far collected by the Commission, ^{90/} the data show a general decrease in prices of both domestic and imported systems over the period under investigation, with few exceptions. ^{91/} In the absence of probative evidence of underselling, however, it is difficult to reach any firm conclusions regarding the cause of such price declines.

There are a number of factors other than alleged LTFV imports that may have affected the condition of the domestic SBTS industry during the period of investigation. ^{92/} Respondents assert that such factors, discussed in

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price comparison in order to develop more probative evidence regarding the impact of imports on the domestic price of equipment used in SBTSs.

^{90/} Many models ceased being offered during the course of the investigation, some new models were introduced, and features offered on the same models were often changed. Id. at A-41, A-44-A-45. This makes monitoring of trends of comparable products over the entire period under investigation difficult.

^{91/} Id. at A-42-A-44, Tables 24-40.

^{92/} Commissioner Eckes and Commissioner Newquist note that the primary focus of the causation discussion should be the alleged LTFV imports and that petitioner is not required to prove the negative (i.e., that other factors have not caused material injury to the domestic industry). In this regard, the following discussion from the 1979 Senate Report is particularly relevant:

Of course, in examining the overall injury to the domestic industry, the ITC will consider information which indicates that harm is caused by factors other than the less-than-fair-value imports. However, the petitioner will not be required to bear the

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detail below, more than explain any injury suffered by the domestic industry. Petitioners counter that even if some or all of these factors contributed to the domestic industry's material injury, heavy price competition from LTFV imports was clearly at least a cause of that injury. The data collected in the preliminary investigations regarding most of these factors are sketchy. Should there be final investigations, we will seek to obtain further data regarding the significance of these factors in order to evaluate their impact on the performance of the domestic industry.

The other alleged causal factors include, first, general market conditions and technological improvements within the SBTS industry. Respondents maintain that the SBTS market is merely in the trough of its natural product replacement cycle. Given this natural decline in demand, all producers lower their prices, but prices will rise again as the product replacement cycle heads toward the crest in the next few years. ^{93/} Respondents also allege that improved efficiency in product design and manufacturing operations have produced lower prices and reduced

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 burden of proving the negative. That is, that material injury is not caused by such other factors. Nor will the Commission be required to make any precise, mathematical calculations as to the harm associated with such factors and the harm attributable to less-than-fair-value imports.

S. Rep. No. 249, 96th Cong., 1st Sess. at 75 (1979).

^{93/} E.g., Post Conference Brief of Economists Incorporated at VI, 2-5.

employment. ^{94/} Thus, they contend that the price reductions, if any, in SBTSSs reflect cost savings as a result of improved technological changes, similar to cost savings found in other "high tech" industries. Further, they argue that cost and price declines for large business telephone systems, where there allegedly is no competition from LTFV imports, provide support by analogy for inferring that similar cost savings explain any reduction in prices for SBTSSs.

Petitioners do not contest the fact that the product replacement cycle explains some of the drop in demand evident in the record, but they argue that such a drop in demand does not constitute a license to dump. ^{95/} Further, they contend that foreign cost reductions of extreme magnitude would be necessary to produce the price declines experienced in the domestic market, given the movements in exchange rates. Finally, they object to respondents' characterization of SBTSSs as a "high tech" product such as DRAMs or EPROMs. ^{96/}

A second group of claimed alternative causes involves competition from sources other than subject imports, principally Centrex service. Respondents

^{94/} E.g., Post Conference Brief of Oriental Precision at 14.

^{95/} Post Conference Brief of Petitioners at 30.

^{96/} Id. at 31. The information available at this preliminary stage does not provide a basis for a final resolution of the significance of these factors. Should any final investigations occur we will seek to obtain information that will allow us to more fully consider these issues.

argue that Centrex service ^{97/} competes directly with key, PBX, and hybrid systems in the under-100 line market, because it now provides the end user with the same array of features and capabilities as systems using equipment on customer premises. ^{98/} Petitioners counter that Centrex is an imperfect substitute for customer premises equipment, and that most users of Centrex also have at least some purchased equipment on customer premises. ^{99/} The data concerning Centrex collected in these preliminary investigations are incomplete. ^{100/} Thus, a complete assessment of the effects of Centrex on the condition of the industry producing SBTSS is not possible here. ^{101/}

Other additional arguments that may require further attention by the Commission in any final investigations pertain to the production and sales

^{97/} For a general description of Centrex services, see Report at A-11-A-12.

^{98/} E.g., Post Conference Brief of Nitsuko at 11; Post Conference Brief of Fujitsu at 20.

^{99/} Post Conference Brief of Petitioners at 33.

^{100/} Purchaser questionnaires, routinely sent in final investigations, will help shed some light on the significance of Centrex competition, as well as the other causal factors.

^{101/} An additional potential competitor with SBTSS, other than subject imports, is petitioner's own larger PBX System 75. Respondents argue that the System 75 is often sold by petitioner to purchasers in the SBTS market and has thus contributed to whatever injury has been suffered by the domestic industry. E.g., Post Conference Brief of Toshiba at 13. There is insufficient information on sales of the System 75, however, to fully assess its impact on the domestic SBTS industry. Further, additional information is needed to enable the Commission to fully assess any impact on the domestic

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efforts of the dominant domestic producer, AT&T. Respondents argue that AT&T has been hurt by its own marketing practices: soliciting sales by phone or letter, not face-to-face; ignoring smaller purchasers and interconnects; concentrating on preserving its installed customer base in the face of changed market conditions; and poor timing in introducing its new line of systems. ^{102/}

Respondents further claim that AT&T is losing its rental base to imported SBTSS because AT&T does not actively seek to make sales to these customers. ^{103/} By contrast, petitioner asserts that in such cases it is doubly injured, losing both a rental commitment and a sale. ^{104/} Respondents also argue that AT&T's status as former monopolist has left it with unrealistic expectations for its economic performance in the post-divestiture telecommunications market. ^{105/}

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industry of imports from countries not subject to investigation, as well as of sales of used or refurbished equipment. See, e.g., Post Conference Brief of NEC at 30-32; Post Conference Brief of Oriental Precision at 18-19.

^{102/} E.g., Post Conference Brief of Oriental Precision at 20; Post Conference Brief of Matsushita at 29-30.

^{103/} E.g., Post Conference Brief of Fujitsu at 26.

^{104/} Petition at 29.

^{105/} Respondents further contend that much of the market share lost by AT&T has been gained by other members of the domestic industry. Post Conference Brief of Fujitsu at 28. To the extent such assertions are true, they do not explain why the market share of the domestic industry as a whole has declined, although they might be relevant to understanding the decline in the financial condition and market share of AT&T.

While some of these additional factors may have had a significant impact on the performance of the domestic industry, particularly competition from Centrex and imports from other countries, the record as it now stands does not persuade us that these factors fully account for the changes in the condition of the domestic industry over the period of investigation. Thus, given the standard applicable to preliminary investigations, we determine that there is a reasonable indication of material injury by reason of the allegedly LTFV imports.

ADDITIONAL VIEWS OF ACTING CHAIRMAN ANNE E. BRUNSDALE

Small Business Telephone Systems
From Japan, Korea, and Taiwan

Investigation Nos. 731-TA-426, 427, and 428 (Preliminary)

I concur with my colleagues in finding a reasonable indication that an industry in the United States is materially injured by reason of the importation of small business telephone systems (SBTSs) from Japan, Korea, and Taiwan. In reaching this conclusion, I use the standard for preliminary determinations approved by the court of appeals in American Lamb Co. v. United States ^{1/} as discussed in New Steel Rails from Canada.^{2/} As demonstrated in the foregoing Views of the Commission, evidence on the record supports petitioner's allegation of injury by reason of allegedly less-than-fair-value imports. Also, the contrary evidence is not so clear and convincing as to warrant termination of the investigation at this preliminary stage. In these additional views I discuss several ways in which the record might be strengthened should any final investigations occur, and also explain my preliminary analysis of causation.

Causation Analysis: Approach and Data Requirements

My analysis of the effect of LTFV imports on domestic producers draws on the record to develop a view regarding (1) the degree of substitutability between the subject imports and domestic products, (2) the extent to which overall demand in the market is responsive to price, and (3) the

^{1/} 785 F.2d 994 (Fed. Cir. 1986).

^{2/} Inv. Nos. 731-TA-422 and 701-TA-297 (Preliminary), USITC Pub. 2135 at 3-4 (Views of the Commission) and 55-68 (Views of Acting Chairman Brunsdale).

responsiveness of domestic supply to changes in price.^{3/} I organize the evidence on the record in this manner in order to understand the nature of competition between the subject imports and the domestic like product.^{4/} Evidence regarding the margin of dumping, the share of the domestic market held by subject imports, pricing patterns, and the role of non-subject imports in the marketplace are used together with the above three factors to determine whether the impact of LTFV imports on the domestic industry rises to the level of material injury. In making this determination, I take account of information regarding the condition of the domestic industry, because the importance or materiality of any injury depends to a significant degree on the status of the domestic industry at the time its fortunes are affected by the subject imports.

For the purposes of any final investigations, I outline below several gaps in the record developed thus far. One particularly important question that merits particular attention is to what extent and on what terms do imported SBTSs, which are distributed through interconnects, compete with those domestic SBTSs (primarily from AT&T) that are sold directly to end users. Because the imported and domestic SBTSs compete to a significant degree at different levels of commerce, there is little data at this point on the substitutability of the imports and the domestic like product.

^{3/} For a more detailed explication of my method of analysis, see Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore, Inv. Nos. 731-TA-367 through 370 (Final), USITC Pub. 2046 (December 1987) at 15-54 (Views of Vice Chairman Brunsdale).

^{4/} The evidence on the record consists of data relevant to the economic, financial and production factors enumerated in section 771(7) of the Tariff Act of 1930 (19 U.S.C. § 1677(7)(B), (C)). My analysis thus does not displace the evidence on the record, but serves as a method of organizing it in a meaningful way.

Purchaser questionnaires may provide some useful information; in particular, any relevant data regarding transactions at the same level of trade would be especially helpful. At the interconnect level, data regarding exclusive territories or exclusive dealing arrangements, as well as information on the terms and conditions of trade, would be useful.

As noted in the Views of the Commission, the price evidence in this preliminary investigation is not probative.^{5/} Because so much of the competition between subject imports and domestic SBTSs occurs across distinct levels of trade, even improved price data may have limited probative value. Despite this problem, every effort should be made to secure the best possible pricing information.

The price data for sales made at the same level of trade show a wide disparity in prices for SBTSs that fall into the same category. In several cases one foreign manufacturer produces several systems whose prices bracket the prices of domestic products. This suggests to me that the different systems are not perfect substitutes. In any final investigations, price information should be analyzed in relation to the features available in competing models. A list of common features (music on hold, paging, etc.) that are standard in some systems and optional in others might be developed and an indication provided as to whether a feature is standard, optional, or unavailable.^{6/} Also, because SBTSs are often configured below their rated capacities, and the size of the difference can affect performance, data on rated capacities should accompany presentations of price data.

^{5/} See Views of the Commission at 37.

^{6/} The cost of optional features should also be noted.

The price of systems to customers other than end-users in the staff report were constructed from the lowest reported prices of the individual subassemblies that constitute these systems.^{7/} The proportion of sales accounted for by these "lowest price" constructions and the comparability of the quantities underlying the "constructed prices" of the various telephone systems whose prices are compared in these tables are also not apparent. Furthermore, the rationale for basing these constructions on lowest rather than average prices is obscure. There is no indication of whether the results based on the average cost of subassemblies would show the same price relationships.

The prevalence of competition across levels of trade between AT&T, the dominant domestic producer, and other suppliers is a key factor in evaluating the overall substitutability between subject imports and domestic like products. Some insight into cross-channel competition might be obtained in questionnaire responses from AT&T and interconnect purchasers regarding their sales contacts with end-users and other indicators of business strategy towards end-users. Direct contacts with end-users are another potential source of information to the Commission. However, while the Commission has previously dealt with domestic industries that sell directly to end users, to my knowledge we have never before dealt with a case where the end-user market was so diffuse.^{8/} In the event that we sample the population of end users, it will be necessary to ensure that this sample is unbiased. The diffusion of the end-user market also raises

^{7/} See Producers' Questionnaire at 36. Also Staff Report at A-42 to A-43. (Tables 27 through 37).

^{8/} AT&T, the largest domestic producer, reported shipments of over ***** SBISs in 1987.

problems for the evaluation of anecdotal evidence regarding lost sales, because even a large number of such allegations may cover transactions that are insignificant relative to the total market.^{9/}

In the staff report for these preliminary investigations, there is a wide disparity between the importers' shipments data and import value data.^{10/} The importers' shipments data indicate much higher values than the import value data. In cases where the import value data reflect transfer prices among related parties, the shipments data provide a better indicator of the true market value of imports. However, where importers are unrelated parties, any discrepancy between import valuations and shipment valuations will primarily reflect value that is added by importers. Unless all imports fall into one or the other category, a mix of import value data and importers shipments data may be necessary to accurately gauge the U.S. market share of subject imports in value terms. The same considerations would also apply to evaluation of the role of non-subject imports in the U.S. market.

I also would be interested in developing additional insight into the responsiveness of the overall demand for SBISs to changes in price. In this regard, the parties might be asked to provide information on the relative importance of end-user demand from new buyers, such as new businesses, that do not yet have a SBIS in place, and demand from end-users that are replacing an existing SBIS. In the latter category, cases in

^{9/} I generally believe that lost sales evidence is one of the least probative elements of the record the Commission collects in Title VII investigations.

^{10/} See Staff Report at A-31, A-33 and A-34 (Tables 18, 19 and 20) for import value data, and at Appendix E, Table A for importers' shipments data.

which a firm has outgrown its existing SBTS should be distinguished from those in which increased capability rather than increased capacity motivates the decision to replace a current system. Further analysis of the product cycle in the SBTS market, which both petitioners and respondents agree runs from five to seven years, would also be appropriate.

Finally, during the preliminary investigation, information was collected regarding the number of circuit boards and other assemblies produced. Without standardization for the number of functions performed, this information is of dubious value. Technological advance, which may be occurring at different rates within the product lines of different producers, may affect the number of cards necessary to perform a given set of functions. Telephones and consoles would appear to be less suspect to this "counting" problem.

Preliminary Causation Analysis

In these preliminary investigations, the alleged margins of dumping are high, averaging 60 percent for Japan, 50 percent for Korea, and 45.9 percent for Taiwan.^{11/} The market share held by imports is substantial in both quantity and value terms.^{12/} Very little evidence was presented regarding the sensitivity of overall demand to the level of SBTS prices. The fact that the product cycle is apparently somewhat shorter than the physical lifetime of the equipment suggests that end-users may have the option of lengthening the time between upgrades or acquiring refurbished equipment as an alternative to buying new SBTSs; this could indicate that

^{11/} See Petition at 19-20.

^{12/} See Report at A-33 (Table 19) and at Appendix E, Table A.

demand is somewhat elastic. Nevertheless, the weight of the evidence supports the notion that the demand for SBTSs is moderately inelastic.

In addition, as noted above, the discrepancy between the market share of imports expressed in value and quantity terms, and the significant dispersion in prices of SBTSs sold for comparably sized installations, indicate that different manufacturers' systems are not perfect substitutes. Taken as a whole, however, the weight of the evidence collected thus far intimates that there is at least a moderate degree of substitutability between the subject imports and the domestic like product. Finally, the record indicates that domestic producers hold a decreasing share of a market that has been declining in absolute terms and have significant idle capacity.

Based on these factors, I determine that there is a reasonable indication that a domestic industry is materially injured by reason of imports of SBTSs that are allegedly sold at less than fair value. Admittedly, the record does not contain certain types of data that would assist the Commission in determining the extent to which the subject imports compete with the domestic like product. However, petitioner has established a plausible case that any final investigations could reveal the requisite degree of injury by reason of the dumped imports. Under the American Lamb decision, therefore, an affirmative determination is indicated.

ADDITIONAL VIEWS OF COMMISSIONER RONALD A. CASS

Certain Telephone Systems
from Japan, Korea and Taiwan
Inv. Nos. 731-TA-426, 427 and 428
(Preliminary)

I concur with the Commission's affirmative determination in these investigations, finding that there is a reasonable indication that the domestic industry is suffering material injury by reason of less than fair value ("LTFV") imports from Japan, Korea and Taiwan. I offer these Additional Views because my analysis of the legal and factual questions presented in these investigations differs in several respects from that of certain of my colleagues.

I. LEGAL STANDARD GOVERNING DISPOSITION
OF PRELIMINARY INVESTIGATIONS

For reasons explained in Section III, infra, I have determined that the record evidence presented to us in these preliminary investigations is sufficient to warrant an affirmative determination. In order to explain how I have reached this conclusion, it would perhaps be useful to explain briefly my understanding of the legal standard governing the Commission's determinations in preliminary investigations.

Under Title VII of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979, the Commission is required, in preliminary antidumping and countervailing duty investigations, to determine whether there is a "reasonable indication" that an

industry in the United States has been materially injured, or is threatened with such injury, by reason of imports that have allegedly been dumped or subsidized.^{1/} The statute does not explicitly address two related questions that must be resolved in order to apply the "reasonable indication" standard to the cases that come before us. First, what quantum of proof will justify a determination by the Commission that there is a reasonable indication of material injury, or threat thereof, by reason of imports alleged to have been unfairly traded? Second, what methodology should the Commission employ in determining whether that quantum of proof has in fact been established? The answer to these questions is not self-evident, but the statute and its legislative history, judicial precedent and past Commission practice provide guidance on both of these issues.

By providing that antidumping and countervailing duty investigations shall go forward if there is a "reasonable indication" of material injury, Congress clearly intended to "weight the scales in favor of affirmative and against negative determinations."^{2/} In short, the quantum of proof required to

^{1/} 19 U.S.C. §§1671b(a), 1673b(a). The statute also contemplates that the Commission will, in appropriate cases, reach an affirmative determination if there is a reasonable indication that the development of a domestic industry has been materially retarded by reason of imports that have allegedly been unfairly traded. For the purposes of this discussion, the concept of "injury" is intended also to encompass the notion of material retardation.

^{2/} American Lamb Co. v United States, 785 F.2d 994, 1001 (Fed. Cir. 1986); see also Yuasa-General Battery Corp. v. United States, slip op. 88-89 (Ct. Int'l Trade, July 12, 1988) at 5.

sustain an affirmative determination is clearly lower than that required in order to support such a determination in a final investigation. Put another way, the preponderance of the evidence on each relevant issue need not be in favor of a petitioner in a preliminary investigation before an affirmative determination may be made.

By the same token, however, it is just as plain that the "reasonable indication" standard was 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,^{3/} Congress, in articulating this standard, sought to balance two competing concerns.^{4/} Congress 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. However, Congress also believed 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; this is the very reason why the intermediate step of a preliminary investigation was created.

3/ Cited, supra, at n. 2.

4/ See American Lamb Co. v. United States, supra, 785 F.2d at 1002-3, citing S. Rep. No. 1298, 93rd Cong., 2d Sess. 171 (1974).

The preliminary investigation originated in the Trade Act of 1974. The legislative history of that statute sheds some light on the purpose that Congress intended such investigations to serve:

Under the present Act, the Secretary of the Treasury must complete his entire investigation as to sales at less than fair value before the matter can be referred to the International Trade Commission for its injury determination. The Committee felt that there ought to be a procedure for terminating investigations at an earlier stage where there was no reasonable indication that injury or the likelihood of injury could be found The amendment is designed to eliminate unnecessary and costly investigations which are an administrative burden and an impediment to trade.^{5/}

The Trade Agreements Act of 1979 revised the preliminary investigation process in two respects. First, it made preliminary investigations mandatory in Title VII cases.^{6/} Second, it slightly modified the standard to be used in such investigations by restating it in the affirmative rather than the negative; the statute was revised to provide that the Commission shall make a determination whether there is a "reasonable indication" that a domestic industry is materially injured or threatened with such injury.^{7/} However, there is no indication in the language or legislative history of the 1979 Act that the

^{5/} S. Rep. No. 93-1298, 93rd Cong., 2d Sess. 170-71 (1974).

^{6/} See 19 U.S.C. §§1671(b), 1673(b).

^{7/} Id.

Act was intended to alter fundamentally the standard applicable in preliminary investigations.^{8/}

The legislative history of the 1979 Act also suggests that, in preliminary investigations, "[t]he burden of proof . . . would be on the petitioner".^{9/} Subsequent court cases and legislative history have cast some doubt on the precise nature of the burden imposed on a petitioner.^{10/} Still, it is plain that some quantum of proof of injury must be on the record to justify an affirmative determination. The precise quantum of proof required can not, of course, be quantified, and can not easily be described with great precision. That said, however, as I have noted in other opinions,^{11/} past Commission practice suggests that the burden falls on the petitioner to satisfy the Commission that there is "at least a colorable basis" for an affirmative final determination.

Our standard for preliminary determinations seldom is discussed separately from a second factor that shapes our

^{8/} To the contrary, in the report that it issued in connection with that legislation, the Senate Finance Committee stated that it understood that the "reasonable indication" standard would be applied in the same manner as it had been under previous law. See S. Rep. No. 96-249, 96th Cong., 1st Sess. 49, 66 (1979).

^{9/} Id. at 66.

^{10/} See Budd Co. Railway Division v. United States, 507 F. Supp. 997, 1003 (Ct. Int'l Trade 1980); H.R. Rep. 1156, 98th Cong., 2d Sess. 182 (1984).

^{11/} See, e.g., Electrolytic Manganese Dioxide from Japan, Ireland and Greece, USITC Pub. 2097, Inv. Nos. 731-TA-406-408 (Preliminary) 23-24 (July 1988) (Additional Views of Vice Chairman Brunsdale and Commissioners Liebeler and Cass).

disposition of preliminary investigations: the methodology for evaluating whether that standard is met. Several discrete methodological issues arise in our discussions of preliminary determinations. First, are we limited to consideration only of evidence offered by the Petitioner? Second, if evidence not adduced by Petitioner can be considered, how should conflicting evidence be weighed? Third, how should the Commission treat evidentiary gaps on issues critical to our substantive determination?

The answer to the first of these questions seems relatively clear. Commission practice, approved by the U.S. Court of Appeals for the Federal Circuit in American Lamb,^{12/} among other cases,^{13/} has been to consider evidence offered by Commission staff and respondents as well as petitioners.

With respect to the second question, which concerns the manner in which conflicting evidence is to be weighed, the Commission's practice, also approved by our reviewing courts, has been to view evidence in a light favorable to petitioners, drawing inferences adverse to petitioners' case only where the opposing evidence clearly and convincingly supported the contrary proposition.^{14/} As with other verbal formulations of evidentiary

^{12/} American Lamb Co. v. United States, cited, supra, at n. 2.

^{13/} See, e.g., Yuasa-General Battery Corp. v. United States, cited, supra, at n. 2.

^{14/} See Certain Welded Carbon Steel Pipes and Tubes from the Republic of Korea and Taiwan, USITC Pub. 1324, Inv. No. 731-TA-131 and 132 (Preliminary) (June 1983); Canned Mushrooms from the

standards, this "clear and convincing" standard is subject to divergent applications. But, whatever disparities may be found in its application, it has been understood plainly to mean that a negative determination will not be reached in a preliminary investigation simply because on each substantive issue the Commission finds the weight of the evidence marginally favors an inference consistent with such a decision.

Finally, the absence of evidence on a matter that is relevant to our disposition of an investigation will not necessarily preclude an affirmative preliminary determination. In each instance, the Commission will consider the legal significance of the matter as to which evidence has not been developed, the likelihood of obtaining evidence adequate to our purposes in a subsequent investigation, and the basis for the belief that such evidence, when obtained, will support petitioner's claims.^{15/}

Thus, in my view, the Commission may issue a negative determination either because (i) the evidence presented in support of a petition does not, standing alone, amount to a reasonable indication of injury or threat of injury, and there is no reasonable likelihood that such evidence will be developed in

People's Republic of China, USITC Pub. 1324, Inv. No. 731-TA-115 (Preliminary) (Dec. 1982).

^{15/} See Electrolytic Manganese Dioxide from Japan, Ireland and Greece, USITC Pub. 2097, Inv. Nos. 731-TA-406-408 (Preliminary), (July 1988) (Additional Views of Vice Chairman Brunsdale and Commissioners Liebeler and Cass).

a final investigation, or (ii) because the evidence presented in opposition to the petition is so clear and convincing that the evidence supporting the petition cannot on the record as a whole be said to provide a reasonable indication of injury, again with the caveat that there is no reasonable likelihood that contrary evidence will be developed in a final investigation.^{16/} In this case, for the reasons explained herein and in the Views of the Commission, I do not believe that a negative determination can be justified upon either of these bases.

II. DOMESTIC LIKE PRODUCT

I have joined in the Commission's Views on the like product issues presented in these investigations and have little to add to them. However, it might be helpful to elaborate briefly on the reasons why I have concluded that uninstalled telephone systems (hereinafter referred to as "systems" or "telephone systems")^{17/}, rather than subassemblies of such systems, are the relevant like product. As in other cases presenting conceptually similar issues,^{18/} I have found this question to be an extremely

^{16/} For a discussion of how this understanding is in accordance with the court's opinion in American Lamb, see New Steel Rails from Canada, USITC Pub. 2135, Inv. No. 701-TA-297 and 731-TA-422 (Preliminary) 28-30 (Nov. 1988) (Additional Views of Commissioner Cass) ("New Steel Rails").

^{17/} Thus, the terms "system" or "telephone system", as used herein, unless otherwise indicated, do not refer to an installed system.

^{18/} See, e.g., Digital Readout Systems and Subassemblies Thereof from Japan, USITC Pub. 2150, Inv. No. 731-TA-390 (Final) 74-79 (Jan. 1989) (Concurring and Dissenting Views of Commissioner Cass) ("Digital Readout Systems").

close one. This issue has recurred, and will no doubt continue to recur, in Title VII cases. Accordingly, even though the issue does not have appear to have any decisional consequences for this proceeding,^{19/} I believe that it is incumbent upon us to offer as full an explanation as possible of the manner in which we have analyzed that issue in this case. Two points, both touched on in the Views of the Commission, are particularly important to an understanding of my analysis of that issue.

First, it should be emphasized that, although foreign producers sell subassemblies to distributors and interconnects, the actual competition between the imported and domestically-produced products is competition for sales of telephone systems; it is not competition for sales of subassemblies. Indeed, there is effectively no market competition for sales of subassemblies, divorced from system sales. As the Commission emphasizes, the end user purchases a system (whether installed, in the case of end users, or uninstalled, in the case of distributors or wholesalers).^{20/} There is no consumer market for the relevant subassemblies apart from telephone systems. Purchases of subassemblies by importer distributors or interconnects are entirely guided by their assessment of the demand for systems comprised of such subassemblies. Moreover, subassemblies of one producer cannot be combined with those of another producer to

^{19/} See Views of the Commission at 15.

^{20/} Id.

build a system.^{21/} Hence, the end user does not -- and indeed, as a practical matter, cannot -- decide to purchase a particular subassembly from one producer or the other based upon the price or other characteristics of that subassembly.^{22/} Thus, the fact that one producer might offer a particular subassembly at a price lower than that offered by other producers for the same kind of subassembly -- but a subassembly that or may or may not have entirely identical characteristics and functions -- is essentially irrelevant. It is the price and quality(ies) of the system as a whole that matters.

Second, the facts of this case are, on the record now before us, fundamentally different from those presented in Digital Readout Systems, a recent case in which we were also required to consider whether subassemblies used to construct a "system" should be viewed as separate like products. In Digital Readout Systems, I, like the other members of the Commission, reached the conclusion that the subassemblies at issue were, in fact, separate products, although my analysis of this issue differed somewhat from that of the majority of my colleagues.^{23/} In this case, subassemblies are not an appropriate like product for

^{21/} See id. at 12-13.

^{22/} This is so, inter alia, because particular subassemblies may perform different functions in different systems (see Views of the Commission at 3-4), and because subassemblies made by different manufacturers cannot be combined in a single system (see Views of the Commission at 12-13).

^{23/} See Digital Readout Systems, cited, supra, at n. 18.

several reasons, some of which distinguish this case from Digital Readout Systems. First, as previously discussed, there is no independent market for the subassemblies in question. Whether that was true in Digital Readout Systems is much less clear. Second, in this case, all of the major subassemblies are made by all of the pertinent domestic and foreign producers. By contrast, in Digital Readout Systems, some producers made only one or the other of the relevant subassemblies, indicating that production was to some extent segmented on a subassembly basis.^{24/} Thus, in Digital Readout Systems, much of the information relevant to our decision was available only on a subassembly basis, while here most of that information is available only at system level. Third, in Digital Readout Systems, unlike here, certain components that comprised the systems were not, in fact, subject to the investigation.^{25/} Accordingly, a definition of the like product at the system level was problematic, in that the subject imports could not be said to fully comprise the "system". In short, although there are a few similarities between the instant investigations and Digital Readout Systems, on many of the key issues that led me to conclude that subassemblies were the relevant like product in Digital Readout Systems, the facts here point in the opposite direction.

^{24/} See Digital Readout Systems, supra, at 77.

^{25/} See id. at 78-79.

III. REASONABLE INDICATION OF INJURY
BY REASON OF LTFV IMPORTS

A. Framework for Analysis: The "Unitary" or
"Comparative" Approach

In other cases, I have explained at length the approach that I employ in addressing the questions presented to us in antidumping investigations under Title VII of the Tariff Act of 1930.^{26/} I do not believe that a complete reiteration of my views on this subject is either necessary or appropriate here; however, a brief discussion of the essential elements of my approach, which has often been referred to as the "unitary" or "comparative approach", would perhaps be helpful.

For several reasons, I have reached the conclusion that the analytical framework used in recent years by many Commissioners, at times a majority of the Commission, is not the approach best suited to carry out the requirements of Title VII. First, in my view, it is not consistent with our statutory mandate for the Commission to ask separately whether the domestic industry has been injured, and then, if injury has been found, to inquire whether imports caused or contributed to that injury. I believe that the language of the statute, as well as its legislative history, indicates that Congress intended that the Commission

^{26/} See, e.g., 3.5" Microdisks and Media Therefor from Japan, USITC Pub. 2076, Inv. No. 731-TA-389 (Preliminary) (Sept. 1988) (Additional Views of Commissioner Cass) ("Microdisks"); Internal Combustion Engine Forklift Trucks from Japan, USITC Pub. 2082, Inv. No. 731-TA-377 (Final) (May 1988) (Additional Views of Commissioner Cass) ("Forklift Trucks").

conduct a unified (or "unitary") analysis of the relationship between LTFV imports and the domestic industry that compares the industry's actual performance with what the domestic industry's performance would have been if there had been no LTFV imports. Among other things, any alternative to a unitary approach necessarily creates, without warrant in the statutory language or evidence of Congressional intent, a requirement that the domestic industry be "unhealthy", by whatever measure, as well as injured by reason of LTFV imports.^{27/}

Second, to state what might appear at first blush to be obvious, the Commission has a duty to explain clearly how it has assessed the impact of LTFV imports on the domestic industry. We must articulate the major factual inferences and assumptions that underlie our assessment of the issues before us, and must explain how they lead us to the conclusion that we reach on the ultimate question that we are required to address -- that is, did dumping cause material injury to the domestic injury? In this respect, we are, of course, no different than any other administrative agency.^{28/} Our duty is not fully discharged if we simply examine in a general way the volume of imports and the present condition of the domestic industry and, after intuitive evaluation of their

^{27/} The distinction between the unitary approach and the alternative, bifurcated approach, and the legal reasons why the unitary approach is preferable, are discussed in detail in *Digital Readout Systems*, *supra*, at 95-119.

^{28/} See, e.g., *SEC v. Chenery Corp.*, 318 U.S. 80 (1943); *Phelps Dodge Corp. v. NLRB*, 313 U.S. 177 (1941).

relationship, offer our conclusions as to whether the industry has been injured by reason of LTFV imports. However, the approach sometimes employed in Title VII cases does not identify many of the predicates necessary to assess the effects of LTFV imports on the domestic industry, and, hence, does not appear adequately to fulfill this obligation.

The unitary or comparative approach avoids these difficulties, while carrying out, clearly and directly, the directives contained in the statute that governs antidumping investigations. Title VII of the Tariff Act describes with reasonable specificity the fundamental inquiry that the Commission must undertake, as well as the subsidiary inquiries that are to lead us to our ultimate conclusion with respect to the impact of LTFV imports. The factors given by the statute and the order in which they are listed in the statute suggest a three-part inquiry into the causation of material injury.^{29/} Title VII directs the Commission, in assessing the causation of injury by dumped imports, to

"consider, among other factors --

(i) the volume of imports of the merchandise which is the subject of the investigation,

(ii) the effect of imports of that merchandise on prices in the United States for like products, and

(iii) the impact of imports on such merchandise on domestic producers of like products"30/

^{29/} The aggregation of the statutory factors into three types of inquiry does not suggest that only three factors are important. The three inquiries that I undertake comprehend all of the statutory factors.

^{30/} 19 U.S.C. §1677(7)(B).

The statute goes on to spell out these three factors with greater particularity.^{31/} This suggests that the Commission must carefully consider three, related questions:

First, in examining the volumes of imports of the merchandise under investigation, the Commission must assess the extent to which import volumes changed as a result of the dumping (or alleged dumping). This change will be closely related to the change in prices of these imports consequent to dumping. Second, the Commission must attempt to determine how these imports affected prices, and concomitantly sales, of the domestic like product. Finally, the Commission must carefully evaluate the manner in which changes in demand for the domestic like product caused by LTFV imports, considered in connection with the second inquiry, affected such factors as return on investment and the overall level of employment and employment compensation in the domestic industry. The Commission must, of course, also assess the significance of these effects.^{32/}

B. Causation of Material Injury: Certain Telephone Systems and Subassemblies Thereof from Japan, Korea and Taiwan

1. Cumulation

In considering the question of causation of material injury in these investigations, we must consider, as a threshold matter,

^{31/} See 19 U.S.C. §1677(7)(C).

^{32/} Whether the injury to the domestic industry caused by LTFV imports rises to the level of materiality required under Title VII is, in some sense, a fourth part of our inquiry. See Digital Readout Systems, supra, at 117-119.

whether the volume and effect of the imports from the three subject countries -- Japan, Korea and Taiwan -- should be cumulatively assessed. The Commission is required to perform a cumulative assessment "of imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market".^{33/} The Commission has generally looked at the following four factors in order to determine whether cumulation is appropriate:

- (1) the degree of fungibility between the imports from different countries and between the imports and the domestic like product;
- (2) the presence (or absence) of sales or offers to sell in the same geographical market imports from other countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and
- (4) whether the imports are simultaneously present in the market.^{34/}

However, even where consideration of these factors would otherwise indicate that cumulation is called for, the Commission is not required to cumulate imports from a particular country if

^{33/} 19 U.S.C. §1677(7)(C)(iv).

^{34/} See, e.g., Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, France, Italy, Japan, Rumania, Singapore, Sweden, Thailand, and the United Kingdom, USITC Pub. 2083, Inv. Nos. 303-TA-19 and 20, 731-TA-391-399 (Preliminary) 30 (May 1988); Thermostatically Controlled Appliance Plugs and Probe Thermostats Therefor from Canada, Hong Kong, Japan, Malaysia and Thailand, USITC Pub. 2087, Inv. Nos. 701-TA-290-292, 731-TA-400-404 (Preliminary) 15 (June 1988).

it determines that imports of the merchandise from that country are negligible and have no discernible adverse impact on the domestic industry.^{35/} Before concluding that imports from a given country are negligible, we must conclude, *inter alia*, that both the volume and market share of the relevant imports are negligible.^{36/}

In these investigations, for different reasons, the Taiwanese and Korean Respondents have argued that cumulation is not appropriate. Their respective arguments are considered in turn.

The Taiwanese Respondent, Sun Moon Star Group, has argued that imports of the subject imports from Taiwan should not be cumulated with those from other countries because Taiwanese imports are "negligible" within the meaning of the statute.^{37/} The Taiwanese Respondent points in particular to the low market share accounted for by subject imports from Taiwan.^{38/}

The Taiwanese market share is, in fact, relatively low, but hardly insignificant. The Commission staff has not been able in these preliminary investigations to compile reliable data on domestic consumption and imports of "systems" per se from the

^{35/} 19 U.S.C. §1677(7)(C)(v).

^{36/} Id.

^{37/} Post-Conference Brief of Sun Moon Star Group ("Taiwan Brief") at 20-21.

^{38/} Id. at 21; Post-Conference Brief of Sun Moon Star in Response to Petitioner's Confidential Information.

subject countries.^{39/} However, the Commission has attempted to estimate the value of shipments of imported subassemblies and to compare it to the apparent domestic consumption of small business telephone systems.^{40/} These data indicate that imports of telephone systems from Taiwan accounted for at least [*]% of domestic consumption during the first nine months of 1988.^{41/} Moreover, these data may underestimate the actual market penetration by the Taiwanese producers at the system level. For example, the Commission believes that control and switching equipment are the subassembly that corresponds most closely to "systems".^{42/} Measured by quantity, imports of control and switching equipment from Taiwan accounted for [*]% of U.S. consumption of such equipment in 1987, and [*]% in the first nine months of 1988.^{43/} Measured by value, imports of such equipment from Taiwan were lower -- [*]% in 1987 and [*]% in

^{39/} Report at A-58.

^{40/} See USITC Memorandum INV-M-018 (February 8, 1989) from the Office of Investigations at 2; Report at B-18. In these preliminary investigations, I have used these data as the best evidence available to us. However, as discussed, *infra*, in any final investigation, I would invite the parties to address the question whether such data are an accurate measure of import penetration in the market for sales of telephone systems.

^{41/} Report at Appendix D at Table D.

^{42/} *Id.* at A-12. Each new system has one control or switching unit. *Id.* Although control and switching units are sometimes sold to replace an existing unit, or to expand an existing system, the quantities of control and switching units shipped closely approximate the number of systems shipped. *Id.*

^{43/} *Id.* at A-36, Table 21.

the first nine months of 1988 44/ -- but still plainly more than de minimis. Moreover, the absolute volume of imports from Taiwan cannot be dismissed as insignificant. In 1987, for example, Taiwanese producers exported almost [*] control and switching units to the United States.45/ In the first nine months of 1988, almost [*] such units were imported from Taiwan.46/ Furthermore, the items in question are not inexpensive; for example, the control and switching equipment imported from Taiwan in the first nine months of 1988 had a value of in excess of \$[*] million.47/

As the Taiwanese Respondent correctly points out, Congress has not provided, in either the language or legislative history of the statute, any numerical standards or other guidelines as to the meaning of the term "negligible", other than offering the observation that the concept may have different meanings in different industries.48/ However, I do not believe that Congress intended that we regard imports of the magnitude in question here -- which are significant in terms of volume, value and market share -- as negligible.

44/ Id.

45/ Id. at A-31, Table 18.

46/ Id.

47/ Id.

48/ Taiwan Brief at 20.

One of the Korean Respondents, Goldstar, argues that the volume and effects of imports from Korea should not be cumulated because Korean imports consist of subassemblies and components that are "custom made" and therefore not interchangeable with subassemblies from Japan or Taiwan or those made in the United States.^{49/} Goldstar also argues that "it is simply unrealistic to speak of imports of . . . [Korean] components competing with AT&T's telephone systems".^{50/}

However, the fact remains that the Korean imports, even if "custom made" in some sense that the imports from the other two subject countries are not, appear, on the basis of the record before us in these preliminary investigations, to be entirely dedicated for use in systems that compete with those manufactured by the domestic industry. If this case should return to us in the form of a final investigation, Goldstar could, of course, attempt to persuade us that this apparent competition does not in fact exist. On the basis of the present record, however, I am not at all persuaded of this. Accordingly, I cannot determine, as Goldstar urges, that cumulation of the Korean imports is inappropriate because such imports do not compete with those made by the subject Japanese and Taiwanese producers or by the domestic industry.

^{49/} Post-Conference Brief on Behalf of Goldstar Telecommunication Co., Ltd. and Goldstar Products Co., Ltd. ("Goldstar Brief") at 14-17.

^{50/} Id. at 16.

Given the record in these preliminary investigations and the legal standards applicable in such investigations, I cannot discern any other basis upon which we might refuse to cumulate the volume and effects of the imports from Japan, Korea and Taiwan. I reach this conclusion for essentially the reasons stated in the Views of the Commission. However, I note that, if this case should return to us in a final investigation, my views on this subject might change if any or all of the Respondents presented us with persuasive evidence that their products effectively do not compete with those of the domestic industry. In that event, I would find it particularly relevant for the parties to address the question whether there is a marked discrepancy between the market share of each subject country when measured by quantity, and their respective market shares when measured by value, and, if so, whether this discrepancy demonstrates that the imported products compete for a segment of the market in which the domestic industry effectively does not compete.^{51/}

2. Volumes and Prices of LTFV Imports

The evidence now on record before the Commission suggests that the prices of the subject imports would have declined substantially as a result of the dumping alleged by Petitioners. Petitioner alleges that these imports were sold at prices that were lower than fair value by significant margins. Petitioners

^{51/} The issue is discussed in more detail, infra, in Section III.B.3.

assert that the subject Japanese systems were sold at prices reflecting dumping margins that averaged more than 80%.^{52/} In the case of Korea, Petitioners allege that the average dumping margin was almost 50%.^{53/} Petitioners claim that the Taiwanese Respondent sold its System 30 at a price reflecting a dumping margin of 45.9%.^{54/}

These margin allegations have not, of course, yet been tested in proceedings before the Commerce Department. Still, in Title VII preliminary investigations such as these, these alleged margins are the best evidence available to us, and we are, in my view, generally required to accept them as such.^{55/} Indeed, the legislative history of the Trade Agreements Act of 1979 makes clear that, in preliminary investigations in antidumping cases, the Commission "will be guided by the description of the allegation of the margin of dumping contained in the petition or as modified by . . . [Commerce]".^{56/} Accordingly, although I believe, as a general matter, that factual assertions such as the Petitioners' alleged margins should not be accepted uncritically, I do not believe that a searching inquiry into the margins is appropriate under the bifurcated statutory framework established

^{52/} See Petition at 19-20. See also *id.* at Exhibit 6.

^{53/} See Petition at 20. See also *id.* at Exhibit 6.

^{54/} See Petition at 20.

^{55/} See New Steel Rails, *supra*, at 39-40.

^{56/} Statements of Administrative Action, Trade Agreements Act of 1979, at 415.

for our preliminary investigations. Conceivably, where margin allegations are inherently implausible or plainly contradicted by irrefutable record evidence, we may not be able to accept them.^{57/} However, I need not reach that issue in these investigations because Respondents have not alleged, and the record evidence does not otherwise suggest, that this is the case here.

As I have noted in other cases, dumping margins are not, in any event, conclusive of the effects of the alleged dumping on the prices of the subject imports.^{58/} In general, dumping margins (as alleged or as determined by Commerce) do not constitute a precise measure of the extent to which the prices of subject imports declined as the result of dumping. In most cases, the actual price decrease will be less than the full amount of the dumping margin. The change in the price of alleged LTFV goods that occurs consequent to dumping depends to some extent upon the nature of the dumping. Plainly, dumping as defined by the Tariff Act encompasses any sale of goods at a higher price in the exporter's home market (or a surrogate for it) and a lower price in the U.S. market. In general, dumping by a foreign producer, charging lower prices in the U.S. for its

^{57/} New Steel Rails, *supra*, at 39-40.

^{58/} See, e.g., New Steel Rails, *supra*, at 42; Granular Polytetrafluoroethylene Resin from Japan and the Netherlands, USITC Pub. 2112, Inv. Nos. 731-TA-385 and 386 (Final) 74 (Aug. 1988) (Additional Views of Commissioner Cass); Certain Bimetallic Cylinders from Japan, USITC Pub. 2080, Inv. No. 731-TA-383 (Final) 44 (May 1988) (Additional Views of Commissioner Cass).

products than in the foreign market, occurs because the producer enjoys more market power in the foreign market than in the U.S. market and seeks to increase its overall profitability by charging more where the producer is able to and less where he faces more competition.^{59/} Other explanations for dumping are possible,^{60/} but Respondents have not argued, and the record evidence before us does not suggest, that they are at all likely explanations in this case. Accordingly, in determining the likely impact of the alleged dumping on the prices of the subject imports for the purposes of these preliminary investigations, it is most reasonable to conclude that this is a case where the alleged differential pricing is a product of the disparity in the market power enjoyed by the subject foreign producers in their

^{59/} Commentators who have studied differential pricing in international markets have long believed that this is the best explanation for most instances of dumping. See, e.g., G. von Haberler, *The Theory of International Trade with its Application to Commercial Policy* 296-317 (1936). See also J. Viner, *Dumping: A Problem in International Trade* (1923).

^{60/} For example, dumping may reflect the desire to capture the value of an established brand name in a market where that name is known but not to add a premium for that name when its goods are introduced into a new market. See *Microdisks*, *supra*, at 77; *New Steel Rails*, *supra*, at 59. Dumping may also be motivated by predation, but predation is, in general, a most improbable explanation. As the Supreme Court recognized in *Matsushita Electric Industries Co. v. Zenith Radio Corp.*, 475 U.S. 574, 589 (1986), "predatory pricing schemes are rarely tried, and even more rarely successful".

respective home markets and their market power in the U.S. market.^{61/}

In this regard, I note that it is the difference between the home market and the U.S. market that is of significance; no absolute judgment respecting the competitiveness of the U.S. market or the noncompetitiveness of the foreign market is necessary. Moreover, while the number of firms in a given market is not irrelevant, there is no necessary relation between the number of firms in a market and the degree of market power a given firm holds.^{62/} Absent some special impediment to entry by foreign firms, it is particularly not important to focus on the number of domestic firms participating in a given market. While domestic production of telephone systems is dominated by a single firm, the evidence of record strongly suggests a very competitive U.S. market for sales of such systems. That is the market at issue here. The initial question, then, is how dumping may have affected the volumes and prices of imports sold in such a market.

In any case where differential pricing of sales to the U.S. market and to a foreign market has occurred, the actual decrease in the U.S. price of the subject imports that occurred consequent to dumping will be a percentage of the dumping margin; this

^{61/} In that context, see, e.g., JTECH (Japanese Technology Evaluation Program) Panel Report on Telecommunications Technology in Japan 2-10 (May 1986) (prepared for the National Science Foundation).

^{62/} See, e.g., Demsetz, Why Regulate Utilities?, 11 J. L. & Econ. 55 (1968).

percentage 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 home market that is accounted for by sales in their home market.^{63/} In reality, an estimate of the decrease in the price of the dumped product that is derived in this fashion will be somewhat overstated as it represents an approximate upper bound of that decrease.^{64/} However, to the extent that such an estimate may give Petitioners marginally the benefit of a doubt in this case, I believe that this is nevertheless appropriate given the legal standard that governs preliminary investigations.^{65/}

In this case, the record evidence indicates that the percentage of the dumping margin that would have been passed through to U.S. consumers of the subject imports in the form of a decrease in the price of those products consequent to the alleged dumping would have varied significantly from country to country. In the case of Japan, home market shipments accounted for the bulk of the sales made by the Japanese producers in the combined

^{63/} See, e.g., *New Steel Rails, supra*, at 60; *Granular Polytetrafluoroethylene Resin from Japan and the Netherlands*, USITC Pub. 2112, Inv. Nos. 731-TA-385 and 386 (Final) 74 (Aug. 1988) (Additional Views of Commissioner Cass); *Certain Bimetallic Cylinders from Japan*, USITC Pub. 2080, Inv. No. 731-TA-383 (Final) 44 (May 1988) (Additional Views of Commissioner Cass).

^{64/} For a thorough explication of this subject, see USITC Memorandum EC-L-149, *Assessing the Effects on the Domestic Industry of Price Dumping, Part I* (May 10, 1988) from the Office of Economics at 1, n. 1, 13, 19-21.

^{65/} See discussion, *supra*, at 53-60.

U.S./Japan market.^{66/} This would suggest that the actual decrease in the price of the imports from Japan that occurred consequent to dumping would have been a relatively large percentage of the dumping margin.

For Korea, the reverse would have been true. Sales to the United States by the Korean producers far outweighed sales made in the home market.^{67/} Accordingly, in the absence of dumping, the price of the subject Korean imports would have declined by only a small percentage of the alleged dumping margin.

Taiwan would fall somewhere between the Japanese and Korean examples. In the first nine months of this year, shipments by Respondent Sun Moon Star to the United States and to its home market were [* *], with U.S. exports [* * * *] home market shipments.^{68/} Thus, if there had been no dumping, the price of the Taiwanese imports would have been

^{66/} Specifically, in the first nine months of 1988, home market shipments of control and switching equipment accounted for about 84% of total shipments of such equipment made by the subject Japanese producers in a combined U.S./Japanese market. See Report at A-27, Table 14. (For the reasons explained, *supra*, at 70, data for this equipment represents the best available measure of system sales.) In 1987, the comparable figure was 82%. *Id.*

^{67/} In the first nine months of 1988, exports of control and switching equipment to the United States from Korea amounted to over [*]% of all shipments made by the subject Korean producers in the combined U.S./Korean market. See Report at A-28, Table 15. For 1987, the comparable figure was even higher, almost [*]%. *Id.*

^{68/} See *id.* at A-29, Table 16. In 1987, the picture was quite different in that Sun Moon Star's U.S. exports were [* *] than home market shipments. *Id.* However, Petitioners allege that dumping occurred in 1988; accordingly, the 1988 data are more significant for present purposes.

approximately [* *] between their actual price and the price that would be reflected by the upward adjustment of this price by the full amount of the dumping margin.

Accordingly, the record evidence before us in these preliminary investigations suggests that the alleged dumping reduced the price of the subject Japanese imports substantially, by an amount equivalent to a sizeable percentage of the dumping margins alleged for the Japanese producers. For the subject Taiwanese and Korean imports, the apparent price decrease was smaller, particularly in the case of Korea, but in both cases, the apparent price decrease nevertheless was significant.

For reasons discussed in more detail below, on the basis of the record now before us, I must conclude that it is likely that, accepting the allegation of dumping for purposes of this inquiry, the price decreases that occurred for products of all three countries as a result of the dumping also produced significant increases in sales of the subject imports. This is so principally because it is apparent that the imported systems are substitutable to at least a significant extent for the domestically-produced product.^{69/} However, as explained more fully below, the evidence on this issue is far from conclusive, and additional evidence that might be produced in a final investigation might lead me to draw a different inference on this point should this case return to us in a final investigation.

^{69/} See discussion, *infra*, at 84-86.

3. Prices and Sales of Domestic Like Product

The second inquiry suggested by the statute^{70/} builds on the first. It asks, in light of the changes in the volumes and prices of the subject imports that occurred consequent to the alleged dumping, what changes have occurred in prices and sales of the domestic like product? In this investigation, there is reason to believe that these changes may have been quite significant. However, the record on certain issues relevant to this question has not been fully developed in these preliminary investigations in the limited time available to us. Accordingly, it should be emphasized that my conclusions in this regard are not necessarily indicative of those that I would reach in a final investigation.

One fact that suggests that the subject imports have had a significant effect on sales by the domestic industry is the share of the U.S. market that has been held by the Japanese, Korean and Taiwanese producers. For the reasons previously stated, I have used the import and domestic consumption data compiled by the Commission for control and switching equipment as the best available indicator of penetration by the subject producers in the market for sales of small business telephone systems.^{71/} Using this measure, in the first nine months of 1988, the subject foreign producers accounted collectively for about 43.6% of the

^{70/} See 19 U.S.C. §1677(7)(B)(ii).

^{71/} See discussion, supra, at 70.

total quantity of small business telephone systems purchased in the U.S. market, with Japan accounting for 15.8%, Korea [*]% and Taiwan [*]%.^{72/} Interestingly, however, if market penetration is measured by value, these producers had a significantly lower collective market share. Again using the value of imports of control and switching equipment as the relevant measure, the collective market share of the subject foreign producers was only about 9.8%.^{73/}

The Commission has, however, also attempted to estimate the share of the total value of all systems sold in the United States that is accounted for by shipments of all systems sold in the United States and comprised of subassemblies made by the subject producers.^{74/} Measured on this basis, the collective, value-based market share of the foreign producers would appear to be notably higher, approximately 32.1% in the first nine months of 1988.^{75/} I shall return to the potential significance of these apparent disparities momentarily. For present purposes, the

^{72/} Report at A-36, Table 21.

^{73/} Id. Market penetration by the producers in each of the three subject countries is also correspondingly lower than their quantity-based market share. Id.

^{74/} In other words, this market share estimate looks at the value of domestic shipments of imported subassemblies used in systems, rather than the value of the imports themselves. See USITC Memorandum INV-M-018 (February 6, 1989) from the Office of Investigations at 2; Report at B-18.

^{75/} See Report at Appendix D at Table D.

important point is merely that market penetration by the subject imports was significant no matter which measure is used.

The second fact that suggests that the subject imports had a significant impact on sales by the domestic industry relates to the responsiveness of domestic demand for small business telephone systems to changes in the prices for such systems. Domestic demand for these products does not appear to be very responsive to price changes. This is so for several reasons. In general, a telephone system can be expected to represent a relatively small percentage of the cost of operating the business that uses it. Moreover, a telephone system is, for the most part, not a discretionary purchase; to state the obvious, few, if any, businesses can do without a telephone system. Further, there appear to be few close substitutes for the small business telephone systems that are the subject of these investigations.^{76/} On the other hand, many telephone systems are purchased to replace systems already in place in existing

^{76/} However, it appears that there may be at least some substitutes. The Japanese Respondents identified several potential substitutes: "Centrex" service provided by local telephone companies, refurbished telephone systems, and certain PBX systems used by large businesses but not subject to these investigations. See, e.g., Post-Conference Economic Submission on Behalf of Japanese Respondents in the Matter of Certain Telephone Systems and Subassemblies Thereof from Japan, Korea and Taiwan ("Japanese Respondents' Economic Submission") at Section VI. The potential significance of these products and services for other issues in this case are discussed in more detail, infra, at 89-91.

businesses, rather than to outfit new businesses.^{77/} This would make demand for the systems more price-responsive than it might appear to be at first blush. In general, then, no definitive conclusions can be offered on this subject as the record evidence on the issue is not as well developed as it perhaps would be in a final investigation. On balance, though, the presently available information suggests that demand for small business telephone systems is not highly responsive to changes in price, and this, in turn, suggests that the subject imports had a significant impact on domestic sales.

A third critical variable in determining the effect that the subject imports have had on domestic sales (and prices) is the extent to which the imported systems are substitutable for the domestically-produced product. On this issue, too, the record is not fully developed.

There are clearly several significant differences between the subject imports and domestically-produced small telephone systems. The first and most obvious difference, discussed at some length by Respondents in their various submissions to the

^{77/} The parties appear to agree that, due to technological changes and other factors, the average "life" of a small business telephone system is relatively short, perhaps five to seven years. See, e.g., Transcript of 1/18/89 Conference at 81 (Testimony of Mr. Blanchard); Japanese Respondents' Economic Submission at VI.2, VI.3; Post-Conference Submission of NEC Corporation and NEC America, Inc. ("NEC Brief") at 25.

Commission,^{78/} concerns the manner in which the imported and domestic products are sold. Petitioner AT&T, which accounts for by far the majority of sales of small business telephone systems by the domestic industry,^{79/} sells almost all of its small business telephone systems directly to end-users through its own sales force.^{80/} The subject foreign producers, on the other hand, generally sell subassemblies to retail dealers and wholesalers.^{81/} Further, there is evidence in the record suggesting that the AT&T product may command a premium in the marketplace.^{82/} Finally, and perhaps, most importantly, there is, as previously noted, at least some discrepancy between the market share of the subject foreign producers when measured by quantity, and their market share when measured by value.^{83/} Depending upon what figures are used, the value-measured market share of the foreign producers may, in fact, be dramatically lower than the quantity-measured market share. On its face, this

^{78/} See, e.g., Japanese Respondents' Economic Submission at II.2; Goldstar Brief at 5-7; Post-Conference Brief Submitted on Behalf of Samsung Electronics Co. ("Samsung Brief") at 2-3.

^{79/} Report at A-11.

^{80/} Id. at A-11, A-39. The remaining domestic producers distribute the majority of their products through retail dealers, interconnects and wholesalers. Id.

^{81/} Id. at A-39.

^{82/} See Transcript of 1/18/89 Conference at 83-84. AT&T has, however, denied that its product commands a large premium or a premium from all customers. Id. I would regard this as a significant issue in any final investigation.

^{83/} See Report at A-36, Table 21; B-18 at Table D.

suggests that it is possible that the systems sold by the foreign producers in the U.S. market are fundamentally different in some ways from the domestically-produced product or that the mix of products sold by U.S. and foreign producers differs substantially. Should this case return to us in a final investigation, I would be very interested in any arguments that the parties might advance concerning this issue. For the purposes of these preliminary investigations, however, the only thing that can be said with a reasonable degree of confidence is that there is some indication that the subject imports and domestically-produced systems are not perfect substitutes.

The parties have also drawn our attention to a host of other issues that may bear on the extent to which the subject imports adversely affected domestic sales and prices. As one would expect, the parties' respective positions on these issues are sharply in conflict.

In arguing that the subject imports have depressed domestic prices, Petitioners have relied extensively on price data that purportedly show that the prices of the imported systems have been falling and that these prices have been consistently and significantly lower than the prices of domestically-produced systems.^{84/} Respondents, by contrast, argue that, in this case, the available price data are an inherently unreliable indicator

^{84/} See, e.g., Postconference Brief of American Telephone and Telegraph Company ("Petitioners' Brief") at 27.

of the impact of the subject imports on the domestic market.^{85/} On this issue, I believe that Respondents have the better of the argument. For a number of reasons, I cannot attach great weight to the price data that are available to us. I will mention only a few of those reasons here. First, in order to collect any data on price trends, the Commission staff was forced to attempt to analyze the prices of models that changed from year to year, with respect to standard features and otherwise.^{86/} The comparability of the year-to-year data is therefore open to serious question. Second, the staff has advised us that in most cases direct price comparisons between domestic and imported systems based on actual transaction prices were simply impossible, given the fact that direct sales to end-users by the foreign producers accounted for only a fraction of sales by those producers.^{87/} In addition, in reporting prices to the Commission, the parties were constrained in several respects. For one thing, importers' prices were, for the most part, reported on the basis of the lowest prices at which subassemblies necessary to complete a system were sold.^{88/} This would, of course, tend to bias downward the price of the

^{85/} See, e.g., Japanese Respondents' Economic Submission at IV.7; Post-Conference Submission on Behalf of Fujitsu Limited, Fujitsu America, Inc., and Fujitsu Business Communications Systems, Inc. ("Fujitsu Brief") at 28-33; Goldstar Brief at 2-9; Post-Hearing Brief of Oriental Precision, Ltd. ("Oriental Brief") at 13-15; Samsung Brief at 8-9.

^{86/} Report at A-44-A-45.

^{87/} Id. at A-41.

^{88/} Id.

imported product. Further, all reporting firms were requested to exclude the "adjunct" prices of certain standard features.^{89/} For all of these reasons, I believe that the price data before us are of questionable value.

In an effort to demonstrate the manner in which the subject imports have adversely affected domestic prices and sales, Petitioners have also provided us with certain materials relating to a study prepared for AT&T by McKinsey & Co. in 1987 in order to assist AT&T in setting optimum prices for certain new system models that AT&T introduced that year.^{90/} In preparing the study, McKinsey developed an elaborate pricing model designed to predict, among other things, the market share that AT&T would have enjoyed, given certain conditions in the marketplace. This model, which is said by Petitioners to be "highly accurate",^{91/} was used to predict what AT&T's market share would have been if the prices of the subject imports had been higher, *i.e.*, if there had been no dumping. This model supposedly shows that, if the price of imports had been 10-30% higher, AT&T would have achieved [* * * *] points of additional market share.^{92/}

For a variety of reasons, I do not view this evidence as having great probative value in these preliminary investigations.

^{89/} Id.

^{90/} Petitioners' Postconference Brief at 28.

^{91/} See id. at 28.

^{92/} Id.

Notably, Petitioners did not submit to the Commission certain important information relating to the study, including, inter alia, the survey data upon which the study was based, the model used to generate the data contained in the study, and supporting materials relating to various assumptions made in the study. Without this information, the Commission is not in a position to evaluate the credibility or relevance of the study.^{93/}

Obviously, Respondents are also in the same position in this respect.^{94/} Accordingly, I need not address here the question whether there is any merit to the extensive critique of the study, and Petitioners' use of it in this proceeding, that has been offered by the Japanese Respondents.^{95/} Plainly, however, this issue may be relevant in any final investigation.

In arguing that the subject imports did not have a material adverse impact on domestic prices and sales, Respondents have asserted that the prices and sales of the domestic industry have been strongly affected by various other non-subject goods and services that compete to some extent with the small business

^{93/} It would have been pointless for the Commission to insist that this information be supplied once it learned of its potential relevance, for a meaningful evaluation of the information could not have been conducted in the remaining time left in the already compressed period in which the Commission conducted these preliminary investigations.

^{94/} See Comments on APO Materials on Behalf of Japanese Respondents in the Matter of Certain Telephone Systems and Subassemblies Thereof ("Japanese Respondents' APO Material Comments") at 10.

^{95/} Id. at 10-18.

telephone systems that are the subject of this investigation. These are said to include non-subject imports of small business systems or subassemblies thereof, refurbished equipment, rental equipment, Centrex services provided by local telephone companies, and AT&T's System 75 PBXs.^{96/}

Petitioners, in contrast, argue that Respondents greatly exaggerate the demand for, and consumption of, these products and services.^{97/} Petitioners also argue that Centrex is, for the most part, a product that complements, rather than substitutes for, small business telephone systems. *Id.* at 33.

In my view, the evidence on these issues is simply inconclusive. Although the record is replete with debate over the magnitude of the demand for the non-subject goods and services that Respondents claim are substitutes for small business telephone systems, there is little, if any, record evidence that would allow the Commission to arrive at even a broad estimate of the extent to which such goods and services affected either prices or sales of the domestic like product. Given the narrow time frame in which preliminary investigations are carried out, this is not surprising. Nevertheless, we must

^{96/} See, e.g., Japanese Respondents' Economic Submission at II.13, VI.1, VI.5-22; Fujitsu Brief at 20-22, 26-28; NEC Brief at 26-30; Postconference Brief on Behalf of Iwatsu Electric Company Ltd. and Iwatsu America Ltd. ("Iwatsu Brief") at 26-33; Samsung Brief at 11-12.

^{97/} See Petitioners' Postconference Brief at 32-33, 34-35, 36, 38.

Make our determinations on the record that is presented to us. There is, in my judgment, no basis in the record upon which the Commission might determine that the existence of the posited alternatives to small business telephone systems demonstrates, contrary to other evidence in the record, that these alternatives, rather than the subject imports, are so fully responsible for any reduced sales or prices that the domestic industry has experienced during the time when dumping allegedly occurred that such dumping would have had at most an insubstantial effect. However, I would invite the parties to revisit this issue, if they deem it appropriate to do so, in any final investigation.^{98/}

Similar issues are raised by Respondents' arguments with respect to the alleged impact of manufacturing efficiencies upon the price of small business telephone systems. Respondents claim that any declines in the wholesale price of small business systems and subassemblies thereof may be attributable to "cost

^{98/} In that context, however, it should be noted that the evidence collected by the staff appears to show fairly conclusively that one of the alternatives discussed by Respondents, non-subject imports, is not nearly as significant a force in the marketplace as Respondents suggest. For example, in 1987 and the first nine months of 1988, imports of control and switching equipment for small business telephone systems accounted for only a [* *] of U.S. consumption of such products. See Report at A-36, Table 21. Unless Respondents can show that these figures are incorrect or misleading, it is unlikely that I would conclude that the availability of non-subject imports has significantly reduced sales or prices of the domestic like product.

trends typical of electronics-based products".^{99/} Petitioners, on the other hand, say that the industry does not involve "high tech" or "new technology" products for which large and continuing cost reductions are the norm.^{100/} Indeed, Petitioners assert that, given exchange rate shifts, manufacturing costs would have had to decline by about 90% in order to explain the decline that has supposedly taken place in the price of the imported Japanese products in the U.S. market.^{101/}

On the record as it now stands, Petitioners have the better of this argument. There is little evidence in the record that reveals the existence, or magnitude, of cost efficiencies that may be involved in the production of small business telephone systems. However, this, too, is an issue that the parties may wish to address in greater depth in any final investigation.

In sum, then, on some potentially important issues, the record is not as complete as one would perhaps like, and Respondents have raised a number of questions that would warrant further scrutiny in any final investigation. However, on the record as it now stands, I must find that there is at least a reasonable indication that the subject imports had a material adverse impact on domestic prices and sales.

4. Investment and Employment

^{99/} See, e.g., Japanese Respondents' Economic Submission at IV.3 4. See also Goldstar Brief at 13.

^{100/} Petitioners' Postconference Brief at 31.

^{101/} Id. at 31-32.

The third and final inquiry concerns the extent to which the subject imports have, through their effect on prices and sales of the domestic like product, adversely affected employment and investment in the domestic industry. The evidence compiled by the Commission staff, although in some respects ambiguous, is consistent with an inference that there has in fact been material damage to domestic industry employment and investment. Thus, this inquiry likewise supports a conclusion that there is a "reasonable indication" of material injury to the domestic industry by reason of LTFV imports.

The profitability of the domestic industry declined [* * *] over the period of the Commission's investigation.^{102/} Most notably, the operating income generated by the members of the domestic industry from their small business telephone operations declined significantly during the first nine months of 1988, when dumping is alleged to have taken place; operating income during that period was over [*]% less than it was during the comparable period in 1987.^{103/} These data, while significant, are far from conclusive, however, for the operating income of the industry fell by even more substantial percentages in 1986 and 1987 when dumping may or may not have been

^{102/} See Report at A-21, Table 12.

^{103/} Id.

occurring.^{104/} Moreover, it is noteworthy that capital expenditures and research and development expenses by the domestic industry both [* *] in the first nine months of 1988 relative to the same period one year earlier, after [* * * *] over the period 1985 through 1987.^{105/}

The employment data compiled by the Commission, although also somewhat mixed, are likewise consistent with an inference that LTFV imports adversely affected the domestic industry. Over the first nine months of 1988, total employment of production and related workers in the domestic industry fell by almost [*]%.^{106/} Hours worked declined by a slightly greater percentage during the same period.^{107/} However, hourly total compensation paid to production workers increased slightly in the first nine months of 1988, as it did during the preceding full-year periods.^{108/}

Respondents have argued that these largely adverse developments are attributable to factors other than LTFV imports. In particular, Respondents assert that market conditions and Petitioners' own shortcomings explain any problems that the domestic industry has experienced. They claim, for example, that

^{104/} The Commission, of course, in these preliminary investigations, as in others, has no information one way or the other on this issue.

^{105/} Report at A-23.

^{106/} Id. at A-19, Table 9.

^{107/} Id.

^{108/} Id.

the industry is in the down part of the product replacement cycle^{109/}, and that AT&T unwisely chose to introduce its new products in that down period.^{110/} Respondents also claim that the business practices of the domestic industry, particularly those of AT&T, have been costly and self-defeating. Among other things, Respondents argue that AT&T maintains a costly sales force ^{111/} that nevertheless does not effectively market its products to important sectors of the market.^{112/} Respondents also assert that AT&T has deliberately chosen a business strategy that seeks to maintain its installed base of rental customers at the expense of product sales.^{113/} In addition, Respondents argue that many of AT&T's current difficulties stem from its earlier refusal to supply systems to the interconnects, which are a major source of Respondents' business.^{114/}

^{109/} See, e.g., NEC Brief at 25-26; Oriental Brief at 18.

^{110/} See, e.g., NEC Brief at 25-26; Japanese Respondents' Economic Submission at VI.2-3.

^{111/} Japanese Respondents' Comments on APO Materials at 4-5.

^{112/} See, e.g., Iwatsu Brief at 29-32; Post Hearing Brief on Behalf of Matsushita Electric Industrial Co., Ltd., Matsushita Communication Industrial Co., Ltd., Kyushu Matsushita Electric Co., Ltd. and Matsushita Electric Corporation of America ("Matsushita Brief") at 29-30; Post-Conference Brief of Toshiba Corporation and Toshiba America, Inc. ("Toshiba Brief") at 19; Goldstar Brief at 13.

^{113/} See, e.g., Fujitsu Brief at 24-26; Oriental Brief at 19; Matsushita Brief at 29; Samsung Brief at 13; Toshiba Brief at 17-18.

^{114/} See, e.g., Iwatsu Brief at 21-23.

Petitioners deny all of these claims. AT&T asserts that "there is no reason to believe that . . . [a] direct selling strategy is inefficient or inappropriate for this market".^{115/} According to AT&T, this strategy is in fact sensible because it enables the company to avoid a situation where its products are "competing with themselves" at the distributor level.^{116/} AT&T also notes that certain other domestic firms, particularly Comdial, are not performing well even though they do not employ AT&T's strategy of marketing products directly to the end-user.^{117/} AT&T also denies that its business strategy with respect to rental customers causes it to lose sales opportunities.^{118/} AT&T likewise denies that it has lost sales by refusing to deal with interconnects.^{119/}

The evidence presented by the parties on these issues does not shed much light on the connection between dumping and trends in industry performance. Certainly, Respondents' arguments do not offer sufficient basis for rejecting the inference, otherwise suggested by the record in these preliminary investigations, that the alleged dumping has materially injured the domestic industry. The Commission cannot, finding a reasonable indication of injury,

^{115/} Petitioners' Postconference Brief at 42.

^{116/} Id.

^{117/} Id. at 42-44.

^{118/} Id. at 46-48.

^{119/} Id. at 43, n. 110.

reject petitions simply because we find other factors have caused greater harm to the industry.^{120/} Thus, Respondents' arguments must not only persuade us that other factors account for the bulk of the financial troubles that the domestic industry has experienced; rather, Respondents must persuade us that other factors so fully account for these troubles as to rebut conclusively the inference that dumping has had a material adverse effect. This showing is most difficult at the preliminary investigation stage.^{121/} The arguments presented by Respondents do not meet that standard. However, should this case return to us in a final investigation, I would be prepared to reexamine Respondents' arguments on the effects, if any, that AT&T's business strategy has had on its overall performance, especially if the parties choose to present them in greater depth and with greater attention to the argument's contribution to our ultimate disposition of the investigations.

^{120/} See, e.g., *Citrosuco Paulista, S.A. v. United States*, slip. op. 88-176 (Ct. Int'l Trade 1988) at 64; *Hercules, Inc. v. United States*, 673 F. Supp. 454, 481 (Ct. Int'l Trade 1987); S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979).

^{121/} See *American Lamb Co. v. United States*, supra, 785 F.2d at 1001.

INFORMATION OBTAINED IN THE INVESTIGATIONS

Introduction

On December 28, 1988, petitions were filed with the U.S. International Trade Commission (Commission) and the U.S. Department of Commerce (Commerce) by counsel for the American Telephone & Telegraph Co. (AT&T), Parsippany, NJ, and Comdial Corp., Charlottesville, VA, alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports from Japan, Korea, and Taiwan of small business telephone systems and subassemblies thereof 1/ that are alleged to be sold in the United States at less than fair value (LTFV). Accordingly, effective December 28, 1988, the Commission instituted antidumping investigations Nos. 731-TA-426, 427, and 428 (Preliminary), under section 733 of the Tariff Act of 1930, to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports of such merchandise into the United States.

The statute directs the Commission to make its preliminary determinations within 45 days after receipt of the petition or, in this case, by February 13, 1989. Notice of the institution of these investigations 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 January 6, 1989 (54 F.R. 495). Commerce published its notices of initiation in the Federal Register of January 24, 1989. 2/ The Commission held a public conference on January 18, 1989, at which time all interested parties were allowed to present information and data for consideration by the Commission. 3/ The Commission voted on these investigations on February 8, 1989.

Nature and Extent of the Alleged Sales at LTFV

On the basis of comparisons of U.S. and foreign market prices, petitioner alleges that small business telephone systems and subassemblies thereof from Japan, Korea, and Taiwan are being sold in the United States at LTFV margins averaging "more than 80 percent," "nearly 50 percent," and 46 percent, respectively. These margins were calculated by examining 48 models of systems-- 33 models from eight Japanese producers, 14 models from three Korean producers, and one model from Taiwan. Margins on individual models ranged from 5.8 percent to 157.3 percent. Petitioner notes that the models were selected because of their "current importance in the market," and because "reasonably reliable pricing data" were available. The petition states that margins were calculated

1/ For the purposes of these investigations, the term "small business telephone systems and subassemblies thereof" means telephone systems with intercom or internal calling capability and total nonblocking port capacities of between 2 and 256 ports, units of such systems, and subassemblies for use principally in such units, including control and switching equipment, circuit cards and modules, and proprietary corded telephone sets and consoles, whether complete or incomplete, assembled or unassembled.

2/ Copies of the Commission's and Commerce's Federal Register notices are presented in app. A.

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

using current price lists and that adjustments were made to ensure that comparisons were made at the same level of trade. Further adjustments were made, where applicable, for direct and indirect selling expenses. According to the petition, wherever possible, adjustments were based on actual reported expenses of producers. ^{1/}

The Products

Description and uses

These investigations cover a category of telephone systems specified as having intercommunications (intercom) capability and a total nonblocking ^{2/} port ^{3/} capacity of between 2 and 256 ports. The subject systems include both key telephone equipment and private branch exchange (PBX) equipment designed for wireline telephony. The equipment is shown diagrammatically in figure 1 and defined further below. The key telephone equipment in figure 1 is shown connected to a central office via the PBX. Key system equipment can be, and often is, connected directly to a central office, without going through a PBX.

The investigations encompass the individual components of these systems including: key service units (KSU's) and other control and switching units; proprietary, ^{4/} wire-connected telephone sets and consoles; and the proprietary circuit cards, modules, and power supplies that are designed for and dedicated to use in the overall system or specific functional units. ^{5/} In this report, the system components and subassemblies for which data are presented are: control and switching equipment; circuit cards and modules; and proprietary telephone sets and consoles.

Key system.--Key system equipment is used most often in offices or small businesses to allow telephone sets to be connected to a limited number of telephone lines without the need for expensive switching equipment. In many installations, a person at a key telephone location can answer any incoming call or place an outgoing call on a line not in use. This permits considerable communications flexibility at a reasonably low cost. The special key telephone sets used in these systems are described in detail in the section entitled "Telephone sets."

Private branch exchange.--A PBX in its simplest form is a small central office exchange located on the customer's premises that serves the customer with in-house telephone service and also connects the telephones to the public switched network via the telephone company's central office. The PBX may be provided with an attendant console and, as in the case of a central office

^{1/} Petition, pp. 19-21.

^{2/} When a network (system) is unable to make more connections, it responds to additional requests by failing to provide a dial tone to the requesting telephone. This is referred to as call blocking.

^{3/} The word port as used in the petition is defined as a connection for a central office line or a station. Station is defined as a telephone set or telephone console.

^{4/} The petitioner defines proprietary to mean designed specifically for the particular system of which it is a part by the overall system manufacturer.

^{5/} The petition does not include generic, industry standard telephone sets, wire, cables, hardware, subassemblies, circuit cards, or modules.

PBX System Including Key System

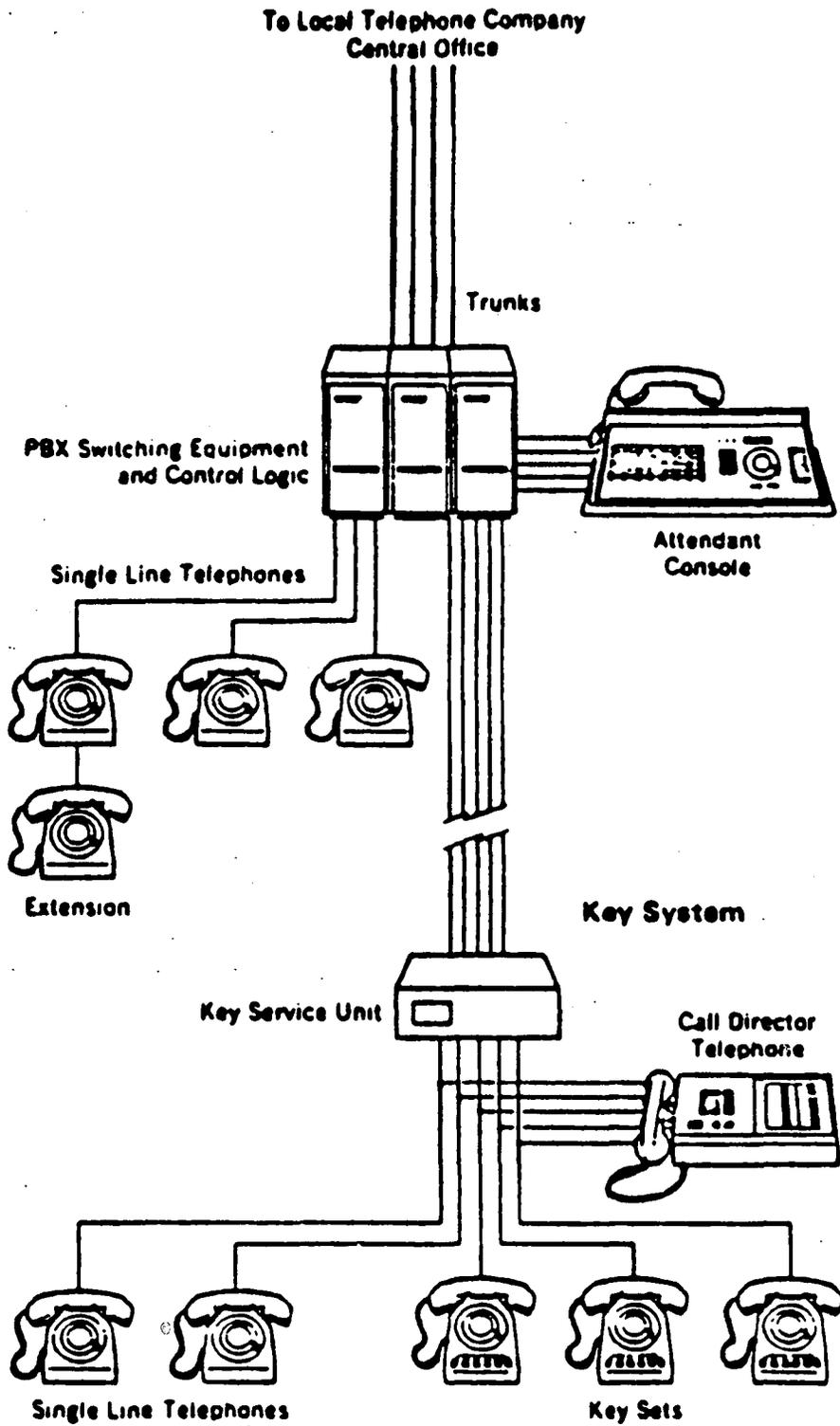


Figure 1.--Telephones, Key Systems, and Private Branch Exchange (PBX) (Courtesy SRI International, Menlo Park, Calif.)

switch, may provide an array of special features that can be tailored to the needs of the customer. Such features include automatic call transfer, message waiting, call waiting, restricted service, least cost routing, and call accounting.

Small businesses needing more communications capability than that provided by a key telephone may use a PBX, 1/ but PBXs are also used in large businesses. 2/ In cases where the number of lines that can be switched is limited, telephone companies and other specialized common carriers may equip their central offices with PBX's in lieu of central office switching apparatus.

Hybrid telephone systems.--Small business telephone systems which combine features of both key telephones and PBXs are known as hybrid systems. 3/

Control and switching equipment.--Control and switching equipment, in the simplest terms, consists of those components of a key system or PBX that connect telephones (stations) to each other or to the central office (see figure 1). 4/ In those key systems that use a KSU, however, the switching function is incorporated directly in the key telephone set. 5/ In a PBX, the switching and control logic cards are located in the PBX equipment cabinets. 6/

Circuit cards and modules.--Telephone apparatus contains basic electronic components, such as resistors, capacitors, transistors, diodes, integrated circuits, switches, and connectors, which are assembled into functional modules or mounted on printed-circuit boards (often called printed-wiring boards). The modules or printed-circuit boards are then interconnected (if necessary) to form higher functional units in a frame, rack, or cabinet.

In the design of the final equipment, certain functions are redundant and the same module or printed-circuit board may be used in more than one application. Some of these boards and modules may be interchangeable with each other. In some cases, printed-circuit boards or modules may be used in different types of equipment produced by the same manufacturer. It is less likely that a subassembly, printed-circuit board, or module is sufficiently standardized to be interchangeable with those produced by different manufacturers. However, as the use of digital-type electronics increases in the industry, more interchangeability can be expected. 7/

1/ Certain telephone service such as Centrex may emulate a PBX using the telephone company's central office switch.

2/ However, large businesses often buy central office switching equipment since their communications needs are similar to those of a town or several towns.

3/ For a more complete description of hybrid systems, see the petition, Exhibit 14.

4/ The most advanced switching systems also permit computers instead of telephones to exchange data when connected to ports. This direct data exchange occurs between machines on the customer's premises, but not beyond.

5/ Such key telephone sets are included in the investigation if they have the capability to intercommunicate (intercom) with one another directly on the customer's premises.

6/ Sufficient control logic may be included in the PBX or key system so that an attendant console is not necessary.

7/ As an example, printed-circuit boards produced by different manufacturers are currently inserted in personal computer expansion slots.

Power supplies are electrical devices that convert alternating line current (household current) to direct currents at specific voltages by transformation and rectification. Most electronic products use direct current internally. A power supply may be designed as an integral part of an electronic apparatus, mounted in the same apparatus as a separate module, or packaged separately and connected by wire to the apparatus. Power supplies inherently generate heat, and when installed in electronic systems, are usually separated from other circuitry. Separate power supplies are often used for larger systems. The power supplies subject to these investigations supply direct current voltages of 5 volts, 24 volts, and 48 volts, and also supply alternating current for telephone ringing of at least 90 volts. The cumulative power output from all of the voltage taps does not exceed 1,800 watts.

Telephone sets.--Telephone sets (also known as telephone instruments) serve the basic functions of terminating a telephone line and converting the acoustic wave energy of the user's voice to electrical signals and vice versa. In addition, the basic telephone set contains either a multifrequency tone generator (or a mechanical dial switch) used to signal the central office switch to place the outgoing call to the desired destination. A bell or other sound or visual signalling device is contained in the set to indicate an incoming call.

Console telephones (also known as attendant consoles) are used by a receptionist or telephone attendant to control manually (see figure 1) the functions of the key system or PBX. Most often the attendant console is used to answer incoming calls, route the calls, place outgoing calls, or otherwise operate the system.

Key telephone sets are commonly desk-type sets having illuminated push-button switches (keys) ^{1/} (or the equivalent) arranged in a row below the telephone dial or switch-tone touch pad. The keys connect the telephone to central office lines (or PBX lines) and indicate which lines are in use, allow two or more telephones to conference on the same line, or may place a call on hold. A single key telephone set may terminate five or more incoming/outgoing lines and, if so wired, intercommunicate (intercom) with other key telephone sets in the same office. The key buttons themselves may connect the telephone directly to the desired telephone line, or, as shown in figure 1, signal a key service unit KSU to make the desired connection. The KSU then acts as the switching mechanism.

In the questionnaire, U.S. producers and importers were asked to report the number of telephone stations on systems. Importers often were unable to respond because they sold subassemblies to retailers, who configured the system. Available data suggest that systems composed of imported subassemblies tend to have more telephone stations than those of U.S.-produced systems, as shown in the following tabulation (in percent of the total):

^{1/} As many as 20 key buttons may be accommodated, but 6 is the most common.

Number of stations	U.S. producers		Imports from--					
	Quantity	Value	Japan		Korea		Taiwan	
			Quantity	Value	Quantity	Value	Quantity	Value
1-10.....	***	***	30.4	26.0	***	***	***	***
11-20....	***	***	20.1	37.5	***	***	***	***
21-40....	***	***	32.2	21.5	***	***	***	***
41-60....	***	***	***	***	***	***	***	***
61-80....	***	***	***	***	***	***	***	***
81-100...	***	***	***	***	***	***	***	***
Total..	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Phone systems can employ varying degrees of digital and analog technology. Both types of technology can be found in key, PBX, and hybrid systems. The physical difference between digital and analog equipment is in the switching apparatus and in the type of electronic components found on circuit cards. The circuit cards for both types can be manufactured on the same machinery. Small business telephone systems employing predominantly digital technology have the same general uses as those with predominantly analog technology. Digital-based systems tend to offer more features, and are more flexible with regard to reprogramming to accommodate different configurations than are systems with analog components. Both digital and analog technology are capable of providing data as well as voice transfer, although the former may be faster in certain data transfer applications.

Manufacturing processes

Small business telephone systems and subassemblies thereof are produced much like consumer electronic products that are designed in modular configurations. The manufacturing process largely includes the fabrication and assembly of printed-circuit boards and their final assembly into an enclosure that interconnects them through the use of a multilayer printed-circuit motherboard. The use of an interconnecting motherboard reduces the amount of manual labor required to assemble a system and the potential for wiring errors. Modular construction through the use of plug-in printed circuit boards permits ease of assembly and testing and facilitates repairs necessitated by component or system failures.

Printed-circuit board fabrication.--The fabrication of a printed-circuit board is divided into three phases. In the initial phase, the locations of the components and interconnections of the circuits on the board are determined. The printed-circuit pattern is then laid out on a grid by a computer and an enlarged artwork master is produced. A grid layout and artwork master are required for each circuit board side, and precise registration between the layouts is required when two or more artwork masters are needed. In the second phase, the enlarged masters are photographed and reduced to the appropriate dimensions of the finished board. The reduced masters are used to create the circuit patterns on the base material laminates from which the circuit boards are made. The final phase covers the actual fabrication of the board. After the appropriate copper-clad laminate is selected and coated with a photo-sensitive resist, it is exposed to ultraviolet light through the reduced master, creating the circuit image on the copper surface of the laminate. The image is developed out and an alloy of lead-tin is electroplated on the exposed circuit pattern. The alloy plating increases the solderability of the circuit board conductors and serves as an acid-resist when the excess copper on the laminate

is etched away. Holes are drilled in the locations where components are to be inserted and the board is profiled to the finished dimensions. When the number of components on a printed circuit board is sufficiently increased, more circuit layers are required to make the necessary crossover connections. In producing boards with two circuit layers, the fabrication sequence is changed. Holes required for component mounting are drilled and plated through with copper prior to the creation of the circuit image on each side. The plated-through holes provide circuit continuity from one side of the board to the other. Machines and equipment required to produce printed-circuit boards for small telephone systems can be used to produce printed-circuit boards for any electronic product.

Multilayer printed-circuit board fabrication.--Multilayer printed-circuit boards consist of a number of individual printed-circuit boards (usually two-sided) that are produced from thin, uncured base material laminates. After these thin boards are etched, they are stacked in an alignment fixture and cured in a heated platen press. The partially completed board is removed from the press, and the fabrication process is completed much like that for any two-sided printed-circuit board. Multilayer boards used as interconnect motherboards on small telephone systems usually require seven or eight layers.

Printed-circuit board assembly.--The assembly of printed circuit boards in volume is usually accomplished through a combination of machine and manual insertion of components. Components such as resistors and capacitors, which lend themselves to automatic insertion, are first sequenced on tapes in reverse order of insertion through the use of sequencing machines. These taped components are then placed into a computer-controlled machine that inserts each component into its proper position on the board. The machine not only inserts each component in its proper position, but also clinches the leads of each component against the conductors on the board to ensure ease of wave soldering. Components such as power transistors or small transformers, which do not lend themselves to automatic insertion, are installed by hand prior to wave soldering. Sequencing machines and automatic insertion machines used to assemble printed-circuit boards for small business telephone systems can be used to assemble printed-circuit boards for any electronic product. Multilayer motherboards that provide the interconnections for printed-circuit boards in a small business telephone system are assembled by hand because the assembly consists largely of the installation of mating connectors for the plug-in printed-circuit boards containing the system electronic components.

Power supply modules.--Power supply modules are usually not plug-in devices such as printed-circuit boards containing the small business telephone systems' logic and switching circuits. Power supplies contain bulky components, such as power transformers and large power transistors, which either do not lend themselves to printed-circuit board mounting or must be installed on metal surfaces because of heat dissipation requirements. In fact, cooling fans are required for power supply modules in certain small business telephone systems where the system power needs exceed certain wattage ratings. Power supply modules often do contain small printed-circuit boards on which components for regulation and filtering are installed.

System enclosures.--System enclosures for small business telephone systems (key, small PBX, and hybrid) are produced as injection-molded plastic parts. The production of each plastic part in the enclosures requires a special mold in which a plastic powder is injected and formed under heat and pressure to the contour of the mold. After the mold is cooled, the formed part is removed.

Telephone sets and consoles.--Telephone sets and consoles for small business telephone systems are produced from injection-molded housings and handsets. Printed circuit boards containing circuitry needed to answer, monitor, or transfer calls are installed in these devices.

U.S. tariff treatment

On the date the petition relating to the subject investigations was filed, telephone switching apparatus and telephone sets and parts thereof were classified under items 684.57 and 684.58 of the Tariff Schedules of the United States (TSUS). 1/ Key system switching apparatus was statistically reported under item 684.5710 of the Tariff Schedules of the United States Annotated (TSUSA), and other switching apparatus was reported under item 684.5720. Statistics for parts of telephone switching apparatus were reported under TSUSA item 684.5730. 2/ Statistics for telephone sets were reported under items 684.5805 through 684.5825, and parts of telephone sets were reported under item 684.5830. Unfinished or unassembled imported telephone apparatus was classified under the same item in the TSUS as the finished apparatus in accordance with General Interpretive Rule 10(h). Power supplies for small business telephone systems were classified under TSUS item 682.60 and statistics were reported under items 682.6051 and 682.6053, depending on their wattage rating. Small business telephone systems as set forth in the investigation were not separately provided for in the TSUS.

The Harmonized Tariff Schedule of the United States (HTS) became effective January 1, 1989. 3/ Telephonic switching apparatus is provided for under HTS subheadings 8517.30.15, Central Office Switching Apparatus; 8517.30.20, Private Branch Exchange Switching Apparatus; 8517.30.25, Electronic Key Telephone Systems, 4/ and 8517.30.30, Other Telephonic Switching Apparatus. Parts of telephonic switching apparatus are classified under three HTS subheadings. Parts of central office switching apparatus are classified under subheading 8517.90.05, and parts of private branch exchange switching apparatus are classified under 8517.90.10. Parts of other telephonic switching apparatus, including electronic key telephone systems, are classified under subheading 8517.90.15. Telephone sets are classified under HTS subheading 8517.10.00, and

1/ The U.S. Customs Service has determined that telephone apparatus that is designed to carry voice-based information is telephone apparatus whether or not it can also carry symbols or numbers representing data or other information.

2/ Parts peculiar or dedicated to telephone switching apparatus are classified in this line item unless they are provided for elsewhere in the schedules by name. A provision for "parts of an article" does not prevail over a specific provision for such part (General Interpretive Rule 10(ij), TSUSA and additional U.S. Rules of Interpretation 1(c), HTS).

3/ The Harmonized Commodity Description and Coding System, known as the Harmonized System or HS, is intended to serve as the single modern product nomenclature for use in classifying products for customs tariff, statistical, and transport purposes. Legislation passed in 1988 replaced the TSUS with an HS-based tariff schedule known as the Harmonized Tariff Schedule of the United States.

4/ The HTS of the United States provides an 8-digit subheading for electronic key telephone systems. This provision may be interpreted to include key telephone service units but not key telephone sets, which may be classified in 8517.10.00 or 8517.81.00. See Explanatory Notes for 8517 at I(C), p. 1361-2.

parts of telephone sets are classified under 8517.90.30. Telephone handsets and parts of telephone handsets are classified under HTS subheadings 8518.30.10 and 8518.90.10, respectively. 1/ The general rate of duty (most-favored nation rate) for telephone switching apparatus and parts, telephone sets and parts, and telephone handsets and parts is 8.5 percent ad valorem. 2/ The general rate of duty applies to imports from all countries other than those from certain Communist countries enumerated under General Note 3(b) of the HTS. Imports from these countries are dutiable at 35 percent ad valorem (column 2 of the HTS). 3/

Power supplies are classified as rectifying apparatus under subheading 8504.40.00 in the HTS and statistics for them are reported under 8504.40.0004 through 8504.40.0010, depending on their wattage rating. The general rate of duty on power supplies is 3 percent ad valorem, and the column 2 rate of duty is 35 percent ad valorem. 4/

U.S. Producers

AT&T is the largest U.S. producer of small business telephone systems and subassemblies thereof, accounting for * * * percent, by volume, of U.S. producers' reported 1987 U.S. shipments of control and switching equipment. 5/ The design, manufacture, distribution, marketing, installation, and repair of the subject products are handled by AT&T's General Business Systems division (GBS). AT&T retail phone center stores also market a small portion of these

1/ The original provisions for telephone apparatus published in the first edition of the HTS were revised extensively by the Canada-United States Free-Trade Agreement (Presidential Proclamation 5923 of December 12, 1988). The TSUSA item numbers and HTS subheadings for telephone switching apparatus and parts are not comparable.

2/ The United States did not negotiate the rate of duty on telephone apparatus during the Tokyo Round of the Multilateral Trade Negotiations. In addition, pursuant to the Omnibus Budget Reconciliation Act of 1986, a user fee (to cover the cost of processing imports by the U.S. Customs Service) of 0.17 percent ad valorem is assessed on most imports. Preferential tariff programs include the Generalized System of Preferences, which affords nonreciprocal tariff preferences to developing countries to aid their economic development; the Caribbean Basin Economic Recovery Act, which grants nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development; and the United States-Israel Free Trade Area Implementation Act, which applies to products of Israel.

3/ Col. 2 rates of duty apply to products of these countries, which currently include all Communist countries except China, Hungary, Poland, and Yugoslavia, all four of which are eligible for MFN treatment.

4/ This rate of duty represents the final stage of rate reduction negotiated during the Multilateral Trade Negotiations, and has been in effect since January 1, 1987.

5/ Market share in this section is expressed in terms of units of control and switching equipment shipped because each system and expansion thereof has one unit of control or switching equipment; therefore, this figure indicates the number of systems or expansions thereof supplied by each firm. Data on shipments of systems themselves are less reliable because many importers did not report shipments of systems but, rather, reported shipments of subassemblies of systems.

systems. Manufacturing facilities are located in Shreveport, LA, Denver, CO, and Dallas, TX. * * *.

Comdial Corp., copetitioner in these investigations, also designs, manufactures, distributes, and markets small business telephone systems. Its headquarters and manufacturing facilities are in Charlottesville, VA. Comdial supplied * * * percent of U.S. producers' reported 1987 shipments of control and switching equipment.

EXECUTONE Information Systems (EXECUTONE) is a U.S. company that requests to be considered as a domestic producer and does not support the petition. EXECUTONE designs systems hardware and software and imports parts and subassemblies. 1/ The discussion of the U.S. industry in this report excludes data reported by EXECUTONE, which are presented in appendix C.

Nonpetitioning U.S. firms identified by the petition as having "reportedly produced" the subject products, their market share as defined above, and their position in these investigations are presented in the following tabulation (in percent): 2/

<u>Company</u>	<u>1987 market share</u>	<u>Position in these investigations</u>
Eagle Telephonics, Inc.....	***	Supports petition
Corinth Telecommunications Corp..	***	***
Rolm Corp.....	***	***
GTE Corp.....	***	***
Northern Telecom.....	***	***
Mitel.....	***	***
Tone Commander.....	***	***
Gai-Tronics.....	***	***
Crest Industries.....	***	***
Sanbar Corp.....	***	***
CSE Technology.....	***	***
Total.....	***	

Importers

Several hundred firms were identified * * * as importers of telephone equipment classified in the tariff items that include small business telephone systems and subassemblies thereof. The petition also identified 23 companies as importers. Questionnaires were sent to 100 firms, each identified as having imported at least \$250,000 worth of material classified in TSUS items 684.57 and 684.58 in either of two separate 12-month periods during January 1985-September 1988. In these investigations, 34 firms responded that they did not import the telephone equipment under investigation and 29 firms reported such imports. None of the nonrespondent firms are those identified by the petitioner; however, * * *, which was one of the importers named in the petition, did not provide usable data. Data presented in this report are estimated to account for at least 80 percent of the subject imports.

1/ "Post-Conference Brief on behalf of EXECUTONE Information Systems, Inc.," pp. 1, 12, and 16-17.

2/ * * *.

A number of the largest importing firms are related to a foreign producer. Several major retailer suppliers ("interconnects") are also importers. * * * reported imports as well as production.

Channels of Distribution

Small business telephone systems and subassemblies thereof enter the market through several channels. For the most part, AT&T markets systems directly to the end user through its GBS sales force; however, approximately * * * percent of AT&T's sales are made via its retail stores to an end user, and another 5 percent are sold to unrelated retailers and telephone companies. 1/ Comdial, on the other hand, sells subassemblies to wholesale distributors ("supply houses"), who in turn sell to interconnects who configure systems for sale to the end user. 2/ The imported product is sold mostly to unrelated distributors and retailers. U.S. producers and importers were requested to report their 1987 shipments of systems and subassemblies thereof, by market. These data are presented in table 1. * * * reported lease or rental of products.

Table 1
Small business telephone systems and subassemblies thereof: 1987 U.S. shipments by domestic producers and importers, by product and market

Product and market	(In percent)			
	U.S. producers	Imports from--		
		Japan	Korea	Taiwan
	*	*	*	*

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

There is also a market for used and refurbished small business telephone systems, whose importance and impact petitioners and respondents debate. The former suggest that used/refurbished products are relatively insignificant in the overall market. Respondents argue that this "secondary market" is not only large, but is also a major factor in explaining any downward pressure on U.S. prices and declines in the performance of U.S. producers. Data were not collected from suppliers of refurbished equipment, and further data on the secondary market are not presented in this report. The arguments of the parties are presented in postconference briefs.

Respondents argue that Centrex also competes with sales of small business telephone systems. Centrex is a service available through local telephone companies that offers some of the same "functionality" as the subject product: internal calling, transfer of calls, access to numerous exterior lines, etc. Traditionally offered to larger customers, Centrex now supplies what respondents contend is a significant share of the small business market. The Centrex

1/ "Postconference Statement of John A. Blanchard," p. 1.
2/ Transcript of the conference, p. 94.

customer pays a fee to the service provider rather than purchasing a system. Petitioners claim that Centrex is not a significant factor in the decline in demand for their products; in fact, they note that key systems are purchased for use as equipment "behind" Centrex. The arguments of the parties are presented in postconference briefs.

Apparent U.S. Consumption

AT&T put the number of small business end users of telephone systems at 3.6 million. 1/ A GBS official noted that consumption peaked in 1984-85 when "literally hundreds of thousands of renting customers" left AT&T's "imbedded base" (of renters) and purchased systems. 2/ Subsequently, petitioners and respondents agree, there was a "lull" in demand. 3/ Respondents suggest that demand is expected to increase as products purchased in 1984-85 reach the end of their "product replacement cycle." Respondents' estimates of consumption are not directly comparable, as they are presented in terms of lines, which respondents contend is the industry standard. These data show 1-percent growth from 1985 to 1986 and from 1986 to 1987, no growth from 1987 to 1988, and project 2-percent growth from 1988 to 1989. 4/

U.S. consumption of systems, in terms of quantity, cannot be calculated from available questionnaire data because importers reported imports and shipments of subassemblies rather than systems. Systems using imported subassemblies are generally configured and shipped by an interconnect, and data were not requested from these purchasers. Also, quantity data on the consumption of systems could not be constructed from available data because quantities of subassemblies, as reported, do not correspond exactly to systems. However, a calculation of consumption in terms of value is presented in appendix D.

Each new system has one unit of control or switching equipment. Although control and switching equipment is also sold to expand the capacity of an existing system or replace a worn or defective unit, the quantities of this subassembly that are shipped closely approximate the number of systems shipped.

Apparent U.S. consumption of control and switching equipment declined steadily during the period of investigation, by 4.6 percent from 1985 to 1986, by 7.2 percent from 1986 to 1987, and by 13.3 percent from January-September 1987 to January-September 1988. These data are presented in table 2. In terms of value, U.S. consumption of control and switching equipment declined more steeply but not steadily, with a decrease of 30.8 percent from 1985 to 1986, followed by a 15.6-percent increase from 1986 to 1987, and, again, a decrease of 16.2 percent from January-September 1987 to the corresponding period of 1988.

1/ "Postconference Statement of George E. Malone," p. 5.

2/ Transcript of the conference, pp. 80-81.

3/ Ibid., p. 143, and "Postconference Brief of AT&T," p. 29.

4/ "Post-Conference Economic Submission on Behalf of Japanese Respondents," table V-1.

Table 2

Control and switching equipment for small business telephone systems: U.S. shipments, imports, and apparent consumption, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September--	
				1987	1988
Quantity (1,000 units)					
U.S. shipments <u>1</u> /.....	***	***	***	***	***
Imports from--					
Japan.....	71	103	65	52	43
Korea.....	***	***	105	70	***
Taiwan.....	***	***	24	17	***
Subtotal.....	128	208	193	139	118
All other countries.....	***	***	***	***	***
Total imports.....	***	***	***	***	***
Apparent consumption.....	483	461	428	311	270
Value (\$1,000)					
U.S. shipments <u>1</u> /.....	***	***	***	***	***
Imports from--					
Japan.....	24,354	28,640	20,526	16,252	13,208
Korea.....	***	***	20,780	11,140	***
Taiwan.....	***	***	6,971	5,014	***
Subtotal.....	48,274	54,475	48,277	32,406	32,842
All other countries.....	***	***	***	***	***
Total imports.....	***	***	***	***	***
Apparent consumption.....	691,760	478,496	553,100	399,440	334,906

1/ U.S. producers' company transfers and open-market sales.

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

Both U.S. producers and importers had difficulties reporting data for circuit cards and modules because these products are usually incorporated into a control unit or telephone set. Reported data are believed to represent mostly products shipped separately from other subassemblies and, therefore, both understate, and may be unrepresentative of, actual shipments and imports. Apparent U.S. consumption of circuit cards and modules, calculated from available questionnaire data, is presented in the following tabulation:

Apparent consumption	1985	1986	1987	January-September--	
				1987	1988
Quantity:					
In 1,000 units.....	3,981	3,542	3,018	2,243	1,977
Percent change.....	<u>1</u> /	(11.0)	(14.8)	<u>1</u> /	(11.8)
Value:					
In \$1,000.....	398,601	377,638	480,021	283,098	327,344
Percent change.....	<u>1</u> /	(5.3)	27.1	<u>1</u> /	15.6

1/ Not applicable.

Apparent U.S. consumption of telephone sets and consoles dedicated to small business telephone systems rose steadily in terms of volume but decreased overall in terms of value (table 3). From 1985 to 1986, consumption rose by 1.1 percent by volume and decreased 6.9 percent in value. Again in 1987, apparent consumption grew (by 9.6 percent) based on quantity data and fell (11.5 percent) calculated on the basis of value. However, from January-September 1987 to January-September 1988, apparent consumption rose similarly, on the bases of both quantity and value data, by 4.6 percent and 3.4 percent, respectively.

Table 3

Telephone sets and consoles for small business telephone systems: U.S. shipments, imports, and apparent consumption, 1985-87, January-September 1987, and January-September 1988

	1985	1986	1987	January-September--	
				1987	1988
<u>Quantity (1,000 units)</u>					
U.S. shipments ^{1/}	***	***	***	***	***
Imports from--					
Japan.....	879	741	1,029	484	427
Korea.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Subtotal.....	1,467	1,609	2,159	1,322	1,315
All other countries.....	***	***	***	***	***
Total imports.....	***	***	***	***	***
Apparent consumption.....	3,572	3,612	3,958	2,648	2,769
<u>Value (\$1,000)</u>					
U.S. shipments ^{1/}	***	***	***	***	***
Imports from--					
Japan.....	71,432	58,985	49,356	39,863	30,853
Korea.....	***	***	***	***	***
Taiwan.....	****	***	***	***	***
Subtotal.....	107,704	112,124	121,808	90,295	76,997
All other countries.....	***	***	***	***	***
Total imports.....	***	***	***	***	***
Apparent consumption.....	599,658	558,567	494,323	365,678	377,975

^{1/} U.S. producers' company transfers and open-market sales.

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

Consideration of Alleged Injury to an Industry in the United States

The information presented in this section of the report was obtained from responses to questionnaires of the U.S. International Trade Commission. Six producers, accounting for an estimated * * * percent of 1987 U.S. shipment of the subject products, provided usable data; however, no firm was able to

answer all parts of the questionnaire. 1/ Where the data presented exclude AT&T, reference is made. Production, shipments, and employment data were requested and are presented separately for systems and three subassemblies: control and switching equipment, circuit cards and modules, and telephone sets and consoles. In the data for subassemblies, producers were requested to report products whether shipped as part of a system, part of another subassembly, or separately. Therefore, double-counting would occur if the data presented in this section were added together.

U.S. producers' capacity, production, and capacity utilization

AT&T reported capacity on the basis of a * * * work week * * *, operating * * * weeks per year. AT&T's Group Vice President for GBS noted that the company was operating one shift, 5 days per week, and estimated that production could be expanded by 75 percent without any addition to physical plant. 2/ Comdial reported capacity on the basis of a * * * work week, operating * * * weeks per year, * * *. Comdial's chief executive officer reported current operations of "generally" one shift, 5 days a week, and estimated that production "easily" could be doubled with no expansion of physical plant. 3/ * * *.

Systems.--Capacity to produce systems is determined by capacity to produce subassemblies of systems. Several firms * * * did not provide data on capacity to produce systems. Reported U.S. average-of-period capacity * * * during the period of investigation. "Production" of systems, as reported by U.S. producers, may be better termed "configuration and/or installation" of a system, and corresponds more nearly to shipments. Reported production data show a * * *-percent decrease from 1985 to 1986, a * * *-percent increase from 1986 to 1987, and another decrease, of * * * percent, from January-September 1987 to the corresponding period of 1988. The rate of capacity utilization * * *. These data are presented in table 4.

Table 4
Small business telephone systems and subassemblies thereof: U.S. capacity, production, and capacity utilization, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September--	
				1987	1988
	*	*	*	*	*

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

1/ EXECUTONE also provided a response to the producers' questionnaire. These data are presented separately in app. C.

2/ Transcript of the conference, p. 96.

3/ Ibid., p. 92.

Control and switching equipment.--Also shown in table 4, reported U.S. average-of-period capacity to produce control and switching equipment for small business telephone systems declined steadily throughout the period of investigation, by * * * percent from 1985 to 1986, by * * * percent from 1986 to 1987, and by * * * percent from January-September 1987 to January-September 1988. Production fell by * * * percent from 1985 to 1986, then rose by * * * percent from 1986 to 1987, and fell again, by * * * percent, from January-September 1987 to January-September 1988. Capacity utilization declined overall.

Circuit cards and modules.--* * *. * * * were * * * unable to provide capacity data for circuit cards. Reported average-of-period capacity to produce circuit cards and modules for small business telephone systems rose by * * * percent from 1985 to 1986 but then decreased by * * * percent from 1986 to 1987, and fell again, by * * * percent, from January-September 1987 to the corresponding period of 1988 (table 4). Production fell by * * * from 1985 to 1986, then rose by * * * percent by 1987. Comparing the partial year periods, production decreased by * * * percent. Capacity utilization declined throughout the period of investigation.

Telephone sets and consoles.--Reported U.S. average-of-period capacity to produce telephone sets and consoles for small business systems fell by * * * percent from 1985 and decreased by another * * * percent from 1986 to 1987. Capacity was * * * percent higher during January-September 1988 than in the corresponding period of 1987. Production of telephone sets and consoles dropped by * * * percent from 1985 to 1986, more steeply than did capacity, causing capacity utilization to decline. However, production rose by * * * percent from 1986 to 1987 and increased again, by * * * percent, in January-September 1988 compared with the corresponding period in 1987. Capacity utilization rose steadily after 1985. These data are also presented in table 4.

U.S. producers' shipments

This discussion is presented in terms of U.S. shipments. Company transfers of * * * are * * * and transfers of * * * constitute less than * * * percent of U.S. shipments. Also, export shipments are * * *. Therefore, trends in domestic shipments and total shipments are similar to those for U.S. shipments.

Systems.--As shown in table 5, reported U.S. shipments of systems decreased by * * * percent in volume from 1985 to 1986, and fell again, by * * * percent, in 1987. Such shipments rose by * * * percent during the partial-year periods. The value of U.S. shipments also fell steadily from 1985 to 1987, but unit values fell by * * * percent from 1985 to 1986, and then increased by * * * percent from 1986 to 1987. The value of U.S. shipments rose by * * * percent from January-September 1987 to January-September 1988, but corresponding unit values rose by only * * * percent.

Table 5

Small business telephone systems: U.S. producers' company transfers, domestic shipments, U.S. shipments, export shipments, and total shipments, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September--	
				1987	1988
	*	*	*	*	*

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

Control and switching equipment.--U.S. shipments of control units and switching equipment for small business telephone systems declined steadily throughout the period of investigation, by * * * percent from 1985 to 1986, by * * * percent from 1986 to 1987, and by * * * percent from the first three-quarters of 1987 to the corresponding part of 1988 (table 6). The value of such shipments fell more sharply than did the volume from 1985 to 1986, as the unit value decreased by * * * percent. However, from 1986 to 1987, the value of shipments rose by * * * percent and the unit value increased by * * * percent. From January-September 1987 to January-September 1988, the value and unit value of shipments both declined again, by * * * percent, and * * * percent, respectively.

Table 6

Control and switching equipment for small business telephone systems: U.S. producers' company transfers, domestic shipments, U.S. shipments, export shipments, and total shipments, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September--	
				1987	1988
	*	*	*	*	*

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

Circuit cards and modules.--Reported U.S. shipments of circuit cards and modules decreased steadily during the period of investigation, falling by * * * percent from 1985 to 1986 and by another * * * percent by 1987 (table 7). From January-September 1987 to January-September 1988, such shipments declined by * * * percent. * * *. Although the reported value of U.S. shipments of circuit cards and modules fell by * * * percent from 1985 to 1986, it increased by * * * percent in 1987, and rose further, by * * * percent, in January-September 1988 compared with the corresponding period of 1987. Unit values * * *.

Table 7

Circuit cards and modules for small business telephone systems: U.S. producers' company transfers, domestic shipments, U.S. shipments, export shipments, and total shipments, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September--	
				1987	1988
	*	*	*	*	*

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

Telephone sets and consoles.--Reported U.S. shipments of telephone sets and consoles for small business telephone systems declined by * * * percent from 1985 to 1986 and decreased further in 1987, by * * * percent. Such shipments rose by * * * percent during January-September 1988 compared with the corresponding period of the previous year. Trends in the value of shipments paralleled trends in volume; however, values fell somewhat more steeply, and rose slightly less than did volumes. Unit values, therefore, declined steadily during the period of investigation. These data are presented in table 8.

Table 8

Telephone sets and consoles for small business telephone systems: U.S. producers' company transfers, domestic shipments, U.S. shipments, export shipments, and total shipments, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September--	
				1987	1988
	*	*	*	*	*

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

U.S. producers' inventories

End-of-period inventories of small business telephone systems and subassemblies fluctuated similarly during the period of investigation and, in all cases, declined overall. However, as a percent of total shipments during each period, ending inventories decreased from 1985 to 1986 and then rose from 1986 to 1987. Except for telephones, the inventories-to-shipments ratio increased from 1985 to 1987. Inventories of systems and control units on September 30, 1988, as a percent of January-September 1988 shipments, declined compared with corresponding data for 1987. Inventories of circuit cards and telephones rose * * * in this same timeframe. End-of-period inventories and inventories-to-shipments ratios are shown in the following tabulation:

Product	Dec. 31--			Sept. 30-- 1/	
	1985	1986	1987	1987	1988
	*	*	*	*	*

1/ Inventories as of Sept. 30 as a percent of shipments during Jan.-Sept.

Employment

Four producers supplied data on employment; however, * * *. The number of workers and the hours worked in the production of small business telephone systems fell from 1986 to 1987 but nearly recovered in 1987. Both measures dropped again from January-September 1987 to January-September 1988. Productivity fell and unit labor costs rose, overall. Hourly compensation rose slightly. These data are presented in table 9.

Table 9

Small business telephone systems: Average number of production and related workers, hours worked, productivity, wages paid, hourly wages, total compensation paid, hourly total compensation, and unit labor costs, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September--	
				1987	1988
	*	*	*	*	*

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

Usable data reported in the production of subassemblies are shown in table 10. These data account for only * * *.

Table 10

Subassemblies of small business telephone systems: Average number of production and related workers, hours worked, productivity, hourly wages, hourly compensation, and unit labor costs, 1985-87, January-September 1987, and January-September 1988

Product and period	Number of workers	Hours worked (1,000)	Productivity (units/hr)	Hourly wage	Hourly compensation	Labor costs per unit
	*	*	*	*	*	*

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

Financial experience of U.S. producers

Four producers, accounting for an estimated * * * percent of 1987 U.S. shipments of control and switching equipment, furnished usable income-and-loss data on their telephone systems operations as well as on their establishments within which such systems are produced.

Overall establishment operations.--For the period 1985-87, certain telephone systems and subassemblies thereof were * * * percent of total establishment operations, presented in table 11, on the basis of net sales. Statements excerpted below from annual reports effectively apply to the subject product as well.

Table 11

Income-and-loss experience of U.S. producers 1/ on the overall operations of their establishments within which telephone systems are produced, accounting years 1985-87 and interim periods ended Sept. 30, 1987, and Sept. 30, 1988

Item	1985	1986	1987	Interim period ended Sept. 30--	
				1987	1988

* * * * *

1/ * * *.

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

Overall establishment net sales showed a steady and significant decrease from 1985 to 1987 and from interim period 1987 to interim period 1988. Such sales decreased from * * * in 1985 to * * * in 1986, representing a decrease of * * * percent, then decreased further by * * * percent, to * * * in 1987. The net decrease in 1985-87 was * * * percent. Interim period 1988 net sales decreased by * * * percent, from * * * in the corresponding period in 1987 to * * *.

Gross profit margins, however, after a high of * * * percent in 1985, remained relatively constant at * * * percent and * * * percent for 1986 and 1987, respectively, with a * * * increase from * * * percent in interim period 1987 to * * * percent in interim period 1988. Sustainment of constant gross profit margins throughout the investigative period when net sales are declining is indicative of decreasing manufacturing costs.

Operating income margins, on the other hand, decreased from * * * percent in 1985 to * * * percent and * * * percent in 1986 and 1987, respectively. Interim period margins also show a decline from * * * percent in interim period 1987 to * * * percent in the same period in 1988. Factors contributing to the decreased margins are as follows:

...The increased losses (1986 to 1987), despite a 12% growth in sales, can be attributed principally to (1) reduced margins and volume

on older products as a result of a competitive marketplace, (2) an additional inventory provision as the Company continues to phase out older products and bring new products to the marketplace, and (3) increased start-up costs associated with the introduction of new products... 1/

...Selling, general and administrative expenses increased in fiscal 1987 as compared to fiscal 1986 as a percentage of sales and in terms of absolute dollars as a result of the higher level of sales activity and the implementation of new marketing programs. Selling expenses have increased in particular as additional sales support personnel are required for the higher level of activity 2/

Selected overall establishment financial data for each of the four U.S. producers are presented in the following tabulation (in thousands of dollars, except as noted):

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

Telephone system and subassembly operations.--Income-and-loss data for telephone systems and subassemblies thereof are presented in table 12. Similar to the overall establishment experience, net sales of telephone systems showed a steady and * * * decrease during 1985-87 and from interim period 1987 to interim period 1988. Such sales declined from a high of * * * in 1985 to * * * in 1986, representing a decrease of * * * percent, then decreased further, by * * * percent, to * * * in 1987. The percentage decrease of such sales from 1985 to 1987 was * * * percent. Interim period 1988 net sales show a decline of * * * percent, to * * * billion from * * * billion in the same period in 1987.

Table 12

Income-and-loss experience of U.S. producers 1/ on their operations producing telephone systems and subassemblies thereof, accounting years 1985-87 and interim periods ended Sept. 30, 1987, and Sept. 30, 1988

<u>Item</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>Interim period</u> <u>ended Sept. 30--</u>	
				<u>1987</u>	<u>1988</u>
*	*	*	*	*	*

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

1/ Comdial 1987 Annual Report, p. 1.

2/ Eagle Telephonics 1987 Annual Report, p. 6.

* * * * *

Gross profit margins, after * * * percent in 1985, were relatively constant in the * * * percent range for the remaining periods. Accordingly, cost of sales as a percent of net sales were stable in the * * * percent range after the low of * * * percent in 1985. Operating margins decreased from * * * percent in 1985 to * * * percent in 1986, * * * percent in 1987, * * * percent in interim 1987, and * * * percent in interim 1988.

Selected telephone systems financial data for four U.S. producers are presented in the following tabulation (in thousands of dollars, except as noted):

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

The product under investigation accounted for * * * percent of GBS's sales during 1985-87. * * *.

Value of plant, property, and equipment.--The data provided by * * * producers on their end-of-period investment in productive facilities in which telephone systems are produced 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 as of September 30--</u>	
				<u>1987</u>	<u>1988</u>
* * *	*	*	*	*	*

Annual rate of operating income return on assets.--The rates of return for * * * on establishment and telephone system assets are shown in the following tabulation (in percent):

<u>Annual rate of return</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>
* * *	*	*	*
* * *	*	*	*

Capital expenditures.--The data provided by the U.S. producers relative to their capital expenditures for land, buildings, and machinery and equipment used in the manufacture of telephone systems 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 Sept. 30--</u>	
				<u>1987</u>	<u>1988</u>
* * *	*	*	*	*	*

Research and development expenses.--Research and development expenses relating to telephone systems for the U.S. producers are shown in the following tabulation (in thousands of dollars):

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

Capital and investment.--The Commission requested U.S. producers to describe any actual or potential negative effects of imports of telephone systems from Japan, Korea, and Taiwan on their firms' growth, development and production efforts, investment, and ability to raise capital. Excerpts from their responses are presented in appendix E.

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,

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 of supposition."

(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,

(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/

Petitioners have not alleged the existence of subsidies (item (I) above). 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 material injury." 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 products (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); and any dumping in third-country markets, follows.

U.S. importers' inventories

Inventories held by importers are presented in table 13. These inventories are significantly larger, as a share of reported shipments, than those for U.S.

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."

producers. This disparity may be due in part to the differences in the channels of distribution used by domestic and foreign suppliers. U.S. producers supply end users more directly than do importers.

Table 13
Small business telephone systems and subassemblies thereof: End-of-period inventories of Japanese, Korean, and Taiwan products, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	Jan.-Sept.-- 1/	
				1987	1988
Systems inventories from--					
Japan:					
Quantity (1,000 units).....	***	***	***	***	***
As a share of shipments (percent)..	***	***	***	***	***
Korea:					
Quantity (1,000 units).....	***	***	***	***	***
As a share of shipments (percent)..	***	***	***	***	***
Taiwan:					
Quantity (1,000 units).....	***	***	***	***	***
As a share of shipments (percent)..	***	***	***	***	***
Subject inventories:					
Quantity (1,000 units).....	6	4	9	7	6
As a share of shipments (percent)..	22.1	18.5	66.0	71.2	34.3
Control/switching equipment inventories from--					
Japan:					
Quantity (1,000 units).....	***	***	***	***	***
As a share of shipments (percent)..	***	***	***	***	***
Korea:					
Quantity (1,000 units).....	***	***	***	***	***
As a share of shipments (percent)..	***	***	***	***	***
Taiwan:					
Quantity (1,000 units).....	***	***	***	***	***
As a share of shipments (percent)..	***	***	***	***	***
Subject inventories: 2/					
Quantity (1,000 units).....	37	58	67	63	40
As a share of shipments (percent)..	28.2	30.9	35.6	47.4	28.0
Circuit card/module inventories from--					
Japan:					
Quantity (1,000 units).....	***	***	***	***	***
As a share of shipments (percent)..	***	***	***	***	***
Korea:					
Quantity (1,000 units).....	***	***	***	***	***
As a share of shipments (percent)..	***	***	***	***	***
Taiwan:					
Quantity (1,000 units).....	***	***	***	***	***
As a share of shipments (percent)..	***	***	***	***	***
Subject inventories: 2/					
Quantity (1,000 units).....	455	463	498	488	323
As a share of shipments (percent)..	65.6	62.4	76.4	94.0	60.2

See footnotes at end of table.

Table 13--Continued

Small business telephone systems and subassemblies thereof: End-of-period inventories of Japanese, Korean, and Taiwan products, 1985-87, January-September 1987, and January-September 1988

	1985	1986	1987	Jan.-Sept.-- 1/ 1987 1988	
Telephone/consoles inventories from--					
Japan:					
Quantity (1,000 units).....	***	***	***	***	***
As a share of shipments (percent)..	***	***	***	***	***
Korea:					
Quantity (1,000 units).....	***	***	***	***	***
As a share of shipments (percent)..	***	***	***	***	***
Taiwan:					
Quantity (1,000 units).....	***	***	***	***	***
As a share of shipments (percent)..	***	***	***	***	***
Subject inventories: 2/					
Quantity (1,000 units).....	732	609	709	731	516
As a share of shipments (percent)..	44.7	35.8	43.5	62.4	34.2

1/ Inventories as of September 30 as a percent of shipments during January-September.

2/ Data for Japan, Korea, and Taiwan will not sum to data for subject inventories because * * * reported only aggregated subject inventories and shipments. These data are included in "subject inventories" but not in any individual country's data.

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

Foreign producers

Japan.--Nine Japanese producers provided usable data on their foreign operations producing the subject products; however, * * *. Only limited data were reported for systems; these show declining production and steadily declining exports to the United States. Rates of capacity utilization for * * * all subassemblies fell overall (table 14). Japanese home-market shipments accounted for slightly less than two-thirds of total shipments during the period of investigation; however, home-market shipments of systems and all subassemblies fell during the period of investigation. Exports of subassemblies to the United States rose from 1985 to 1986 and have since fallen steadily. Exports to all other markets have increased sharply.

Table 14

Subassemblies of small business telephone systems: Japanese 1/ capacity, production, capacity utilization, home-market shipments, exports to the United States, exports to all other countries, and end-of-period inventories as a share of total shipments, 1985-88, January-September 1987, and January-September 1988

Item	1985	1986	1987	1988	Jan.-Sept.--	
					1987	1988
Control/switching equipment:						
Capacity (1,000 units)....	729	753	741	740	558	554
Production (1,000 units)..	567	593	516	501	398	378
Capacity utilization (percent) <u>2/</u>	89.3	90.7	80.9	74.3	81.3	75.5
Home-market shipments						
(1,000 units).....	424	385	383	360	304	291
Exports to the United States (1,000 units)..						
Exports to all other countries (1,000 units)...	117	122	84	77	66	55
Inventories as a share of shipments (percent)...	48	61	61	75	45	54
6.4	10.7	9.6	8.4	13.6	7.4	
Circuit cards and modules:						
Capacity (1,000 units)....	3,838	5,115	4,987	3,715	3,346	2,868
Production (1,000 units)..	2,485	3,180	2,886	2,365	2,157	1,753
Capacity utilization (percent) <u>2/</u>	71.8	63.6	60.0	67.5	67.9	62.5
Home-market shipments						
(1,000 units).....	1,476	1,729	1,733	1,489	1,388	1,157
Exports to the United States (1,000 units)..						
Exports to all other countries (1,000 units)...	682	868	557	391	460	306
Inventories as a share of shipments (percent)...	397	565	589	674	422	427
21.4	19.5	22.6	22.1	23.7	24.9	
Telephone sets and consoles:						
Capacity (1,000 units)....	5,250	5,465	5,477	5,222	4,108	3,809
Production (1,000 units)..	4,253	4,236	4,003	3,833	3,094	2,840
Capacity utilization (percent) <u>2/</u>	86.8	85.3	81.6	77.2	82.7	79.0
Home-market shipments						
(1,000 units).....	2,544	1,797	2,352	2,288	1,861	1,840
Exports to the United States (1,000 units)..						
Exports to all other countries (1,000 units)...	1,307	1,366	1,013	896	818	659
Inventories as a share of shipments (percent)...	496	509	600	721	429	495
8.1	12.6	13.1	12.2	15.3	12.5	

1/ Includes * * *. Not all companies provided complete data.

2/ Based on companies reporting both capacity and production data.

Source: Compiled from data submitted by counsel for the Japanese respondents.

Korea.--Three Korean producers provided data regarding their production and shipments of subassemblies for small business telephone systems (table 15).

Table 15

Subassemblies of small business telephone systems: Korean 1/ capacity, production, capacity utilization, home-market shipments, exports to the United States, exports to all other countries, and end-of-period inventories as a share of total shipments, 1985-88, January-September 1987, and January-September 1988

Item	1985	1986	1987	1988	Jan.-Sept.--	
					1987	1988
Control/switching equipment:						
Capacity (1,000 units).....	63	79	***	128	116	94
Production (1,000 units)....	***	59	***	125	85	88
Capacity utilization (percent).....	***	74.9	***	97.0	73.7	93.5
Home-market shipments (1,000 units).....	***	***	***	***	***	***
Exports to the United States (1,000 units)....	***	51	***	71	***	49
Exports to all other coun- tries (1,000 units)....	***	***	***	***	***	***
Inventories as a share of shipments (percent) <u>2</u> /..	***	***	***	***	***	***
Circuit cards and modules:						
Capacity (1,000 units).....	192	195	599	441	445	334
Production (1,000 units)....	95	***	611	407	361	291
Capacity utilization (percent).....	49.6	***	102.0	92.3	81.2	87.0
Home-market shipments (1,000 units).....	***	***	***	***	***	***
Exports to the United States (1,000 units)....	81	96	***	366	318	271
Exports to all other coun- tries (1,000 units)....	***	***	***	***	***	***
Inventories as a share of shipments (percent) <u>2</u> /..	***	***	***	***	***	***
Telephone sets and consoles:						
Capacity (1,000 units).....	***	677	1,809	1,491	1,335	1,112
Production (1,000 units)....	***	448	1,525	1,211	1,022	894
Capacity utilization (percent).....	***	66.2	84.3	81.2	76.6	80.4
Home-market shipments (1,000 units).....	***	***	***	***	***	***
Exports to the United States (1,000 units)....	***	386	1,267	856	826	647
Exports to all other coun- tries (1,000 units)....	***	***	***	***	***	190
Inventories as a share of shipments (percent) <u>2</u> /..	***	***	***	***	***	***

1/ Includes * * *.

2/ Based on companies reporting both inventories and shipments. * * *.

Source: Compiled from data submitted by counsel for the Korean respondents.

the same period of 1987. Imports from Japan declined similarly and * * *.
* * *.

Table 17

Small business telephone systems: U.S. imports from Japan, Korea, Taiwan, and all other countries, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September--	
				1987	1988
<u>Quantity (1,000 units)</u>					
Japan.....	45	37	31	23	16
Korea.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Subtotal.....	45	38	37	27	23
All other countries.....	***	***	***	***	***
Total.....	***	***	***	***	***
<u>Value (\$1,000)</u>					
Japan.....	49,031	48,809	46,154	36,275	23,390
Korea.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Subtotal.....	49,167	49,486	56,180	43,021	23,965
All other countries.....	***	***	***	***	***
Total.....	***	***	***	***	***
<u>Unit value (per unit) 1/</u>					
Japan.....	\$1,099	\$1,316	\$1,503	\$1,612	\$1,426
Korea.....	***	***	***	***	***
Taiwan 2/.....	***	***	***	***	***
Average.....	\$1,090	\$1,307	\$1,535	\$1,623	\$1,020
All other countries.....	***	***	***	***	***
Average.....	***	***	***	***	***

1/ Calculated from unrounded data, based on companies reporting both quantities and values.

2/

* * * * *

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

The reported value of the subject imported systems rose by 0.6 percent from 1985 to 1986 and increased again, by 13.5 percent, in 1987; values then fell 44.3 percent in the partial-year periods. The value of imports from Japan declined throughout the period, whereas imports from * * *. Unit values for all subject imports also peaked in 1987, but declined in 1988; however, the unit value of imports from Japan during January-September 1988 remained well above the 1985 unit value.

Control and switching equipment.--The volume of reported U.S. imports from Japan, Korea, and Taiwan of control and switching equipment for small business telephone systems increased by 62.1 percent from 1985 to 1986, and then fell by 7.2 percent by 1987 (table 18). Aggregated subject imports decreased again, by 15.4 percent, in the first three-quarters of 1988 compared with the same period of 1987. Imports from Japan increased from 1985-86 and declined thereafter and products from both Korea and Taiwan rose during 1985-87 and then declined.

Table 18

Control and switching equipment for small business telephone systems: U.S. imports from Japan, Korea, Taiwan, and all other countries, 1985-87, January-September 1987, and January-September 1988

	1985	1986	1987	January-September--	
				1987	1988
<u>Quantity (1,000 units)</u>					
Japan.....	71	103	65	52	43
Korea.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Subtotal.....	128	208	193	139	118
All other countries.....	***	***	***	***	***
Total.....	***	***	***	***	***
<u>Value (\$1,000)</u>					
Japan.....	24,354	28,640	20,526	16,252	13,208
Korea.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Subtotal.....	48,274	54,475	48,277	32,406	32,842
All other countries.....	***	***	***	***	***
Total.....	***	***	***	***	***
<u>Unit value (per unit) 1/</u>					
Japan.....	\$343	\$279	\$316	\$315	\$310
Korea.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Average.....	376	262	250	233	279
All other countries.....	***	***	***	***	***
Average.....	***	***	***	***	***

1/ Based on companies reporting both quantities and values.

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

The value of U.S. imports of control and switching equipment rose marginally during the period although there was a 12.8-percent increase from 1985 to 1986. Imports from Japan declined in value, Korean products rose overall, and imports from Taiwan * * * from 1985 to 1987 and then declined. Aggregated unit values fell sharply overall, although there was an increase in January-September 1988.

U.S. imports of telephone control and switching equipment; based on official statistics, are presented in the following tabulation (in millions of dollars): 1/

<u>Source</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>January-September--</u>	
				<u>1987</u>	<u>1988</u>
Japan.....	223	179	136	118	74
Korea.....	21	28	44	27	39
Taiwan.....	<u>13</u>	<u>13</u>	<u>16</u>	<u>12</u>	<u>12</u>
Subtotal.....	258	219	196	156	126
Other.....	<u>308</u>	<u>218</u>	<u>257</u>	<u>182</u>	<u>228</u>
Total.....	566	438	453	338	353

Circuit cards and modules.--Questionnaire respondents often were unable to provide complete data on imports of circuit cards and modules because a majority of these products are shipped as part of control and switching units or telephone sets and consoles. Reported data, presented in table 19, are believed to reflect mostly products shipped separately. Thus, these data both understate, and may be unrepresentative of, actual subject products.

U.S. imports of power supplies, based on official statistics, are presented in the following tabulation (in millions of dollars): 2/

<u>Source</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>January-September--</u>	
				<u>1987</u>	<u>1988</u>
Japan.....	125	166	182	121	175
Korea.....	0	13	16	11	15
Taiwan.....	<u>145</u>	<u>99</u>	<u>126</u>	<u>85</u>	<u>131</u>
Subtotal.....	270	278	324	218	321
Other.....	<u>308</u>	<u>368</u>	<u>482</u>	<u>343</u>	<u>470</u>
Total.....	579	645	807	560	791

These data do not include circuit cards other than power supplies, most of which are shipped as part of a unit of control or switching equipment.

1/ Comparable data on quantities are not available.

2/ Data for 1985-86 include power supplies larger than those subject to investigation. These products were reclassified in a separate tariff item in 1987.

Table 19

Circuit cards and modules for small business telephone systems: U.S. imports from Japan, Korea, Taiwan, and all other countries, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September--	
				1987	1988
<u>Quantity (1,000 units)</u>					
Japan.....	538	559	443	363	228
Korea.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Subtotal.....	546	741	684	548	365
All other countries.....	***	***	***	***	***
Total.....	***	***	***	***	***
<u>Value (\$1,000)</u>					
Japan.....	50,063	45,488	38,893	32,700	24,823
Korea.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Subtotal.....	54,123	55,190	56,338	44,738	39,727
All other countries.....	***	***	***	***	***
Total.....	***	***	***	***	***
<u>Unit value (per unit) 1/</u>					
Japan.....	\$93	\$81	\$88	\$90	\$109
Korea.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Average.....	92	71	74	74	89
All other countries.....	***	***	***	***	***
Average.....	***	***	***	***	***

1/ Calculated from the unrounded data, based on companies providing both quantity and values.

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

Telephone sets and consoles.--Aggregated U.S. imports from Japan, Korea, and Taiwan of telephone sets and consoles dedicated for use in small business telephone systems increased in volume by 9.7 percent from 1985 to 1986 and rose again, by 34.2 percent, in 1987 (table 20). However, the volume of such imports declined marginally from January-September 1987 to the corresponding period of 1988. Imports from Japan also increased from 1985 to 1987 and then fell. Products from Korea increased steadily, and imports from Taiwan peaked in 1986 and dropped thereafter. The value of the subject products rose by 4.1 percent from 1985 to 1986 and increased further, by 8.6 percent, from 1986 to 1987. The value then decreased by 14.7 percent during January-September 1988 compared with January-September 1987. The value of imports from Japan and Taiwan fell overall whereas imports from Korea * * * in value from 1985 to 1987 and then declined * * *. Unit values fell in every period of comparison, by 5.1 percent,

Table 20

Telephone sets and consoles for small business telephone systems: U.S. imports from Japan, Korea, Taiwan, and all other countries, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September--	
				1987	1988
<u>Quantity (1,000 units)</u>					
Japan.....	879	741	1,029	484	427
Korea.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Subtotal.....	1,467	1,609	2,159	1,322	1,315
All other countries.....	***	***	***	***	***
Total.....	***	***	***	***	***
<u>Value (\$1,000)</u>					
Japan.....	71,432	58,985	49,356	39,863	30,853
Korea.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Subtotal.....	107,704	112,124	121,808	90,295	76,997
All other countries.....	***	***	***	***	***
Total.....	***	***	***	***	***
<u>Unit value (per unit)</u>					
Japan.....	\$81	\$80	\$48	\$82	\$72
Korea.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Average.....	73	70	56	68	59
All other countries.....	***	***	***	***	***
Average.....	***	***	***	***	***

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

19.0 percent, and 14.3 percent, respectively. Unit values of imports from Japan and Korea declined overall and unit values of imports from Taiwan rose.

U.S. imports of telephone sets and consoles and other terminal equipment, based on official statistics, are presented in the following tabulation (in millions of dollars):

Source	1985	1986	1987	January-September--	
				1987	1988
Japan.....	448	535	488	370	278
Korea.....	80	116	163	116	107
Taiwan.....	143	274	224	171	134
Subtotal.....	671	925	875	657	518
Other.....	246	343	412	299	370
Total.....	917	1,268	1,288	956	888

These data include single-line telephones and other terminal equipment and parts that are not subject to investigation.

Market penetration by the subject imports

Market penetration as presented in this section is calculated using questionnaire data. Reliable data on consumption and imports of systems are not available in terms of quantity; however, a calculation of market penetration for systems in terms of value is presented in appendix D. With regard to value, the data presented may understate import penetration because the reported values are at different levels of trade--the value of U.S. shipment represents primarily sales to the end user while the value of imports is largely transfer values from related manufacturers.

Control and switching equipment.--In terms of volume, the reported subject imports of control and switching equipment almost doubled their market share during the period of investigation (table 21). Korea and Taiwan * * * their market shares while Japan's rose only slightly. U.S. producers' market fell steadily from 1985 to 1987 and only rose marginally from January-September 1987 to January-September 1988. In terms of value, the import market share is much smaller but the trends for the aggregated imports are similar, peaking in 1987 and rising overall (but less steeply than in terms of quantity). Again, also, each country increased its market share overall. The domestic producers' market share varied inversely to the subject import share.

Table 21

Control and switching equipment for small business telephone systems: Shares of U.S. consumption supplied by Japan, Korea, Taiwan, all other countries, and U.S. producers, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September--	
				1987	1988
	Quantity				
Apparent consumption (1,000 units).....	483	461	428	311	270
Share of apparent consumption supplied by--					
Japan (percent).....	14.7	22.3	15.2	16.6	15.8
Korea (percent).....	***	***	***	***	***
Taiwan (percent).....	***	***	***	***	***
Subtotal (percent).....	26.6	45.1	45.1	44.6	43.6
All other countries (percent).....	***	***	***	***	***
Total imports (percent)..	***	***	***	***	***
U.S. shipments (percent)...	***	***	***	***	***
Total (percent).....	100.0	100.0	100.0	100.0	100.0
	Value 1/				
Apparent consumption (\$1,000).....	691,760	478,496	553,100	399,440	334,906
Share of apparent consumption supplied by--					
Japan (percent).....	3.5	6.0	3.7	4.1	3.9
Korea (percent).....	***	***	***	***	***
Taiwan (percent).....	***	***	***	***	***
Subtotal (percent).....	7.0	11.4	8.7	8.1	9.8
All other countries (percent).....	***	***	***	***	***
Total imports (percent)..	***	***	***	***	***
U.S. shipments (percent)...	***	***	***	***	***
Total (percent).....	100.0	100.0	100.0	100.0	100.0

1/ The data presented may understate import penetration because the reported values are at different levels of trade--the value of U.S. shipment represents primarily sales to the end user while the value of imports is largely transfer values from related manufacturers.

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

Circuit cards and modules.--Data on circuit cards and modules exclude a large portion of products that are integrated into control and switching equipment or telephones by the manufacturer. Therefore, market penetration as presented in table 22 is most applicable for products shipped separately from other subassemblies. The data show an increase in the import market share and a corresponding decline in the U.S. market share, in terms of volume; however, the reverse is true for value data. Japan lost market share; Korea's increased * * *, and Taiwan's also declined overall.

Table 22

Circuit cards and modules for small business telephone systems: Shares of U.S. consumption supplied by Japan, Korea, Taiwan, all other countries, and U.S. producers, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September--	
				1987	1988
<u>Quantity</u>					
Apparent consumption (1,000 units).....	3,981	3,542	3,018	2,243	1,977
Share of apparent consumption supplied by--					
Japan (percent).....	13.5	15.8	14.7	16.2	11.5
Korea (percent).....	***	***	***	***	***
Taiwan (percent).....	***	***	***	***	***
Subtotal (percent).....	13.7	20.9	22.7	24.5	18.4
All other imports (percent)..	***	***	***	***	***
Total imports (percent)....	***	***	***	***	***
U.S. shipments (percent).....	***	***	***	***	***
Total (percent).....	100.0	100.0	100.0	100.0	100.0
<u>Value 1/</u>					
Apparent consumption (\$1,000)..	398,601	377,598	480,021	283,098	327,344
Share of apparent consumption supplied by--					
Japan (percent).....	12.6	12.0	8.1	11.6	7.6
Korea (percent).....	***	***	***	***	***
Taiwan (percent).....	***	***	***	***	***
Subtotal (percent).....	13.6	14.6	11.7	15.8	12.1
All other imports (percent)..	***	***	***	***	***
Total imports (percent)....	***	***	***	***	***
U.S. shipments (percent).....	***	***	***	***	***
Total (percent).....	100.0	100.0	100.0	100.0	100.0

1/ The data presented may understate import penetration because the reported values are at different levels of trade--the value of U.S. shipment represents primarily sales to the end user while the value of imports is largely transfer values from related manufacturers.

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

Telephone sets and consoles.--During the period of investigation, telephone sets and consoles for small business telephone systems imported from Japan, Korea, and Taiwan supplied approximately one-half of the U.S. market, by volume, and less than one-quarter, by value (table 23). In either case, the subject market share rose overall, peaking in 1987. Japan and Taiwan lost market share but Korea's share * * *. U.S. producers lost market share steadily from 1985 to 1987 but recovered a portion in the first three-quarters of 1988.

Table 23

Telephone sets and consoles for small business telephone systems: Shares of U.S. consumption supplied by Japan, Korea, Taiwan, all other countries, and U.S. producers, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September--	
				1987	1988
	<u>Quantity</u>				
Apparent consumption (1,000 units).....	3,572	3,612	3,958	2,648	2,769
Share of apparent consumption supplied by--					
Japan (percent).....	24.6	20.5	26.0	18.3	15.4
Korea (percent).....	***	***	***	***	***
Taiwan (percent).....	***	***	***	***	***
Subtotal (percent).....	41.1	44.5	54.5	49.9	47.5
All other countries (percent).....	***	***	***	***	***
Total imports (percent)....	***	***	***	***	***
U.S. shipments (percent)....	***	***	***	***	***
Total (percent).....	100.0	100.0	100.0	100.0	100.0
	<u>Value 1/</u>				
Apparent consumption (\$1,000)..	599,658	558,567	494,323	365,678	377,975
Share of apparent consumption supplied by--					
Japan (percent).....	11.9	10.6	10.0	10.9	8.2
Korea (percent).....	***	***	***	***	***
Taiwan (percent).....	***	***	***	***	***
Subtotal (percent).....	18.0	20.1	24.6	24.7	20.4
All other imports (percent)..	***	***	***	***	***
Total imports (percent)....	***	***	***	***	***
U.S. shipments (percent)....	***	***	***	***	***
Total (percent).....	100.0	100.0	100.0	100.0	100.0

1/ The data presented may understate import penetration because the reported values are at different levels of trade--the value of U.S. shipment represents primarily sales to the end user while the value of imports is largely transfer values from related manufacturers.

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

Prices 1/

AT&T sells an estimated * * * percent of its telephone systems directly to end users through its own sales force, including AT&T phone center outlets. AT&T's systems are sold as complete packages, including installation, wiring, service, and support. The remaining * * * percent of its systems are sold to authorized dealers for AT&T, which * * *. 2/ The remaining U.S. producers responding to Commission questionnaires, * * *, distribute the majority of their products through retail dealers, interconnects, and wholesalers. 3/

AT&T sells * * * to its authorized dealers. Most of the AT&T dealers contacted reported that they generally purchase subassemblies from AT&T on the basis of * * * and sell complete systems made from subassemblies held in inventory. Like AT&T's direct sales force, these retail dealers sell their customers a complete package, providing installation, service, and support (e.g., training and programming) in addition to equipment. 4/ One dealer indicated that he carries inventories of AT&T products for repair purposes, and orders subassemblies for complete systems directly from AT&T only after receiving a customer's order. This dealer also installs the systems. 5/ All of the retail dealers also sell subassemblies for expansion and replacement purposes.

Importers generally sell telephone subassemblies to retail dealers and wholesalers. Importers infrequently sell complete systems directly to end users, with this channel of distribution often accounting for less than 5 percent of total sales. One importer said that it lacked the national sales and service force required to support a large sales volume to end users. 6/ Instead, importers generally rely on retail dealers to market, sell, install, and service their small business telephone systems to end users. * * * reported that it, as an importer, only competes directly with AT&T on sales of systems to large national end-user accounts, and that this represents * * * percent of its total sales. Many other importers echoed this statement.

1/ This report has been prepared without reliance on submissions of the petitioner pertaining to market research performed for petitioner by McKinsey & Co., Inc. A thorough analysis of the study was not possible given the information and time available.

2/ Postconference brief of AT&T, p. 2.

3/ Retail dealers are often referred to as interconnects. Though the two function at largely the same level of distribution, they market their products in different ways, with retail dealers selling from a showroom and interconnects through sales representatives. Wholesalers and supply houses function as distributors for subassemblies produced in the United States or imported from Japan, Korea, or Taiwan. The terms retail dealer and interconnect are used interchangeably in this section, as are the terms wholesaler and supply house. * * *.

4/ Conversations with representatives of * * *, all authorized AT&T dealers, Jan. 23, 1989.

5/ Conversation with * * *, Jan. 25, 1989.

6/ Conversation with * * *. Recently, several of the importers involved in these investigations have begun national distributorships in order to increase their presence in the end-user market. As of this time, this represents only a fraction of total sales for any of these companies.

Thus, direct competition between AT&T systems and imported systems occurs largely between AT&T and independent retail outlets through sales of complete packages to end users. Most direct competition between imported and domestic products at the same level of sale appears to be largely confined to sales of telephone subassemblies to retail dealers and wholesalers by importers, by domestic producers other than AT&T, and by AT&T on a relatively small portion of its total sales to its authorized dealers.

The discounting policies of producers and importers of small business telephone systems and subassemblies vary. Discounts vary depending on the channel of distribution, with retail dealers and wholesalers receiving the largest discounts. Within these two categories of purchasers, discounts increase as volume or value purchase commitments become larger. Most producers and importers reported * * * percent off list as their deepest discount, while some importers reported discounts of up to * * * percent off list for sales to wholesalers. AT&T reported that * * *.

* * * * *

Installation and wire costs as a percent of the total installed price of AT&T telephone systems ranged from * * *, depending on the size and type of system. Several retail dealers of domestic and imported systems agreed that equipment costs can be, and usually are, separated from installation and service costs for their customers.

Small business telephone systems and subassemblies, whether produced in the United States or imported from Japan, Korea, or Taiwan, are not interchangeable among different companies' products and are only interchangeable within specific models of one company, and then only to a limited degree. For example, telephone sets from * * * models technically can be used on * * *, although subassemblies dedicated to a particular model are * * *. 1/

Producers and importers generally agree that no significant developments have occurred in the product range available during the investigation period, although several individual companies have expanded the range of their products. Most U.S., Japanese, Korean, and Taiwan manufacturers have added feature capabilities to their telephone systems across all size ranges.

Questionnaire responses regarding competition between the small business telephone systems under investigation and Centrex services yielded mixed results. Although several producers and importers believed that Centrex did not compete with the systems under investigation, many importers reported direct competition between the two. * * * and an interconnect that sells Centrex service stated that many Centrex users also purchase key systems to use as a complement to Centrex.

Producers and importers were requested to estimate the percentage of their firms' sales of subassemblies that are used either as expansion units or for

1/ * * * reported that it produces subassemblies that can be integrated into several companies' telephone systems. * * * stated that it manufactures many special application items, such as * * *, that can plug into other companies' systems.

replacement. AT&T reported that * * * percent of sales of subassemblies are used for these purposes. Whereas importers reported a range of * * * percent as expansion or replacement units, several importers estimated that * * * percent of sales are for replacement or expansion. Prices for replacement and expansion units are generally higher than prices for subassemblies sold as part of a complete system.

Price data.--For sales to end users, the Commission requested producers and importers to report prices for actual transactions based on the lowest priced, semiannual sale of small business telephone systems to end users. Prices were to exclude all costs incidental to installation, service, and maintenance, as well as those of optional features. Prices should reflect the cost only of the control unit, telephone sets, and any other subassembly necessary for operation of the system.

For sales to retail dealers and interconnects, and to wholesalers and supply houses, producers and importers were requested to calculate system prices on the basis of the lowest price at which the necessary minimum subassemblies for the system to operate were sold. 1/ As with prices to end users, all costs incidental to installation, service, and maintenance, as well as any optional features, were to be excluded.

Six system size ranges were specified (up to 80 stations and not to exceed 256 ports) and within each range, a given construct was requested. A construct is the size of a telephone system in terms of the number of central office lines (C.O. lines) and telephone sets; for example, a system construct of 3 x 5 would be composed of 3 C.O. lines and 5 telephone sets. Producers and importers were requested to calculate a price for each size range within which their systems can be configured, at each of the specified constructs.

Price comparisons.--In most cases, it is not possible directly to compare prices of domestic and imported telephone systems on the basis of actual transactions. Although prices reported by producers and importers for sales to end users are based on actual transaction prices, these sales represent a majority of AT&T's sales but only a fraction of importers' sales (tables 24-28). The majority of importer prices are estimates of a system price to retail dealers and to wholesalers, obtained by combining the lowest prices at which subassemblies necessary to complete a specific system were sold (tables 29-40). 2/ Domestic prices equivalent to these estimates of import prices were estimated in a similar manner. A further problem with attempting price comparisons was that producers and importers were requested to exclude all adjunct prices, such as paging and music-on-hold; however, many features are standard to a telephone system and could not be broken out. What may be standard in one model may be optional in another.

1/ Because a system is not sold to retail dealers and interconnects, or wholesalers and supply houses, all of whom purchase subassemblies and configure systems to their customers' individual requirements, or resell for expansion or replacement units, there are no actual transactions at this level of sale on which to report prices.

2/ Producers and importers are generally not aware of the final system price paid to retail dealers and interconnects, or to wholesalers and supply houses, by end users.

Table 24

U.S. and imported small business telephone systems: Prices for sales to end users of systems configured at 3 C.O. lines and 5 telephone sets, January-June 1986 to July-December 1988

* * * * *

Table 25

U.S. and imported small business telephone systems: Prices for sales to end users of systems configured at 5 C.O. lines and 14 telephone sets, January-June 1986 to July-December 1988

* * * * *

Table 26

U.S. and imported small business telephone systems: Prices for sales to end users of systems configured at 8 C.O. lines and 26 telephone sets, January-June 1986 to July-December 1988

* * * * *

Table 27

U.S. and imported small business telephone systems: Prices for sales to end users of systems configured at 16 C.O. lines and 52 telephone sets, January-June 1986 to July-December 1988

* * * * *

Table 28

U.S. and imported small business telephone systems: Prices for sales to end users of systems configured at 24 C.O. lines and 80 telephone sets, January-June 1986 to July-December 1988

* * * * *

Table 29

U.S. and imported small business telephone systems: Calculated prices for producer and importer sales of subassemblies to retail dealers and interconnects configured at 3 C.O. lines and 5 telephone sets, January-June 1986 to July-December 1988

* * * * *

Table 30

U.S. and imported small business telephone systems: Calculated prices for producer and importer sales of subassemblies to retail dealers and interconnects configured at 5 C.O. lines and 14 telephone sets, January-June 1986 to July-December 1988

* * * * *

Table 31

U.S. and imported small business telephone systems: Calculated prices for producer and importer sales of subassemblies to retail dealers and interconnects configured at 8 C.O. lines and 26 telephone sets, January-June 1986 to July-December 1988

* * * * *

Table 32

U.S. and imported small business telephone systems: Calculated prices for producer and importer sales of subassemblies to retail dealers and interconnects configured at 10 C.O. lines and 40 telephone sets, January-June 1986 to July-December 1988

* * * * *

Table 33

U.S. and imported small business telephone systems: Calculated prices for producer and importer sales of subassemblies to retail dealers and interconnects configured at 16 C.O. lines and 52 telephone sets, January-June 1986 to July-December 1988

* * * * *

Table 34

U.S. and imported small business telephone systems: Calculated prices for producer and importer sales of subassemblies to retail dealers and interconnects configured at 24 C.O. lines and 80 telephone sets, January-June 1986 to July-December 1988

* * * * *

Table 35

U.S. and imported small business telephone systems: Calculated prices for producer and importer sales of subassemblies to wholesalers of systems configured at 3 C.O. lines and 5 telephone sets, January-June 1986 to July-December 1988.

* * * * *

Table 36

U.S. and imported small business telephone systems: Calculated prices for producer and importer sales of subassemblies to wholesalers systems configured at 5 C.O. lines and 14 telephone sets, January-June 1986 to July-December 1988

* * * * *

Table 37

U.S. and imported small business telephone systems: Calculated prices for producer and importer sales of subassemblies to wholesalers of systems configured at 8 C.O. lines and 26 telephone sets, January-June 1986 to July-December 1988.

* * * * *

Table 38

U.S. and imported small business telephone systems: Calculated prices for producer and importer sales of subassemblies to wholesalers of systems configured at 10 C.O. lines and 40 telephone sets, January-June 1986 to July-December 1988.

* * * * *

Table 39

U.S. and imported small business telephone systems: Calculated prices for producer and importer sales of subassemblies to wholesalers of systems configured at 16 C.O. lines and 52 telephone sets, January-June 1986 to July-December 1988

* * * * *

Table 40

U.S. and imported small business telephone systems: Calculated prices for producer and importer sales of subassemblies to wholesalers of systems configured at 24 C.O. lines and 80 telephone sets, January-June 1986 to July-December 1988

* * * * *

Several importers calculated prices for more than one system, with the systems generally differing in terms of capacity (measured by the number of lines and telephone sets a system can accommodate). The reporting of higher capacity systems configured at lower constructs (for example, a system with a capacity of 16 lines and 48 telephone sets configured at 5 lines and 14 telephone sets) may tend to overstate prices at the lower construct. However, both domestic producers and importers report that end users frequently purchase systems well below the maximum system capacity, since systems generally work better at less than full capacity. ^{1/}

Price trends.--The data collected are shown to illustrate any price movements that occurred during the investigation period. An analysis of price trends, however, must also be examined with caution. Although major technological changes have not occurred, new models are frequently introduced as older models are discontinued, thus a continuous series for a single model is seldom produced. Model changes, when known, are noted in the tables. In cases where companies reported prices separately for different models, trends can be

^{1/} Transcript of the conference, pp. 118-119.

analyzed more accurately than in cases where companies combined prices for different models or did not indicate changes in model features that affect price. However, even in these instances, companies may have added or changed features that are standard to a particular model without changing model numbers.

End-user prices.--* * * U.S. producers reported prices for sales to end users. Import prices were reported by * * * importers of the Japanese-manufactured product and * * *. In the end-user market, prices for both U.S.-produced and imported systems generally declined during the 1986-88 period.

* * * * *

Prices for most configurations of Japanese telephone systems sold to end users also showed general price declines during the period, ranging from * * *.

* * * * *

Retail dealer and interconnect prices.--* * * U.S. producer * * * data for retail dealer and interconnect prices. Nine importers of the Japanese product responded with data, and * * * importers of Korean subassemblies and * * * importers of subassemblies from Taiwan also responded.

Calculated prices based on sales prices of subassemblies sold to retail dealers and interconnects of * * * showed * * *. * * *.

Imported products followed trends similar to those in the end-user market, with many of the Japanese, Korean, and Taiwan calculated system prices decreasing throughout the period of the investigation, by up to * * * percent. 1/

Wholesale and supply house prices.--* * * reported usable data for sales to wholesalers and supply houses; however, * * *. Eight importers of Japanese-produced subassemblies responded with estimated system prices. * * *.

Estimated prices to wholesalers and suppliers showed * * * for the U.S. product, * * *. Estimated prices for the Japanese and Taiwan products showed * * *, with many importers showing either increased or static prices for the 1986-88 period: * * * reported decreasing prices from 1986 to 1987. Estimated system prices for Korean-produced subassemblies * * *.

Lost sales and lost revenues

* * * alleged * * * instances of lost sales and * * * instances of lost revenues at the end-user level, totaling approximately * * * in lost sales and * * * in lost revenues. 2/ Lost sales and lost revenues values were based on * * *. Staff contacted * * * of the firms named in these allegations. Conversations with representatives of these firms are summarized below.

1/ * * * prices were not considered for purposes of reporting trends since these prices include estimates of installation charges and other charges incidental to purchase of an installed telephone system.

2/ * * * * *

* * * also submitted * * *. * * * alleged lost sales at the retail dealer level. At least one of the companies named as a lost sale at the retail dealer level is an * * *. * * * staff contacted * * * of the retail dealers named by * * * and discussed their general sales and marketing efforts for the brands of small business telephone systems that they carry.

Lost sales and lost revenues at the end user level

* * *.--

* * * * *

* * * said that * * * the bid for the * * * met all requirements at a lower price.

* * * * *

* * *.--

* * * * *

However, according to * * *, the * * * system was priced about * * * below the * * * system, and he felt that both were comparable in terms of features and meeting the needs of * * *. * * *.

* * *.--* * *. * * * reported that he based his purchase decision on service, the reputation of the vendor, and price. He opted for a system sold by * * * based on these factors. * * * felt that * * * was trying to sell them more features than * * * needed and * * *. * * *.

* * *.--* * *. * * * stated that * * * looked at several systems and selected the * * * system because * * * felt it was the "best system at the best price." * * *.

* * *.--

* * * * *

* * * stated that * * * had a budget for a telephone system, including wiring and installation, and that the * * * system did not fall within this predetermined budget.

* * *.--

* * * * *

* * * stated that there are three main considerations when making a purchase--price, quality, and national dealerships. * * * explained that phone companies with national distribution centers can provide service * * * nationwide. In addition, * * * stated that the price of the * * * system was lower than * * * prices for * * *. * * *.

* * *.--* * *. * * * would not comment on this allegation on the telephone.

Lost sales at the retail dealer/wholesaler level

* * *.--

* * * * *

* * *.--

* * * * *

* * * stated that customers make purchase decisions based on price, service, and the reputation of the seller. He commented that * * * have not been effective selling * * * systems based on the price of these systems--he said that competitors sell systems below * * *.

* * *.--

* * * * *

* * *. He said that * * * prices run * * * percent above comparable imported models that he carries. * * *. However, he also believes that * * * the reputation of the company will, in some cases, outweigh a price differential. Companies seeking to purchase the majority of the sizes of systems under investigation, however, are quite sensitive to the price of the system they purchase. He said that with the money customers can save buying a lower-priced, though comparable, imported system, they can also buy items such as fax machines, computers, and software for their offices.

* * *.--* * *. * * * stated that they have felt severe competition from imported systems from Japan, Korea, and Taiwan. * * * said that first-time buyers of telephone systems, as well as small businesses (those that would purchase either * * *, are the most price sensitive. He cited several instances where he lost sales * * * to * * * systems that were priced more than 50 percent below * * *.

* * *.--* * *. * * * stated that he carries * * * and * * * telephone systems, both of which offer good service and high quality. * * * said that his customers look at the type and size of system, features, and price, when purchasing a telephone system. Both * * * offer similar types of systems with comparable features, but * * * systems are more expensive than * * *. According to * * *, some professional groups, such as doctors or CPA's, will purchase * * * based on its name and reputation, but more commonly, purchasers consider the price of the system to be a very important factor.

Exchange rates

Quarterly data reported by the International Monetary Fund indicate that during the period January 1986 through September 1988 the value of the Japanese yen advanced sharply, by 40.5 percent, against the U.S. dollar (table 41). ^{1/} Adjusted for relative movements in producer price indexes in the United States and Japan, the real value of the Japanese currency appreciated 21.5 percent from January-March 1986 through July-September 1988.

^{1/} International Financial Statistics, November 1988.

Table 41

Exchange rates: 1/ Nominal exchange-rate equivalents of selected currencies in U.S. dollars, real exchange rate equivalents, and producer price indicators in specified countries, 2/ indexed by quarters, January 1986–September 1988

Period	U.S.			Japan			Korea			Taiwan		
	pro- ducer price index	Pro- ducer price index	Nominal exchange- rate index	Real exchange- rate index 3/	Pro- ducer price index	Nominal exchange- rate index	Real exchange- rate index 3/	Pro- ducer price index	Nominal exchange- rate index	Real exchange- rate index 3/		
	—US dollars/yen—			—US dollars/won—			—US dollars/NT\$—					
1986:												
Jan.–Mar...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0		
Apr.–June..	98.1	96.3	110.4	108.4	97.8	100.0	99.8	99.8	102.3	104.3		
July–Sept..	97.6	93.8	120.6	115.8	98.9	100.6	101.9	98.9	104.9	106.3		
Oct.–Dec...	98.0	92.8	117.2	111.0	98.2	102.0	102.2	98.2	108.1	108.4		
1987:												
Jan.–Mar...	99.1	92.2	122.7	114.1	98.4	103.7	102.9	97.2	112.3	110.2		
Apr.–June..	100.7	91.4	131.7	119.6	99.5	107.2	105.9	96.4	121.1	116.0		
July–Sept..	101.9	92.6	127.9	116.3	99.7	109.8	107.5	95.7	128.8	121.0		
Oct.–Dec...	102.3	92.3	138.4	124.8	100.1	111.0	108.6	94.7	132.9	122.9		
1988:												
Jan.–Mar...	102.8	91.2	146.8	130.2	101.7	115.0	113.7	93.3	137.2	124.5		
Apr.–June..	104.7	90.9	149.6	129.9	101.8	120.6	117.2	94.5	137.0	123.7		
July–Sept..	106.1	91.7	140.5	121.5	102.6	122.7	118.6	95.5	136.6	122.9		

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

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

3/ The indexed real exchange rate represents the nominal exchange rate adjusted for relative movements in producer price indexes in the United States and the respective foreign country. Producer prices in the United States increased by 6.1 percent between January 1986 and September 1988, compared with an 8.3-percent decrease in Japan, a 2.6-percent increase in Korea, and a 4.5-percent decrease in Taiwan as of July–September 1988, the last period for which its producer price index is reported.

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

Note.—January–March 1986=100.0.

During the January–March 1986 to July–September 1988 period, the nominal value of the Korean won rose by 22.7 percent against the U.S. dollar. Adjusted for relative movements in the producer price indexes, the real value of the won appreciated by 18.6 percent.

Quarterly data indicate that during this same period, the nominal value of the New Taiwan dollar appreciated by 36.6 percent. Adjusted for relative movements in the producer price index, the real value of the Taiwan currency appreciated relative to the U.S. dollar by 22.9 percent.

APPENDIX A

THE FEDERAL REGISTER NOTICES

[Investigations Nos. 731-TA-426-428 (Preliminary)].

Certain Telephone Systems and Subassemblies Thereof from Japan, Korea, and Taiwan

AGENCY: International Trade Commission.

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

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigations No. 731-TA-426-428 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan, Korea, and Taiwan of small business telephone systems and subassemblies thereof,¹ provided for in subheadings 8504.40.00, 8517.10.00, 8517.30.20, 8517.30.25, 8517.30.30, 8517.90.10, 8517.90.15, 8517.81.00, 8517.90.30, and 8517.90.40 of the Harmonized Tariff Schedule of the United States (items 682.60, 684.57, 684.58, and 684.59 of the Tariff Schedules of the United States), 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 preliminary antidumping investigations in 45 days, or in this case by February 13, 1989.

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

EFFECTIVE DATE: December 28, 1988.

FOR FURTHER INFORMATION CONTACT: Rebecca Woodings (202-252-1192), 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

¹ For the purposes of these investigations, the term "small business telephone systems and subassemblies thereof" means telephone systems with intercom or internal calling capability and total non-blocking port capacities of between 2 and 256 ports, units of such systems, and subassemblies for use principally in such units, including control and switching equipment, circuit cards and modules, and proprietary corded telephone sets and consoles, whether complete or incomplete, assembled or

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

These investigations are being instituted in response to a petition filed on December 28, 1988, by American Telephone & Telegraph Company, Parsippany, NJ, and Comdial Corporation, Charlottesville, VA.

Participation in the Investigations

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

Service List

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

Limited Disclosure of Business Proprietary Information Under a Protective Order

Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a) as amended by 51 FR (Aug. 1988)), the Secretary will make available business proprietary information gathered in these preliminary investigations to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under

a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m. on January 18, 1989, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Rebecca Woodings (202-252-1192) not later than January 13, 1989, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written Submissions

Any person may submit to the Commission on or before January 23, 1989, a written brief containing information and arguments pertinent to the subject matter of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for business proprietary 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 information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their written brief, and may also file additional written comments on such information no later than January 26, 1989. Such additional comments must be limited to comments on business proprietary information received in or after the written briefs.

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

By order of the Commission.
Issued: December 30, 1988.

Kenneth R. Mason,
Secretary.

[FR Doc. 89-194 Filed 1-5-89; 8:45 am]
BILLING CODE 7020-02-M

International Trade Administration

[A-588-809]

Initiation of Antidumping Duty Investigation: Certain Small Business Telephone Systems and Subassemblies Thereof From Japan**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 certain small business telephone systems and subassemblies thereof from Japan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before February 13, 1989. If that determination is affirmative, we will make a preliminary determination on or before June 6, 1989.

EFFECTIVE DATE: January 24, 1989.

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

SUPPLEMENTARY INFORMATION:**The Petition**

On December 28, 1988, we received a petition filed in proper form by American Telephone and Telegraph Company and Comdial Corporation on behalf of the domestic industry engaged in the production of certain small business telephone systems and subassemblies thereof. In compliance with the filing requirements of 19 CFR 353.36, petitioners allege that imports of certain small business telephone systems and subassemblies thereof from Japan are being, or are likely to be, sold in the United States to 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.

If any interested party as described under paragraphs (C), (D), (E), or (F) of

section 771(9) of the Act wishes to register support of or opposition to this petition, please file written notification with the Commerce official cited in the "For Further Information Contact" section of this notice.

United States Price and Foreign Market Value

United States price was based on U.S. list prices to supply houses or interconnects. Petitioners deducted discounts, U.S. import duties, ocean freight, and marine insurance. In an exporter's sales price (ESP) situation, a deduction was also made for indirect selling expenses.

Petitioners based foreign market value on Japanese retail prices. A distributor's margin was deducted to arrive at the first arm's length price. Adjustments were made, as appropriate, for differences in circumstances of sale. In an ESP situation, a deduction was also made for indirect selling expenses. In certain cases, foreign market value was also adjusted to reflect differences in physical characteristics in the merchandise being compared.

Based on a comparison of United States price and foreign market value, petitioners allege dumping margins ranging from 27.3 percent to 157.3 percent.

Initiation of Investigation

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

We examined the petition on certain small business telephone systems and subassemblies thereof from Japan and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of certain small business telephone systems and subassemblies thereof from Japan are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by June 6, 1989.

Scope of Investigation

The products covered by this investigation are certain small business telephone systems and subassemblies thereof, currently classifiable under *Harmonized Tariff Schedule* item numbers 8517.30.2000, 8517.30.2500, 8517.30.3000, 8517.10.0020, 8517.10.0040,

8517.10.0050, 8517.10.0070, 8517.10.0080, 8517.90.1000, 8517.90.1500, 8517.90.3000, 8518.30.1000, 8504.40.0004, 8504.40.0008, 8504.40.0010, 8517.81.0010, 8517.81.0020, 8517.90.4000, and 8504.40.0015.

Certain small business telephone systems are telephone systems, whether complete or incomplete, assembled or unassembled, with intercom or internal calling capability and total non-blocking port capacities of between 2 and 256 ports, and discrete subassemblies thereof designed and dedicated for use in such systems. These subassemblies include:

(1) Telephone sets and consoles, consisting of dedicated, proprietary, corded telephone sets or consoles. A console has the ability to perform certain functions including: answer all lines in the system; monitor the status of other phone sets; and transfer calls. The term telephone sets and consoles is defined to include units having any two or more of the following items, when imported or shipped in the same container, with or without additional apparatus: housing; hand set; cord (line or hand set); power supply; and telephone set or console circuit cards.

(2) Control and switching equipment, whether denominated as a key service unit, control unit, or cabinet/switch. Control and switching equipment includes units consisting of one or more circuit cards/modules (including backplane circuit cards) and connectors to accept circuit cards/modules and/or building wiring, when imported or shipped in the same container, with or without additional apparatus.

(3) Circuit cards and modules, including power supplies. These may be incorporated into control and switching equipment or telephone sets and consoles, or they may be imported or shipped separately. A power supply converts or divides input power of not more than 2400 watts into output power of not more than 1800 watts supplying DC power of approximately 5 volts, 24 volts, and 48 volts, as well as 90 volt AC ringing capability.

The following merchandise has been excluded from this investigation: (1) Nonproprietary industry-standard ("tip/ring") telephone sets and other subassemblies that are not specifically designed and dedicated for use in a covered system, even though a system may be adapted to use such nonproprietary equipment to provide some system functions; (2) telephone answering machines or facsimile machines integrated with telephone sets; and (3) adjunct software.

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 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 Administrative protective order without the written consent of the Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 13, 1989, whether there is a reasonable indication that imports of certain small business telephone systems and subassemblies thereof from Japan materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated otherwise, it will proceed according to the 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.

[FR Doc. 89-1532 Filed 1-23-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-803]

Initiation of Antidumping Duty Investigation: Certain Small Business Telephone Systems and Subassemblies Thereof From Korea

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 certain small business telephone systems and subassemblies thereof from Korea 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 February 13, 1989. If that

determination is affirmative, we will make a preliminary determination on or before June 6, 1989.

EFFECTIVE DATE: January 24, 1989.

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

SUPPLEMENTARY INFORMATION:

The Petition

On December 28, 1988, we received a petition filed in proper form by American Telephone and Telegraph Company and Comdial Corporation on behalf of the domestic industry engaged in the production of certain small business telephone systems and subassemblies thereof. In compliance with the filing requirements of 19 CFR 353.36, petitioners allege that imports of certain small business telephone systems and subassemblies thereof from Korea 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.

If any interested party as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act wishes to register support of or opposition to this petition, please file written notification with the Commerce official cited in the "For Further Information Contact" section of this notice.

United States Price and Foreign Market Value

United States price was based on U.S. list prices to supply houses or interconnects. Petitioners deducted discounts, U.S. import duties, ocean freight and marine insurance. In an exporter's sales price (ESP) situation, a deduction was also made for indirect selling expenses.

Petitioners based foreign market value on Korean retail prices. A distributor's margin was deducted to arrive at the first arm's length price. Adjustments were made, as appropriate, for differences in circumstances of sale. In an ESP situation, a deduction was also made for indirect selling expenses. In certain cases, foreign market value was also adjusted to reflect differences in physical characteristics in the merchandise being compared.

Based on a comparison of United States price and foreign market value,

petitioners allege dumping margins ranging from 5.8 percent to 93.0 percent.

Initiation of Investigation

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

We examined the petition on certain small business telephone systems and subassemblies thereof from Korea 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 certain small business telephone systems and subassemblies thereof from Korea 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 June 6, 1989.

Scope of Investigation

The products covered by this investigation are certain small business telephone systems and subassemblies thereof, currently classifiable under *Harmonized Tariff Schedule* item numbers 8517.30.2000, 8517.30.2500, 8517.30.3000, 8517.10.0020, 8517.10.0040, 8517.10.0050, 8517.10.0070, 8517.10.0080, 8517.90.1000, 8517.90.1500, 8517.90.3000, 8518.30.1000, 8504.40.0004, 8504.40.0008, 8504.40.0010, 8517.81.0010, 8517.81.0020, 8517.90.4000, and 8504.40.0015.

Certain small business telephone systems are telephone systems, whether complete or incomplete, assembled or unassembled, with intercom or internal calling capability and total non-blocking port capacities of between 2 and 258 ports, and discrete subassemblies thereof designed and dedicated for use in such systems. These subassemblies include:

(1) Telephone sets and consoles, consisting of dedicated, proprietary, corded telephone sets or consoles. A console has the ability to perform certain functions including: answer all lines in the system; monitor the status of other phone sets; and transfer calls. The term telephone sets and consoles is defined to include units having any two or more of the following items, when imported or shipped in the same container, with or without additional apparatus: housing; hand set; cord (line or hand set); power supply; and telephone set or console circuit cards.

(2) Control and switching equipment, whether denominated as a key service

unit, control unit, or cabinet/switch. Control and switching equipment includes units consisting of one or more circuit cards/modules (including backplane circuit cards) and connectors to accept circuit cards/modules and/or building wiring, when imported or shipped in the same container, with or without additional apparatus.

(3) Circuit cards and modules, including power supplies. These may be incorporated into control and switching equipment or telephone sets and consoles, or they may be imported or shipped separately. A power supply converts or divides input power of not more than 2400 watts into output power of not more than 1800 watts supplying DC power of approximately 5 volts, 24 volts, and 48 volts, as well as 90 volt AC ringing capability.

The following merchandise has been excluded from this investigation: (1) Nonproprietary industry-standard ("tip/ring") telephone sets and other subassemblies that are not specifically designed and dedicated for use in a covered system, even though a system may be adapted to use such nonproprietary equipment to provide some system functions; (2) telephone answering machines or facsimile machines integrated with telephone sets, and (3) adjunct software.

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 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 administrative protective order without the written consent of the Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 13, 1989, whether there is a reasonable indication that imports of certain small business telephone systems and subassemblies thereof from Korea materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated; otherwise, it will proceed according to the statutory and regulatory procedures.

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

January 17, 1989.

Jan W. Mares,
Assistant Secretary for Import
Administration.

[FR Doc. 89-1533 Filed 1-23-89; 8:45 am]

BILLING CODE 3510-05-M

[A-583-806]

Initiation of Antidumping Duty Investigation: Certain Small Business Telephone Systems and Subassemblies Thereof From Taiwan

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 certain small business telephone systems and subassemblies thereof from Taiwan 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 February 13, 1989. If that determination is affirmative, we will make a preliminary determination on or before June 6, 1989.

EFFECTIVE DATE: January 24, 1989.

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

SUPPLEMENTARY INFORMATION:

The Petition

On December 28, 1988, we received a petition filed in proper form by American Telephone and Telegraph Company and Comdial Corporation on behalf of the domestic industry engaged in the production of certain small business telephone systems and subassemblies thereof. In compliance with the filing requirements of 19 CFR 353.36, petitioners allege that imports of certain small business telephone systems and subassemblies thereof from Taiwan 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.

If any interested party as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act wishes to register support of or opposition to this petition, please file written notification with the Commerce official cited in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

United States Price and Foreign Market Value

United States price was based on a U.S. list price to an end user. Petitioners then deducted a supply house and interconnect distributor's margin to arrive at the first arm's length price. Deductions were then made for U.S. import duties, ocean freight, and insurance.

Petitioners based foreign market value on manufacturers' list price to dealers. An end user discount and distributor's margin was deducted to arrive at the first arm's length price. Adjustments were made for differences in circumstances of sale to arrive at the foreign market value.

Based on a comparison of United States price and foreign market value, petitioners allege a dumping margin of 45.9 percent.

Initiation of Investigation

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

We examined the petition on certain small business telephone systems and subassemblies thereof from Taiwan 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 certain small business telephone systems and subassemblies thereof from Taiwan 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 June 6, 1989.

Scope of Investigation

The products covered by this investigation are certain small business telephone systems and subassemblies thereof, currently classifiable under *Harmonized Tariff Schedule* item

numbers 8517.30.2000, 8517.30.2500, 8517.30.3000, 8517.10.0020, 8517.10.0040, 8517.10.0050, 8517.10.0070, 8517.10.0080, 8517.90.1000, 8517.90.1500, 8517.90.3000, 8518.30.1000, 8504.40.0004, 8504.40.0008, 8504.40.0010, 8517.81.0010, 8517.81.0020, 8517.90.4000, and 8504.40.0015.

Certain small business telephone systems are telephone systems, whether complete or incomplete, assembled or unassembled, with intercom or internal calling capability and total non-blocking port capacities of between 2 and 256 ports, and discrete subassemblies thereof designed and dedicated for use in such systems. These subassemblies include:

(1) Telephone sets and consoles, consisting of dedicated, proprietary, corded telephone sets or consoles. A console has the ability to perform certain functions including: answer all lines in the system; monitor the status of other phone sets; and transfer calls. The term telephone sets and consoles is defined to include units having any two or more of the following items, when imported or shipped in the same container, with or without additional apparatus: housing; hand set; cord (line or hand set); power supply; and telephone set or console circuit cards.

(2) Control and switching equipment, whether denominated as a key service unit, control unit, or cabinet/switch. Control and switching equipment includes units consisting of one or more circuit cards/modules (including backplane circuit cards) and connectors to accept circuit cards/modules and/or building wiring, when imported or shipped in the same container, with or without additional apparatus.

(3) Circuit cards and modules, including power supplies. These may be incorporated into control and switching equipment or telephone sets and consoles, or they may be imported or shipped separately. A power supply converts or divides input power of not more than 2400 watts into output power of not more than 1800 watts supplying DC power of approximately 5 volts, 24 volts, and 48 volts, as well as 90 volt AC ringing capability.

The following merchandise has been excluded from this investigation: (1) Nonproprietary industry-standard ("tip/ring") telephone sets and other subassemblies that are not specifically designed and dedicated for use in a covered system, even though a system may be adapted to use such nonproprietary equipment to provide some system functions; (2) telephone answering machines or facsimile machines integrated with telephone sets, and (3) adjunct software.

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 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 administrative protective order without the written consent of the Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 13, 1989, whether there is a reasonable indication that imports of certain small business telephone systems and subassemblies thereof from Taiwan materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated; otherwise, it will proceed according to the statutory and regulatory procedures.

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

January 17, 1989.

Jan W. Mares,

*Assistant Secretary for Import
Administration*

[FR Doc. 89-1534 Filed 1-23-89; 8:45 am]

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APPENDIX B

LIST OF WITNESSES

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Investigations Nos. 731-TA-426, 427, and 428

CERTAIN BUSINESS TELEPHONE SYSTEMS FROM JAPAN, KOREA, AND TAIWAN

Those listed below appeared at the United States International Trade Commission's conference held in connection with the subject investigations on January 18, 1989, in Courtroom B of the USITC Building, 500 E Street SW, Washington, DC.

In support of the imposition of antidumping duties

Covington & Burling--Counsel
Washington, DC
on behalf of--

American Telephone & Telegraph Co.

John "Gus" Blanchard, Group Vice President, AT&T General Business Systems
Division

Barry Marks, Vice President of Consulting, The Gartner Group

Tom Woodard, McKinsey & Co.

Bruce P. Malashevich, President, Economic Consulting Services, Inc.

Harvey M. Applebaum)
O. Thomas Johnson, Jr.)
Sonya D. Winner)--OF COUNSEL
Susan L. Burke)
Mark P. Kindall)

Comdial Corp.
Charlottesville, NC

Ted B. Westfall, Chief Executive Officer, Comdial Corp.

In opposition to the imposition of antidumping duties

Akin, Gump, Strauss, Hauer & Feld--Counsel
Washington, DC
on behalf of--

Fujitsu, Ltd., Fujitsu America, Inc., and Hasegawa Electric Co., Ltd.

Warren E. Connelly)
Valerie Slater)--OF COUNSEL
Shannon S. Shuman)

In opposition to the imposition of antidumping duties--Continued

Coudert Brothers--Counsel
Washington, DC
on behalf of--

NEC Corp. and NEC America, Inc.

Mark D. Herlach)
Lori F. Fischler)--OF COUNSEL
Christer L. Mossberg)

Crowell & Moring--Counsel
Washington DC
and
C&M International Ltd.
Washington, DC
on behalf of--

Samsung Electronics Co., Ltd.

Jean-Pierre Swennen)
Claude G. B. Fontheim)--OF COUNSEL
John E. Krumholtz)

Doral S. Cooper
Laura M. Baughman
Claire A. Rickard

Dorsey & Whitney--Counsel
Washington, DC
on behalf of--

Nissho Iwai American Corp.

James Taylor)
L. Daniel Mullaney)--OF COUNSEL

Dow, Lohnes & Albertson--Counsel
Washington, DC
on behalf of--

Goldstar Telecommunications Co., Ltd. and Goldstar Products Co., Ltd.

William Silverman)
Michael P. House)--OF COUNSEL
Wang-Ha Cho)

In opposition to the imposition of antidumping duties--Continued

Economists, Inc.
Washington, DC
on behalf of--

Fujitsu, Ltd., Fujitsu America, Inc., and Hasegawa Electric Co., Ltd.
Hitachi America Ltd. and Hitachi Telecom (U.S.A.) Inc.
Iwatsu Electric Co., Ltd. and Iwatsu America, Inc.
Matsushita Electric Industrial Co., Ltd., Matsushita Communication
Industrial Co., Ltd., Kyushu Matsushita Electric Co., Ltd., and
Matsushita Electric Corp. of America
Nakayo U.S.A., Inc.
NEC Corp. and NEC America, Inc.
Nissho Iwai American Corp.
Nitsuko Corp.
Tamura Electric Works, Ltd.
Toshiba Corp. and Toshiba America, Inc.

Andrew R. Wechsler
Kenneth R. Dunmore
Pieter Tenny VanLeeuwen

Fenwick, Davis & West--Counsel
Washington, DC
on behalf of--

Nakayo U.S.A., Inc.

Donald R. Davis)
Roger M. Golden)--OF COUNSEL
Preston T. Scott)

Graham & James--Counsel
Washington, DC
on behalf of--

Nitsuko Corp.

Yoshihiro Saito)
Lawrence R. Walders)--OF COUNSEL
Jeffrey L. Snyder)

Hunton & Williams--Counsel
Washington, DC
on behalf of--

EXECUTONE Information Systems, Inc.

R. Noel Clinnard--OF COUNSEL

In opposition to the imposition of antidumping duties--Continued

McDermott, Will & Emery--Counsel
Washington, DC
on behalf of--

Hitachi America Ltd. and Hitachi Telecom (U.S.A.) Inc.

Carl W. Schwartz
William Barrett)--OF COUNSEL
Lizbeth R. Levinson)

Mudge Rose Guthrie Alexander & Ferdon--Counsel
Washington, DC
on behalf of--

Toshiba Corp. and Toshiba America, Inc.

N. David Palmeter
Jeffrey S. Neeley)--OF COUNSEL
Teresa M. Polino)

O'Melveny & Myers--Counsel
Washington, DC
on behalf of--

Tamura Electric Works, Ltd.

F. Amanda DeBusk)--OF COUNSEL
Gary N. Horlick)

Oppenheimer Wolff & Donnelly--Counsel
Washington, DC
on behalf of--

Oriental Precision Co., Ltd.

David A. Gantz)--OF COUNSEL

In opposition to the imposition of antidumping duties--Continued

Skadden, Arps, Slate, Meagher & Flom--Counsel
Washington, DC
on behalf of--

Iwatsu Electric Co., Ltd. and Iwatsu America, Inc.

Robert Chrostowski, Senior Vice President, Iwatsu America, Inc.

Thomas R. Graham)
William E. Perry)
William Mathews)--OF COUNSEL
John J. Burke)
Grace M. Kang)

Weil, Gotshal & Manges--Counsel
Washington, DC
on behalf of--

Matsushita Electric Industrial Co., Ltd., Matsushita Communication
Industrial Co., Ltd., Kyushu Matsushita Electric Co., Ltd., and
Matsushita Electric Corp. of America

A. Paul Victor)
Jeffrey P. Bialos)--OF COUNSEL
Martin S. Applebaum)

Willkie Farr & Gallagher--Counsel
Washington, DC
on behalf of--

Sun Moon Star, Inc.

Christopher A. Dunn)
Daniel L. Porter)--OF COUNSEL

APPENDIX C

DATA REPORTED BY EXECUTONE INFORMATION SYSTEMS, INC.

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APPENDIX D

CONSUMPTION AND MARKET PENETRATION FOR SYSTEMS, BY VALUE

Neither consumption of, nor market penetration for, systems is presented in the body of this report because import data on "systems" are incomplete. However, an estimate of the value of imported systems has been made by adding the values of the reported imported systems and subassemblies. The data were adjusted to account for double-counting of imports. To compensate in part for the problem of different levels of trade, the value of shipments of imports, rather than imports themselves, was used. The import values still represent primarily sales to distributors and retailers rather than end users. These estimates of apparent consumption and market penetration for systems are presented in table D. This table also incorporates several late questionnaire responses and certain corrections to questionnaire data that were not received in time for the body of the report. Comparable data on the basis of quantity cannot be provided.

Table D
Small business telephone systems: Shares of U.S. consumption supplied by Japan, Korea, Taiwan, all other countries, and U.S. producers, 1985-87, January-September 1987, and January-September 1988, by value ^{1/}

Item	1985	1986	1987	January-September--	
				1987	1988
Apparent consumption (\$1,000).....	1,260,001	979,816	1,038,478	679,120	730,993
Share of apparent consumption supplied by--					
Japan (percent).....	16.2	19.6	14.4	15.5	15.2
Korea (percent).....	***	***	***	***	***
Taiwan (percent).....	***	***	***	***	***
Subtotal (percent) ^{2/} ...	26.6	32.7	39.0	31.8	32.1
All other countries (percent).....	***	***	***	***	***
Total imports (percent).	***	***	***	***	***
U.S. shipments (percent)..	***	***	***	***	***
Total (percent).....	100.0	100.0	100.0	100.0	100.0

^{1/} The data presented may understate import penetration because the reported values are at different levels of trade--the value of U.S. shipment represents primarily sales to the end user while the value of imports is largely sales to distributors and retailers.

^{2/} Data for Japan, Korea, and Taiwan will not sum to data for subject countries because * * * reported only aggregated shipments. These data are included in "subject" shipments but not in any individual country's data.

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

APPENDIX E
STATEMENTS ON CAPITAL AND INVESTMENT

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