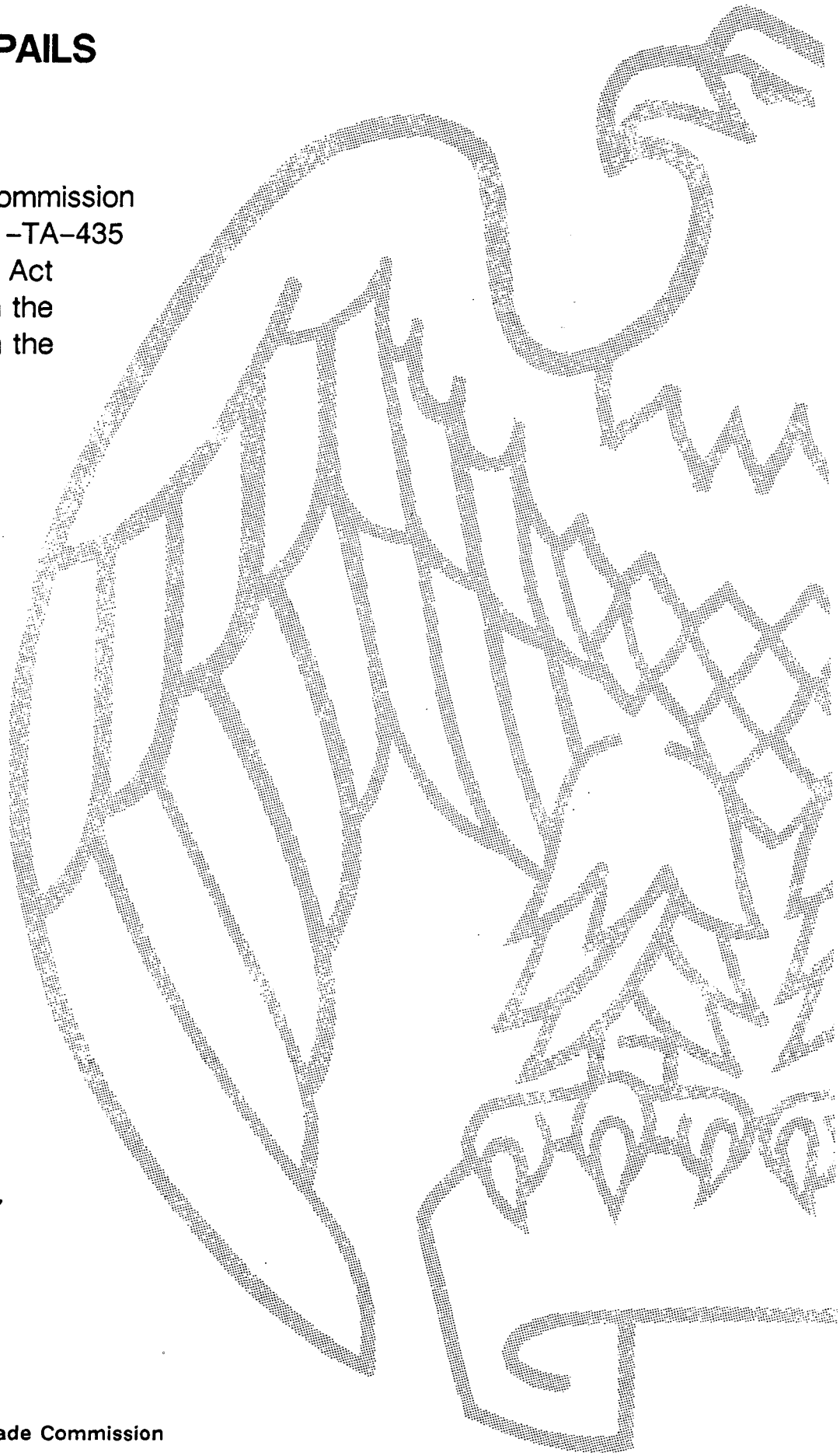
CERTAIN STEEL PAILS FROM MEXICO

Determination of the Commission in Investigation No. 731-TA-435 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation



USITC PUBLICATION 2277

MAY 1990

United States International Trade Commission
Washington, DC 20436

UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONERS

Anne E. Brunsdale, Chairman
Ronald A. Cass, Vice Chairman
Alfred E. Eckes
Seeley G. Lodwick
David B. Rohr
Don E. Newquist

Staff assigned:

Brian C. Walters, Investigator
Nancy Fulcher, Commodity/Industry Analyst
Joshua Levy, Economist
Marshall Wade, Accountant
Andrea Casson, Attorney

Robert Carpenter, Supervisory Investigator

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

CONTENTS

	Page
Determination	1
Views of the Commission	3
Additional views of Chairman Anne E. Brunsdale	23
Additional views of Vice Chairman Ronald A. Cass	43
Information obtained in the investigation:	
Introduction	A-1
Background	A-2
Nature and extent of sales at LTFV	A-2
The product:	
Description	A-3
Manufacturing processes	A-5
Uses	A-6
Substitute products	A-6
U.S. tariff treatment	A-9
The U.S. market:	
The regional character	A-9
Apparent U.S. consumption	A-14
U.S. producers	A-16
Steel pails	A-17
Plastic pails	A-18
U.S. importers	A-19
Channels of distribution	A-20
Consideration of alleged injury to an industry in the United States	A-20
U.S. production, capacity, and capacity utilization	A-20
U.S. producers' domestic and export shipments	A-23
Steel pails	A-23
Plastic pails	A-25
Steel and plastic pails	A-25
U.S. producers' inventories	A-25
U.S. employment, wages, and productivity:	
Steel pails	A-26
Plastic pails	A-26
Financial experience of U.S. producers	A-30
Overall establishment operations	A-30
Steel pail operations	A-30
Plastic pail operations	A-34
Value of plant, property, and equipment	A-38
Capital expenditures	A-38
Research and development expenses	A-38
Rate of return on total assets	A-38
Capital and investment	A-39
Consideration of the question of threat of material injury	A-40
U.S. importers' inventories	A-42
Ability of foreign producers to generate exports and availability of export markets other than the United States	A-43
Consideration of the causal relationship between imports of the subject merchandise and the alleged material injury:	
U.S. imports	A-45
Steel pails	A-45
Plastic pails	A-45
Steel and plastic pails	A-45

CONTENTS

	Page
Information obtained in the investigation--Continued	
Consideration of the causal relationship between imports of the subject merchandise and the alleged material injury--Continued	
U.S. market penetration by imports	A-46
Steel pails	A-46
Steel and plastic pails	A-46
Market characteristics and prices	A-49
Questionnaire price data	A-51
Price trends	A-53
Price comparisons	A-54
Regional pricing	A-56
Input costs	A-57
Exchange rates	A-60
Lost sales and lost revenues	A-61

Appendixes

A.	The Commission's and Commerce's Federal Register notices	B-1
B.	List of witnesses appearing at the Commission's hearing	B-9
C.	U.S. producers' net sales, operating income, and operating income as a percent of net sales, by individual plants	B-11
D.	Impact of imports on U.S. producers' existing development and production efforts (including efforts to develop a derivative or more advanced version of the like product), growth, investments, and ability to raise capital	B-13
E.	Purchaser price trends	B-15

Figures

1.	Steel pails: Plant locations of U.S. producers and warehouse location of U.S. importer, 1989	A-12
2.	Steel pails: Distribution of shipments by southern region producers, 1986-89	A-13
3.	Steel pails: Sources of consumption within the southern region, 1986-89	A-13
4.	Steel pails: Destination of imports from Mexico, 1986-89	A-14
5.	Steel pails: Net weighted-average delivered prices in dollars per 100 pails for U.S.-produced steel pail products 1, 3, and 5, by quarters, January 1987-December 1989	A-55
6.	Steel pail products 1, 2, 3, and 4: Range and weighted-average delivered prices of U.S. and Mexican steel pails, by quarters, January 1987-December 1989	A-56
7.	Steel pail products 5 and 6 and plastic pail product 7: Range and weighted-average delivered prices of U.S. and Mexican steel and plastic pails, by quarters, January 1987-December 1989	A-56
8.	Producer price indexes for cold-rolled steel sheet and weighted-average net delivered prices for U.S.-produced steel pail product 1, by quarters, 1987-89	A-58
9.	Producer price indexes for high-density polyethylene resin and weighted-average net delivered prices for U.S.-produced plastic pail product 7, by quarters, 1987-89	A-59

CONTENTS

Page

Tables
1. Steel pails: U.S. producers' domestic shipments, shipments of imports, and apparent U.S. consumption, by regions, 1986-89------- A-13
2. Certain pails: U.S. producers' domestic shipments, shipments of imports, and apparent U.S. consumption, by products, 1986-89------- A-15
3. Certain pails: U.S. capacity, production, and capacity utilization, by products, 1986-89---------- A-21
4. Certain pails: Domestic and export shipments of U.S. producers, by types and by products, 1986-89---------- A-24
5. Certain pails: U.S. producers' inventories, by products, as of Dec. 31 of 1986-89---------- A-25
6. Average number of production and related workers producing certain pails, hours worked, wages and total compensation paid to such employees, hourly wages, labor productivity, and unit-labor production costs, 1986-89---------- A-27
7. Income-and-loss experience of U.S. producers on the overall operations of their establishments within which steel and plastic pails are produced, accounting years 1986-89---------- A-31
8. Income-and-loss experience of U.S. producers on their steel pail operations, accounting years 1986-89---------- A-32
9. Steel pails: Selected financial data by geographic region, accounting years 1986-89---------- A-35
10. Income-and-loss experience of U.S. producers on their plastic pail operations, accounting years 1986-89---------- A-36
11. Certain pails: Net sales and key financial ratios for steel and plastic pails, accounting years 1986-89---------- A-37
12. Certain pails: Capital expenditures by U.S. producers, accounting years 1986-89---------- A-39
13. Certain pails: Envases' production, capacity, capacity utilization, end-of-period inventories, home-market shipments, and exports to the United States, 1986-89 and projected 1990---------- A-44
14. Certain pails: U.S. imports for consumption, by products and by sources, 1986-89---------- A-46
15. Certain pails: U.S. producers' domestic shipments, shipments of imports from Mexico and all other countries, and apparent consumption, by products, 1986-89---------- A-47
16. Certain pails: Weighted-average net delivered prices of steel pail products 1-6 and plastic pail product 7 reported by U.S. producers and importers of Mexican steel pails, by products and by quarters, January 1987-December 1989---------- A-54
17. Certain pails: Average margins of underselling (overselling) by the subject imports from Mexico, by products and by quarters, January 1987-December 1989---------- A-55
18. Steel pails: Weighted-average net delivered prices of steel pail product 1 reported by U.S. producers and importers of Mexican steel pails, by regions and by quarters, January 1987-December 1989----- A-57

CONTENTS

Page

Tables--Continued
19. Exchange rates: Nominal and real exchange rates of the Mexican peso and producer price indexes in the United States and Mexico, by quarters, January 1987-December 1989---------- A-60

E-1. Certain pails: Weighted-average net delivered prices of steel pail products 1-6 and plastic pail product 7 reported by U.S. purchasers, by products and by quarters, January 1987-December 1989---------- B-16

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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-435 (Final)

CERTAIN STEEL PAILS FROM MEXICO

Determination

On the basis of the record[1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Mexico of certain steel pails,[2] provided for in subheadings 7310.21.00 and 7310.29.00 of the Harmonized Tariff Schedule of the United States (previously reported under item 640.30 of the former Tariff Schedules of the United States), that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective November 15, 1989, following a preliminary determination by the Department of Commerce that imports of certain steel pails from Mexico were being sold at LTFV within the meaning of section 733(a) of the act (19 U.S.C. § 1673b(a)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of December 6, 1989 (54 F.R. 50445). The hearing was held in Washington, DC, on March 29, 1990, and all persons who requested the opportunity were permitted to appear in person or by counsel.

---

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

[2] For purposes of this investigation, certain steel pails are defined as cylindrical containers of steel with a volume (capacity) of 1 to 7 gallons, an outside diameter of 11-1/4 inches or greater, and a wall thickness of 29-22 gauge steel, presented empty, whether or not coated or lined. This investigation includes, but is not limited to, openhead, tighthead, and dome top steel pails.

VIEWS OF THE COMMISSION

We unanimously determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of certain steel pails from Mexico that are sold at less than fair value. 1/

I. Like Product and Domestic Industry

To make its determinations in a title VII investigation, the Commission must first define the relevant domestic industry producing the like product. Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product . . . . " 2/ Correspondingly, "like product" is defined as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ." 3/

The products subject to this investigation are certain steel pails from Mexico. The Department of Commerce has defined this product as follows:

> The scope of this investigation includes certain steel pails from Mexico which are cylindrical containers of steel, with a volume (capacity) of 1 through 7 gallons, an outside diameter of 11-1/4 inches or greater, and a wall thickness of 29-22 gauge steel, presented empty, whether or not coated or lined. This investigation includes, but is not limited to openhead, tighthead, and dome top steel pails. 4/

1/ Material retardation is not an issue in this investigation and will not be discussed further.

2/ 19 U.S.C. § 1677(4)(A).

3/ 19 U.S.C. § 1677(10).

4/ 55 Fed. Reg. 12245 (April 2, 1990).

The Commission accepts Commerce's determination as to which merchandise is within the class of merchandise allegedly sold at less than fair value (LTFV). The Commission, however, determines what domestic products are like the ones in the class defined by Commerce. 5/

The Commission's decision regarding the appropriate like product or products in an investigation is essentially a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis. 6/ In analyzing like product issues, the Commission generally considers a number of factors including: (1) physical characteristics; (2) end uses; (3) interchangeability of the products; (4) channels of distribution; (5) production processes; (6) customer or producer perceptions of the products; (7) the use of common manufacturing facilities and production employees; and (8) price. 7/

In our preliminary determination, we determined that there was a single like product consisting of steel pails, and not including pails of other materials, e.g. plastic. 8/ We noted in our preliminary determination that

---

5/ Algoma Steel Corp., Ltd. v. United States, 688 F. Supp. 639 (CIT 1988), aff'd, 865 F.2d 240 (Fed. Cir.), cert. denied, 109 S.Ct. 3244 (1989).

6/ Asociacion Columbiana de Exportadores de Flores, et al. v. United States ("ASOCOFLORES"), 693 F.Supp. 1165, 1169 (CIT 1988).

7/ E.g., Light-Duty Integrated Hydrostatic Transmissions and Subassemblies Thereof, with or Without Attached Axles, from Japan, Inv. No. 731-TA-425 (Preliminary), USITC Pub. 2149 (January 1989); Certain Forged Steel Crankshafts from the Federal Republic of Germany and the United Kingdom, Invs. Nos. 731-TA-351 and 353 (Final), USITC Pub. 2014 (September 1987); Certain Copier Toner from Japan, Inv. No. 731-TA-373 (Preliminary), USITC Pub. No. 1960 (July 1987).

8/ Certain Steel Pails from Mexico, Inv. No. 731-TA-435 (Preliminary), USITC Pub. 2205 at 6.

we would revisit the like product question in the final determination. 9/ We have done so, but see no reason on the record of this final investigation to change the like product definition.

Steel pails and plastic pails differ in certain physical characteristics. These distinctions are due in large part to the inherent differences between steel and plastic. Compared with steel pails, plastic pails are easier to open and reclose, and less likely to dent. However, steel pails are stronger, can be stacked higher, are less subject to distortion from hot or cold products, and can withstand internal pressure changes better than plastic pails. 10/

There are certain products for which only steel pails can be used, e.g. oil-based products, hazardous chemicals, flammable or combustible products, and asphalt. 11/ The number of products which can be contained only in plastic is smaller, although for water-based products, e.g., latex paint, steel pails can be used only if they are first lined with a rust inhibitor, which increases the price. 12/

In addition, different processes must be used to produce steel as opposed to plastic pails. Steel pails are produced by slitting, rolling, and welding cold-rolled carbon steel sheets into a shell; the shell is then shaped, after which the pail bottom is seamed to the pail body. 13/ In contrast, plastic pails are produced through an injection or blow-molding

---

9/ Id. at 9, n. 28.

10/ Report to the Commission (Report) at A-7.

11/ Id. at A-6-8, 49-50.

12/ Id.

13/ Id. at A-5-6.

process. 14/ The record indicates that the largest producers of plastic pails do not produce steel pails. 15/ Further, to the extent steel pails and plastic pails are produced by the same companies, they are produced on entirely different equipment by different workers, and generally in different facilities. 16/

In our preliminary determination we noted that we would attempt to obtain further information about actual interchangeability of the two types of pails and customer perceptions. 17/ With regard to customer perception, customers often prefer plastic pails for the products that can be packaged either in steel or plastic, due to their appearance, ease in handling, and resistance to denting. 18/ However, for many applications one type of pail is preferred over the other, and switching from one type to the other may require relatively expensive equipment modifications that would negate any cost advantages of switching to a pail made of a less expensive material. 19/

The data obtained in this final investigation indicate that the quantity and value of sales for both types of pails increased during the period of this investigation, despite the 1988 surge in the price of

---

14/ Id. at A-7 and n. 31.

15/ Id. at A-19.

16/ Id. at A-7; Transcript of March 29, 1990 hearing (Tr.) at 11-12.

17/ Preliminary Determination at 9, n. 28. We note, however, that regardless of the degree of overlap, the interchangeability factor does not by itself control a like product definition. See ASOCOFLORES, 693 F. Supp. at 1168; Certain Steel Wheels from Brazil, Inv. No. 701-TA-296 (Final), USITC Pub. 2193 (May 1989) at 8.

18/ Report at A-6-8, 49-50.

19/ Id. at A-34.

polyethylene resin, and therefore, the price of plastic pails. 20/ These data suggest that there is only limited substitution between steel and plastic pails. 21/ Although respondent argued that customers perceive no functional difference between steel and plastic pails, the statements of its own witnesses were mixed on this question. 22/

In sum, three factors i.e., the dissimilarity in production processes, lack of common manufacturing facilities, and differences in physical characteristics, strongly favor limiting the like product to steel pails. Other factors--end uses, degree of interchangeability, and customer perception--are less dispositive, but still support a like product definition limited to steel pails. Accordingly, we define the domestic industry to be the domestic producers of steel pails. 23/

20/ Id. at A-47, Table 15.

21/ Chairman Brunsdale wishes to emphasize the important role this evidence concerning the lack of substitutability plays in her like product decision. If plastic and steel pails were the same like product, she would have expected the quantity of plastic pails sold to decline in response to the very substantial price increases in 1988 and early 1989. In addition, there should have been similar changes in prices of the two types of pails over time. However, between the first quarter of 1987 and the first quarter of 1989, the data collected by the Commission staff show that the price of plastic pails rose more than twice as much as the price of openhead steel pails. Between the first and fourth quarters of 1989, the price of plastic pails fell substantially while the price of the steel pails rose slightly. Report at A-53, Table 16. This evidence provides further support for the Commission's decision that plastic and steel pails are not the same like product.

22/ See Tr. at 111, 149.

23/ In the preliminary determination, Chairman Brunsdale and Commissioners Eckes, Rohr and Newquist indicated that, in the Commission's final investigation, we would obtain data by geographic region in order to, inter alia, determine whether a regional industry analysis was appropriate. Preliminary Determination at 16, n. 60. Accordingly, Commission staff designed the questionnaires to collect certain trade-related information, financial information, and pricing information by establishment and by

(continued...)

II. Condition of the Domestic Industry 24/

In assessing the condition of the domestic industry, the Commission considers, among other factors, domestic consumption, production, capacity, capacity utilization, shipments, inventories, employment, and financial performance. 25/ The Commission has evaluated these factors within the context of the business cycle and conditions of competition that are distinctive to the affected industry. 26/

23/(...continued)
region. Five regions were specified, and neither party objected to the definitions of the regions. See Report at A-10 & n. 50.

After reviewing the geographic data, we have determined that a regional industry analysis is inappropriate. Producers in the southern, southeastern, northeastern, and midwest regions do not sell "all or almost all" of their production of steel pails to customers within their own regions, as statutorily required for a regional industry analysis, 19 U.S.C. § 1677(4)(C). See Report at A-13, Table 1. As for the western region, the import concentration into that region is not high enough to merit regional industry analysis. See 19 U.S.C. § 1677(4)(C); Gray Portland Cement and Clinker from Mexico, Inv. No. 731-TA-451 (Preliminary), USITC Pub. 2235 (Nov. 1989) at 6 & n. 11. It is likewise questionable whether the import concentration into the other regions is high enough, but we need not explore that question here, given our determination that the first criterion is not met with respect to these regions.

24/ Chairman Brunsdale and Vice Chairman Cass join in this discussion of the condition of the domestic industry. However, they do not reach a separate legal conclusion regarding the presence or absence of material injury based on this information. While they do not believe an independent determination is either required by the statute or useful, they find the discussion of the condition of the domestic industry helpful in determining whether any injury resulting from dumped or subsidized imports is material. See Certain Light-Walled Rectangular Pipes and Tubes from Taiwan, Inv. No. 731-TA-410 (Final), USITC Pub. 2169 (March 1989) at 10-15 (Views of Chairman Brunsdale and Vice Chairman Cass).

25/ 19 U.S.C. § 1677(7)(C)(iii). The statute further provides for the Commission to consider the effects on the existing development and production efforts of the domestic industry. Id. This factor is not relevant to the instant investigation, because there have not been any recent technological advances in the steel pail business. Report at A-18, 38. Therefore, this factor will not be discussed further.

26/ See id. For the purposes of this investigation, the Commission collected data for the period 1986 through 1989.

The precise figures for apparent domestic consumption are business proprietary, and therefore may only be discussed in general terms. 27/ Apparent U.S. consumption of steel pails, in terms of quantity, was basically level from 1986 to 1987, showed a strong increase in 1988, and then declined from that peak in 1989. In value terms, apparent consumption showed a steady growth during the period of investigation. 28/

The domestic industry's capacity to manufacture steel pails increased from 128 million pails in 1986 to 132 million pails in 1987, but then declined to approximately 125 million pails in 1988 and 122 million pails in 1989. 29/ From 1986 to 1988, the trend in steel pail production demonstrated an inverse relationship to that of capacity, first decreasing from 1986 to 1987, and then rising by 8 percent in 1988. 30/ Production then fell by 1 percent in 1989. 31/ Capacity utilization for producers of steel pails declined from 54 percent in 1986 to 52 percent in 1987, and then increased to 59 percent in 1988 and 60 percent in 1989. 32/

27/ The two components of U.S. apparent consumption in this investigation are the shipments of domestically produced steel pails and of imported steel pails, the latter of which are shipped by only one importer. In this situation, the release of both domestic shipments and apparent consumption would reveal the importer's confidential data. The Commission has chosen to treat the domestic shipments number as public and the total consumption figure as proprietary.

28/ Report at A-14-15, Table 2.

29/ Id. at A-20-22, Table 3.

30/ Id.

31/ Id.

32/ Id. An analysis of capacity and capacity utilization in this investigation is not particularly probative, because some capacity was reported on the basis of operating 168 hours a week year-round, which does not appear to represent a practical level of capacity for this industry. See Report at A-22.

Inventories, both in absolute terms and as a share of domestic shipments, fluctuated somewhat, but showed an overall decrease during the period of investigation. 33/ Because U.S. producers of steel pails generally do not keep large inventories, domestic shipments largely paralleled domestic production. 34/ Domestic shipments decreased slightly, from 77 million pails in 1986 to 75 million pails in 1987, and then rose by 12 percent to 81 million pails in 1988. In 1989, shipments fell by 2 percent, to 79 million pails. 35/

Employment indicators for the domestic industry were slightly unfavorable. The number of workers employed in the production of steel pails remained virtually unchanged from 1986 to 1987 at near 1,114 workers. Employment then declined over the next two years, to 1,030 workers in 1989. 36/ The number of hours worked by these employees followed a similar trend, rising slightly from 1986 to 1987 and then dropping by 2 percent in 1988 and another 4 percent in 1989. Wages and total compensation fell by 3 percent from 1986 to 1988, and then remained virtually unchanged in 1989. Hourly wages, however, ended 2 percent higher in 1989 than they were in 1986. Labor productivity declined from 1986 to 1987 and then increased in both 1988 and 1989. Unit labor costs exhibited a declining trend throughout the period. 37/

33/ Id. at A-25-26, Table 5.

34/ Id. at A-23.

35/ Id. at A-23, Table 4.

36/ Id. at A-26-28, Table 6.

37/ Id.

The financial information in this preliminary investigation is not clearly indicative of material injury. 38/ The data show a sharp break in the financial operations of this industry between 1986-1987 and 1988-1989. For a variety of reasons, the financial performance of this industry improved substantially in the latter two years, with 1988 representing a peak performance.

The value of sales, after remaining relatively level from 1986 to 1987, improved by 11.6 percent in 1988, and then by an additional 4.9 percent in 1989, for an overall increase of 16.4 percent from $134.3 million in 1986 to $156.2 million in 1989. On a per unit basis, prices increased from 1986 to 1989 by 20 cents a unit while costs increased by 10 cents a unit, resulting in a net unit gain of 10 cents. 39/ The overall increase in sales value was related more to the increase in unit prices than to the increase in the volume of sales. Even between 1987 and 1988 (the peak year for shipments), the increase in price and the increase in sales volumes had almost equal effects on net sales. 40/

The principal reason for the improved profitability in the 1988-1989 period was a greater increase in revenues than costs as the gross profit margin in 1988 increased to 13.5 percent from the 9.9 percent level of 1986 and 1987. 41/ An approximately 7.2 percent reduction from the 1987 selling, general, and administrative costs also contributed to the

---

38/ Commissioner Rohr notes that he makes a negative finding of present material injury in which context he finds that the financial information also supports his negative determination.

39/ Report at A-33.

40/ Report at A-33.

41/ Id. at A-32, Table 8.

improved profitability of 1988. The 1.4 percentage point drop in the operating margin from 1988 to 1989 was largely the result of an increase in the cost of goods margin. 42/

For the first two years of the investigation period, domestic steel pail producers showed operating income of less than $270,000. 43/ The industry then prospered in 1988, showing aggregate operating profits of $8.1 million. Operating profits declined slightly in 1989, but remained well above the 1986 level, at $6.3 million. 44/ The improvement in the last two years of the investigation allowed the industry to move in the aggregate from minimal operating income in 1986 and 1987 to operating profit margins of 5.4 percent in 1988 and 4.0 percent in 1989. 45/ 46/

In summary, the domestic steel pail industry's performance indicators are mixed. Employment indicators were, for the most part, slightly unfavorable throughout the period of investigation. In terms of financial data, production, and shipments, the industry experienced two years of poor performance, followed by a substantial improvement in 1988, and then a decline from that peak in 1989. Levels for most performance indicators in 1989 are still significantly above the 1986 levels. In light of the improvement in a number of industry indicators over the period of the

---

42/ Id.

43/ Id. at A-30-33, Table 8.

44/ Id.

45/ Id.

46/ Commissioner Rohr notes that the minimal operating income industry aggregates for 1986 and 1987 were the result of extremely large losses recorded by just a few individual plants. He finds this to be significant as there is no evidence that such losses have any relation to the Mexican imports under investigation.

investigation, it is questionable whether the industry presently is suffering material injury. 47/ 48/ Even if we assume the domestic industry presently is materially injured, we reach a negative determination based on the lack of causal nexus between the imports from Mexico and any harm suffered or threatened by the domestic industry.

III. No material injury by reason of LTFV imports 49/ 50/

In this investigation, we must determine whether a domestic industry is experiencing material injury "by reason of" the imports under investigation. 51/ In making this determination, the Commission considers,

---

47/ Commissioner Lodwick based his negative determination at the preliminary phase of this investigation upon a rather complete record indicating no harm had been done to this industry from any source that would amount to material injury during this investigation period. See Preliminary Determination at 47. Commissioner Lodwick reaffirms this position for the final phase of this investigation. However, he does join his colleagues in their finding that even if there had been clear signs of material injury to this domestic industry, there is no causal nexus between the condition of the industry and the LTFV imports in this market.

48/ Commissioner Rohr finds that the domestic industry, is not extremely profitable. It has, however, particularly in the last 2 years, experienced relatively good production and shipment levels, employment levels that while declining slightly appear to reflect the secular readjustments that are occurring in the industry, and financial performance which is reasonable for the circumstances of this industry. His determination of material injury must be based on the condition of the industry at the time of the Commission's determination. He concludes that, while the issue is a close one, the industry is not currently experiencing material injury. He also notes that, were he to have found that the condition of the industry warranted the conclusion of present material injury, he would not have found a causal nexus between the condition of the domestic industry and the subject imports. He therefore joins his colleagues Commissioners Eckes, Lodwick, and Newquist in Parts III & IV of these views.

49/ Chairman Brunsdale does not join this section of the Commission's opinion. Her analysis is set forth separately in her Additional Views.

50/ Vice Chairman Cass does not join this section of the Commission's opinion. His analysis is set forth separately in his Additional Views.

51/ 19 U.S.C. § 1673d(b)(1).

among other relevant factors, the volume of imports, their effect on prices for the like product, and their impact on domestic producers. 52/ In this regard, the Commission assesses whether import volumes or increases in volume are significant, whether there has been significant underselling by the imported products, and whether imports significantly depress or suppress prices. 53/

The Commission may consider alternative causes of injury, but does not weigh causes. 54/ However, we are to consider information that indicates that harm is caused by factors other than the LTFV imports. 55/

After considering the record in this investigation, we find no causal link between the condition of the industry and the LTFV imports. Import volumes of steel pails from Mexico were low throughout the period of investigation. 56/ The volume and market share of these imports were at their highest in 1988, at the same time that the domestic industry's performance peaked. 57/

52/ 19 U.S.C. § 1677(7)(B)(i)(I),(II),(III).

53/ 19 U.S.C. § 1677(7)(C).

54/ Citrosuco Paulista S.A. v. United States, 704 F. Supp. 1075, 1101 (CIT 1988).

55/ 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 and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry. S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979). See also H.R. Rep. 317, 96th Cong., 1st Sess. 47 (1979).

56/ See Report at A-45-46, Table 14. Because there is only one importer of steel pails from Mexico, specific data concerning the subject imports is business proprietary.

57/ Id.

Petitioners have argued that the 1988 increase in domestic production and shipments represents a one-time and short-lived increase in demand for steel pails resulting from an unprecedented soaring increase in the price of the polyethylene resin used to make plastic pails. 58/ However, the data demonstrate that there was a sharp increase in demand for both plastic and steel pails in 1988. Further, in 1989, after the surge, the quantity of domestic steel pail shipments dropped only slightly, to 79 million, substantially above the 1987 level of 75 million. 59/ By value, the U.S. producers' shipments increased steadily throughout the investigation period, from $170 million in 1986 to $197 million in 1989. 60/

We also find no adverse price effects by the LTFV imports. The evidence does not demonstrate that underselling of the LTFV imports has depressed prices. On the contrary, domestic prices have generally risen. 61/ 62/ The most influential factor in the price of U.S. steel pails is the input price of the cold-rolled sheet steel used in the pails; and during the investigation period, price increases have more than kept up with cost increases for the product. 63/ Even from 1988 to 1989, when the value of

---

58/ Petitioners' prehearing brief at 34-37.

59/ Report at A-23, Table 4.

60/ Id.

61/ Id. at A-53, Table 16, Figure 5.

62/ Commissioner Lodwick considers the low import penetration levels, the evidence of substantial excess capacity, and available substitutes in this industry as evidence that the LTFV imports in the market have had little impact on the prices received by the domestic industry. Report at A-20-21. The lack of tight supply conditions and the availability of other products as substitutes, such as plastic pails in some applications, reduces the capability of the domestic industry to raise prices significantly.

63/ Report at A-58, Figure 8.

Mexican imports decreased, the value of U.S. producers' shipments further increased. 64/

Moreover, analysis of the impact of the imports on the geographic market where there is the most competition from Mexican imports further indicates that there are no adverse price effects, and likewise provides no support for petitioners' theory that the imports have had a "ripple effect" on prices. 65/ Producers in the southern U.S., 66/ where an increasing majority of Mexican steel pails were shipped during the investigation, 67/ were among the most profitable. 68/ For the product accounting for the largest share of import penetration (the only product for which the Commission received usable data for a geographic comparison), Mexican

---

64/ Id. at A-47-48, Table 15.

65/ Although we have found it inappropriate to use a regional industry analysis to determine injury, see supra n. 23, the data we have collected is useful in determining the impact of the LTFV imports by looking at the financial and sales data in those markets where there is direct competition from the Mexican imports. See, Gifford-Hill Cement Co. v. United States, 615 F.Supp. 577, 582 (CIT 1985) (permissible for the Commission to consider the effect of imports in geographic submarkets); Rhone Poulenc, S.A. v. United States, 592 F.Supp. 1318, 1329-33 (CIT 1984) (permissible for the Commission to focus on the effects of imports in a northeast market that was not a "regional industry"); Certain Telephone Systems and Subassemblies Thereof from Japan and Taiwan, Invs. No. 731-TA-426 and 428 (Final), USITC Pub. No. 2237 (Nov. 1989) at 43 (focusing on "dominant market segments" where the most intensive competition occurred.). In this regard, the regional data is useful for testing petitioners' allegation that there has been a "ripple effect" caused by the efforts of the producers in regions near Mexico to expand there markets elsewhere in the United States. In our preliminary determination, we indicated our intent to collect such data, inter alia, for this purpose. Preliminary Determination at 16, n. 60.

66/ Arkansas, Louisiana, Mississippi, Oklahoma and Texas.

67/ Report at A-13, Table 1.

68/ Id. at A-33-35, Table 9.

imports generally were priced higher than domestic pails and domestic prices in that region increased over the period of investigation. 69/ 70/

A few domestic plants closed or were sold during the investigation period. We find, on the basis of the record, that these closings and sales were unrelated to LTFV imports. 71/

Finally, our contacts with purchasers in the course of our investigation into petitioners' allegations of lost sales and lost revenues does not show a causal nexus between the imports and the condition of the industry. Commission staff contacted 18 customers to verify 38 allegations of lost revenues and lost revenues. 72/ There was no pattern to the information obtained. Five of the customers contacted about alleged lost sales indicated that they did not purchase steel pails from Mexico during the investigation period. 73/ Several of the other customers contacted

---

69/ Id. at A-57, Table 18.

70/ Commissioner Rohr notes that there does appear to be some correlation between increases in the volume of Mexican imports of particular products and the underselling or overselling of these products. A connection between underselling and increasing volumes is certainly part of a casual nexus between imports and the condition of the industry, but without further connection between imports and price or volume effects sufficient to result in injury, the connection is not sufficient to establish the full casual link.

71/ Representatives of two such plants specifically disavowed the influence of LTFV imports on such decisions. Report at A-17-18. The timing of another closing--during a period when the domestic industry was at its peak performance and when Mexican import penetration was dropping--indicates that the LTFV imports did not trigger this decision. See id. and Tables 9, 15, and 16. Nor does the evidence indicate that the LTFV imports played a role in prompting the closing of a plant that was geographically far removed from Mexican competition, and experiencing operating problems relative to other domestic plants even before the Mexican imports entered the U.S. market. See id. at 17-18, Table 1, Appendix C.

72/ Report at A-61-66.

73/ Id. at A-62, 63, 65, 66.

believed the allegations were inaccurate or excessive given their firms' purchase requirements. 74/ Some recollected that sales were lost to, or domestic producers were underbid by, other U.S. producers. 75/

Only one customer confirmed purchasing Mexican pails because of lower prices; 76/ one customer who received a price quotation, but has never purchased Mexican pails, confirmed a lost revenue allegation; 77/ and one additional customer indicated that price is an important factor in purchase decisions. 78/ Most of the other customers contacted who have purchased Mexican pails recollected that the prices of domestic pails and Mexican pails were basically competitive, and generally cited factors other than price as determinative in choosing a supplier. 79/

74/ See, e.g., id. at A-61, 62, 64, 65.

75/ See, e.g., id. at A-61-64.

76/ Id. at A-65.

77/ Id. at A-65.

78/ Id. at A-66.

79/ See, e.g., id. at A-61-66. Some customers cited quality as a factor, but the most-often cited reason for purchasing Mexican pails was Yorktown's quick delivery time.
Commissioner Rohr notes that the evidence does not support respondent's argument that there is a significant quality distinction between Mexican pails and domestic pails. Although some Yorktown customers cited quality as a factor in their purchase decision, other customers stated that there is little quality-based distinction, and still others believed the domestic pails are of better quality. See, e.g., Report at A-63-66. The exhibits on this subject submitted by the parties or others likewise confirm that quality distinctions have not played a key role in domestic-versus-imported pail purchase decisions.

In sum, we find that even if there was material injury to the domestic industry, that injury was not "by reason of' the LTFV imports. 80/

IV. No Threat of Material Injury by Reason of LTFV Imports

In making a determination as to whether a domestic industry is threatened with material injury by reason of LTFV imports, the Commission is required to consider, among other factors:

* * *

(II) the ability and likelihood of the foreign producers to increase the level of exports to the United States due to an increased production capacity or unused capacity;

(III) any rapid increase in penetration of the U.S. market by imports and the likelihood the penetration will increase to injurious levels;

(IV) the probability that imports of the merchandise will enter the U.S. at prices that will have a depressing or suppressing effect on domestic prices of the merchandise;

(V) any substantial increases in inventories of imported merchandise in the United States;

(VI) underutilized capacity for producing the merchandise in the exporting country;

(VII) any other demonstrable adverse trends that indicate the probability that importation of the merchandise will be the cause of actual injury; and

(VIII) the potential for product-shifting. 81/

80/ Commissioner Lodwick considers the low imports penetration levels as evidence that the presence of LTFV imports in this market have little impact on the output related indices such as shipments, revenues, employment, etc. He does consider the imported and domestic product to be fairly close substitutes, so price is a factor on the margin. See Office of Investigations memorandum INV-N-033 at 10.

81/ 19 U.S.C. § 1677(7)(F)(i)(I)-(X). Factors (I) (subsidies), (IX) (agricultural products) and (X) (development and production efforts) are inapplicable to this investigation. See supra, note 25.

The statute also directs the Commission to "consider whether dumping in the markets of foreign countries . . . suggests a threat of material

(continued...)

Any threat must be real and any actual injury imminent. A finding of threat of material injury must not be made on the basis of mere conjecture or supposition. 82/ No single threat factor is necessarily dispositive in an antidumping investigation. 83/

The evidence in the record confirms the absence of any real and imminent threat to the domestic producers of steel pails by reason of LTFV imports from Mexico. Even in 1988, when the Mexican imports level was at its peak, this level was low, both absolutely and relative to domestic shipments. Although it is possible that Mexican imports may increase in the future, the statute requires that the Commission consider whether any increase is likely to be rapid, and likely to rise to injurious levels. 84/ Based upon the performance of Mexican imports since they entered the U.S. market, we do not find a reasonable probability that any increase will be of an injurious level.

We also see no evidence that future imports will enter the United States at prices that will have a price suppressing or depressing effect. As we found above, there is no evidence of any current suppressing or depressing effects. Throughout the period of investigation, Mexican steel pail prices have remained stable or increased and have not had a detrimental effect on

---

81/(...continued)
injury to the domestic industry." 19 U.S.C. §1677(7)(F)(iii). This factor is also irrelevant in this investigation, because the U.S. is the only foreign market for Mexican steel pails. Report at A-44, Table 13.

82/ Id.

83/ S. Rep. 249, 96th Cong., 1st Sess. at 88 (1979).

84/ 19 U.S.C. § 1677(7)(F)(III).

domestic pail prices. 85/ 86/ There is no indication that this will change.

Throughout the investigation period, Yorktown's inventories of Mexican steel pails were high in comparison with domestic producers' inventories. 87/ However, Yorktown's inventories are quite low as a percentage of U.S. consumption. The inventory level is indicative of Yorktown's practice of keeping sufficient inventories to cover its customers' estimated needs. 88/ Yorktown has stated that most of its remaining inventory is reserved for preplaced customer orders. 89/ As such, this inventory does not represent a threat to the domestic industry, especially when considered against total domestic consumption.

There is no potential for product shifting as defined by the statute because no other products manufactured by Envases are subject to a title VII investigation or order.

Envases' capacity to produce Mexican steel pails remained constant throughout the period of investigation. 90/ As discussed above, there is no indication that Mexican import shipments will increase, and, by

---

85/ Report at A-53, Table 16.

86/ Commissioner Lodwick does not consider that the LTFV imports will significantly affect prices in the foreseeable future, given the lack of a basis to predict substantial increased import volumes and the ongoing presence of excess capacity in the domestic industry and available substitutes.

87/ Report at A-42, A-25, Table 5.

88/ Id. at A-42; Tr. 144-45.

89/ Id.

90/ Report at A-43.

parallel, no real and imminent threat that current excess capacity will be filled to produce additional steel pails for shipment to the U.S. market.

Envases' inventories are relatively high in comparison to those of U.S. producers, but are not substantial in terms of the U.S. market. Moreover, the evidence indicates that Envases' inventory buildup is the result of operating decisions related to production and shipment in the Mexican market. 91/ In addition, a number of these pails cannot be imported to the United States because of lithography in Spanish or because they do not meet U.S. Department of Transportation labeling requirements. 92/

Accordingly, we conclude that the domestic industry producing steel pails is not threatened with material injury by reason of LTFV imports of steel pails from Mexico.

91/ Id.

92/ Id.

ADDITIONAL VIEWS OF CHAIRMAN ANNE E. BRUNSDALE

Certain Steel Pails from Mexico
Investigation Number 731-TA-435 (Final)

I concur in the conclusion of my colleagues that the industry producing steel pails in the United States is neither materially injured nor threatened with such injury by reason of unfair imports. I join my colleagues in their discussion on like product, domestic industry, the condition of the industry, and threat of material injury. However, I differ from my colleagues in that I do not accept that an analysis of the condition of the domestic industry is sufficient to establish that a domestic industry is, or is not, injured by reason of dumped imports -- the latter being the issue the statute requires us to address.[1]

Furthermore, as is well-known to those who follow Title VII proceedings at the Commission even sporadically, my approach to the analysis of causation -- in the words of the statute, the "by reason of" question -- differs materially from that of several of my colleagues. I strongly believe that well developed economic analysis based on the facts of each particular case is the best way for the Commission to answer that question correctly. In

---

[1] 19 U.S.C. 1673(2). Further, I do not believe that an independent legal determination based on the condition of the industry is either required by the statute or useful. I do, however, find the discussion of the condition of the domestic industry helpful in determining whether any injury resulting from dumped imports is material. See Certain Light-Walled Rectangular Pipes and Tubes from Taiwan, Inv. No. 731-TA-410 (Final), USITC Pub. 2169 (March 1989) at 10-15 (Views of Chairman Brunsdale and Vice Chairman Cass).

these additional views, I explain why economic analysis is so important and also provide my analysis of causation in this case.

The Importance of Economic Analysis in Title VII Cases

The key inquiry in any Title VII investigation is whether a domestic industry is materially injured, threatened with material injury, or the development of an industry is materially retarded, by reason of the imports under investigation.[2] In defining material injury, the statute is quite specific: the Commission is to examine the volume of imports under investigation, the effect of those imports on prices in the domestic market, and the consequent impact of the imports on domestic manufacturers' operations within the United States.[3]

The statute specifically states that, by this analysis, the Commission is to assess the "consequent" impact of the imports on the domestic industry.[4] The accumulation of every last morsel of evidence, therefore, is irrelevant to the statutory purpose without some framework within which to evaluate the effect of the unfair imports on domestic producers.

---

[2] 19 U.S.C. 1673d(b)(1).

[3] 19 U.S.C. 1677(7)(B).

[4] Id. (Captioned "Volume and Consequent Impact").

As I have stated so often in the past,[5] a coherent and transparent analysis of the kind demanded by the statute requires an assessment of the domestic market and an understanding of the role of the subject imports within that market. Economics, the study of markets and how they change, is an ideal source of the tools necessary to making that assessment. Its time-tested tools for evaluating and organizing evidence of the sort accumulated by the Commission provides just the framework called for by the statute. Some have criticized the use of economic analysis in terms that suggest it is little more than voodoo. Others have -- wrongly, I believe[6] -- relied on decisions of the courts purportedly approving other frameworks as impliedly excluding all other possible methods of analysis. The former criticism reflects a static view of the world and a clear misunderstanding of the dynamics of the social sciences; the latter suggests a preference for a cramped, stagnant conception of administrative

---

[5] See, e.g., Certain Residential Door Locks and Parts Thereof From Taiwan, Inv. No. 731-TA-433 (Final), USITC Pub. 2253, at 33-36 (January 1990) (Additional Views of Chairman Anne E. Brunsdale); Certain Electrical Conductor Aluminum Redraw Rod from Venezuela, Inv. Nos. 701-TA-287 (Final) and 731-TA-378 (Final), USITC Pub. 2103, at 42-46 (August 1988) (Dissenting Views of Chairman Anne E. Brunsdale); and Color Picture Tubes from Canada, Japan, the Republic or Korea, and Singapore, Inv. Nos. 731-TA-367-370 (Final), USITC Pub. 2046, at 23-32 (December 1987) (Additional Views of Vice Chairman Anne E. Brunsdale).

[6] See, e.g., Certain Light-Walled Rectangular Pipes and Tubes form Taiwan, Inv. No. 731-TA-410 (Final), USITC Pub. 2169 (March 1989) at 3, 13-15 (Views of Acting Chairman Brunsdale and Vice Chairman Cass).

jurisprudence that is not at all implied in the relevant court opinions.[7]

Over the past several years, the Commission has made great strides in its efforts to understand and apply a rational, consistent view of dumping to the statutory criteria. In pure research, the Commission has produced excellent works, of which those by economist Richard Boltuck and lawyer-economist Michael Knoll are prime examples.[8] In academia and at the bar, too, those with an interest in the work of the Commission are beginning to acknowledge the contributions the dismal science can make to Commission deliberations.[9]

In our investigations, the Commission itself has made strides in bringing some of the relevant learning to the fore. Today, in each case, staff routinely assesses measures of market response to dumped or subsidized imports, including the product demand elasticity, the elasticity of substitution between the domestic and imported product, and the domestic supply

---

[7] Thus, the Court of International Trade in USX Corp. v. United States noted, without specifically rejecting particular methods of analysis not before the Court, that "[the economic] approach to causation analysis has the potential for explaining, within the confines of the statue and in an improved manner, how less than fair value imports affected the domestic industry." (682 F. Supp. 60, 69 (1988), emphasis added)

[8] Richard Boltuck, "An Economic Analysis of Dumping," Journal of World Trade Law, 21 (October 1987); and Michael Knoll, "Legal and Economic Framework for the Analysis of Injury by the U.S. International Trade Commission," Journal of World Trade, 23 (June 1989).

[9] See, e.g., Sykes, "Countervailing Duty Law: An Economic Perspective," Columbia Law Review, 89 (1989) at 199.

elasticity.[10] I have long advocated the progress encompassed by this trend.[11]

Economic relationships (including the evaluations of the various elasticities) are simply ways of viewing the evidence on the record in a manner that allows us to probe the questions at the center of the Title VII inquiry. Along with other pieces of evidence in the record, they are the raw material from which the Commissioners must paint a picture of how the relevant markets function in the particular case before them.

In order to integrate these otherwise loose pieces of the puzzle to answer the questions that relate directly to the determination the Commission must reach, one must have an analytic framework within which to assimilate the various pieces of information. One example of such a framework is the CADIC model developed within the Commission, whose results in each

---

[10] I would point out that, in writing opinions that employ economic concepts such as elasticities, it is not necessary to make extensive use of technical economic jargon. The jargon or technical language in any field simply provides a shorthand for the concepts and relationships which are common to practitioners of that art or science. While attempting to limit the use of jargon may increase the length of a document, it poses no major problem and, no doubt, increases the ability of the non-technical reader to understand the analysis being presented. I have always sought to avoid the use of jargon as much as possible.

[11] Indeed, I began making explicit use of elasticity estimates as early as 1987. (See Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore, Inv. No. 731-TA-367-370 (Final), USITC Pub. 2046 (December 1987) at 46-52 (Views of Vice Chairman Anne E. Brunsdale).) Even prior to my explicit use of elasticity estimates, I implicitly employed these concepts. (See, e.g., Erasable Programmable Read Only Memories from Japan, Inv. No. 731-TA-288, USITC Pub. 1927 (December 1986) at 29-31 (Additional Views of Vice Chairman Anne E. Brunsdale).)

investigation are routinely made available to the Commissioners and the representatives of the parties to the proceeding. This particular model has gained wide respect among trade lawyers and economists for its relative simplicity, its transparency, and its direct contribution to the questions posed by the statute.[12] I continue to find the CADIC model to be an important and revealing tool in my consideration of cases before the Commission.

Other frameworks are certainly conceivable and may be preferable to the CADIC model. This may be true either because other models are more suited to the general issues that the Commission routinely confronts or because the assumptions and structures underlying the CADIC model are ill-suited to a particular case. I thus hope that parties appearing before the Commission will continue to contribute appropriately and productively to the selection and implementation of a framework that is best suited to the particular case at hand.

---

[12] I note in particular a letter I received from Robert E. Litan, Senior Fellow, The Brookings Institution, dated September 20, 1989. (A copy of this letter is attached as the Appendix to this opinion.) In this letter, Dr. Litan, a well-known economist who has appeared before the Commission on a number of occasions and who has made considerable use of the CADIC model, makes three important points. First, the CADIC model focuses attention on the pivotal parameters in the analysis of any case. Second, the CADIC model is easy to use. Finally, using the CADIC model is less costly than the traditional or trend analysis used by the Commission.

Material Injury by Reason of Dumped Steel Pails

As in other Title VII cases that have come before the Commission, I have used the tools of economic analysis in arriving at my decision in this case. I have also examined the information in the record on changes in the performance of the domestic industry over the period of the investigation. However, an analysis of changes in the industry's condition does not permit me to separate the effect of dumped imports from the many other factors that may have had a positive or negative effect on the domestic industry.[13]

Two aspects of the recent history of the domestic steel pail industry highlight the problems associated with using data on the condition of the industry or simple industry trends to determine whether a domestic industry is suffering material injury by reason of dumped imports. First, the demand for steel pails has

---

[13] The Commission has often noted the legislative history of the 1979 Act, which states that when determining whether there is material injury "by reason of" the imports subject to investigation, the Commission may consider factors other than imports, but does not weigh causes. See S. Rep. No. 249, 96th Cong., 1st Sess. 74-75 (1979). My understanding of this language is that it differentiates between causation analysis in Title VII, in which the imports must cause material injury before there can be an affirmative determination, and Section 201 analysis, in which imports must be a "substantial" cause -- more than any other cause -- of serious injury. Under the language of Title VII, we still must find a causal connection between the imports and material injury -- i.e., the imports must cause material injury -- notwithstanding what other factors may be contributing to the state of the domestic industry. The language of the statute and the standard rules of English grammar permit no other reading.

been declining since the late-1970s.[14] As a result, there is considerable excess capacity for the production of steel pails.[15] Where there is substantial excess capacity, I would expect profits and capital expenditures to be low; and the record in this investigation shows that both of these conditions exist in the case of steel pails.[16] Indeed, during the period of the investigation, a number of plants producing steel pails were closed.[17] While dumped imports may cause an industry to experience underutilized capacity, low profitability, low capital expenditures and plant closings, these conditions may also result from a decline in demand unrelated to the dumping. Thus, simple evidence that these conditions exist is not sufficient to show that dumped imports have materially injured the domestic industry.

Second, the price of the plastic that is used to manufacture plastic pails increased substantially in 1988 and 1989. Between the first quarter of 1987 and the first quarter of 1989, the

---

[14] Petitioners' Pre-Hearing Brief at 1, 10; Staff Report at A-14.

[15] Id. at A-21, Table 3; Petitioners' Pre-Hearing Brief at 10.

[16] Profitability data are reported in the Staff Report at A-32, Table 8, and A-38. A comparison of the data on capital expenditures and end-of-period investment in productive facilities shows that capital expenditures were generally a smaller percentage of end-of-period assets in the case of steel pails than for plastic pails or for the entire establishments in which steel pails are manufactured. (Id. at A-38 and A-39, Table 12)

[17] Petitioners' Prehearing Brief at 11-12; Staff Report at A-17 - A-18.

price of polyethylene resin rose by 74 percent.[18] This increase resulted at least in part from an explosion and fire at a plant producing one of the inputs used in this type of plastic.[19] The increase in the price of the plastic resin caused the price of plastic pails to rise.[20] Because of this price increase, a number of large consumers apparently shifted from plastic to steel pails.[21]

The purchases of these customers no doubt contributed to the increased domestic consumption of steel pails in 1988 and 1989[22] and to the observed improvement in the financial condition of the domestic industry in those years.[23] However, just as the poor overall performance of the industry during the period of the investigation does not provide evidence that the domestic industry is injured by dumped imports, the evidence of increased shipments and improved profitability in 1988 and 1989 is not evidence that the industry is not injured by the dumped imports.

---

[18] Id. at A-57.

[19] Id. at A-50, n. 119.

[20] While the price of steel pails also rose during this period, the increase was much smaller. (See Id. at A-54, Table 16.)

[21] Post-Hearing Brief on Behalf of Envases de Plastico, S.A. de C.V., April 4, 1990, Attachment 1, "Questions from Commissioners" at 8 and Staff Report at A-49 - A-50. How long this shift lasted is unclear. (See Petitioners' Prehearing Brief at 15-16.)

[22] See Staff Report at A-47, Table 15, and A-54, Table 16.

[23] See Id. at A-32, Table 8, and A-38.

Economic Analysis of the Steel Pail Market. While an analysis of the condition of the domestic industry alone does not permit me to determine the effect of dumped imports on that industry, economic analysis does allow me to gauge with reasonable certainty, using the information on the record, how producers and consumers have reacted to the changing conditions in the marketplace brought about by the dumped or subsidized imports. In analyzing the effect of dumped imports, I must determine how the dumping has affected demand for the domestic like product. I know from basic economic principles that the imports will, in most cases, tend to reduce demand for the domestic product. I must determine whether, in this particular case, such a reduction occurred and, if so, how large it was. Having done that, I can then ascertain how the reduction affects the price of the domestic like product and the quantity of the domestic product that is sold.

Import Penetration of Unfair Imports and the Dumping Margin. Two important factors in determining the effect of any dumping are the share of the domestic market accounted for by the unfairly priced imports and the size of the dumping margin. A larger market share of unfair imports means that any change in their price will have a greater effect on the demand for the offerings of other producers. Thus, it is more likely, ceteris paribus, that domestic producers have been materially injured when the penetration of the unfairly traded imports is high.

The dumping margin is important because it provides information about the extent to which dumping reduced the price of the unfair imports. If the dumping margin is large, the unfair importation of the subject imports is likely to have had relatively more effect on the domestic industry. The larger the price reduction from dumping, the greater the resulting increase in sales of the imported product, ceteris paribus.

In the current case, the dumping margin is quite substantial. According to the Department of Commerce, the average dumping margin during the first six months of 1989 was 75.57 percent.[24] As for market share, steel pails imported from Mexico accounted for far less than 10 percent of U.S. steel pail consumption, in both quantity or value, during the period of the investigation.[25] While the high level of the dumping margin suggests that the domestic industry is likely to be injured by the dumped imports, the very low market penetration of the imported product suggests that injury is unlikely.

Effect on Prices and Volumes Sold by the Domestic Industry. Data on the dumping margin and on the volume of imports alone do not answer the central question in the investigation -- how the presence of the dumped imports affects the domestic industry. How many more units would domestic producers have sold if dumping had not occurred? How much higher would the price of the

---

[24] Id. at A-2.

[25] Id. at A-47 -A-48, Table 15.

domestic product have been? It is to these questions that I now turn.

The lost sales volume a domestic industry suffers cannot exceed the sales of the dumped imports. Even if all of the dumped imports would disappear absent the dumping and if the domestic producers would capture all of those sales, domestic producers' sales would only increase by the amount of the dumped imports.[26] As noted above, in the current case, this lost volume is far less than 10 percent of U.S. consumption of steel pails and far less than 10 percent of U.S. manufacturers' production levels.[27]

---

[26] Two factors suggest that the loss to the U.S. industry in the current case is approximately equal to the volume of the Mexican imports. First, as noted above, the dumping margins are in excess of 75 percent. That is, the price of Mexican pails is substantially lower than it would be if dumping was not taking place. (See Memorandum to the Commission from the Applied Economics Division, Office of Investigations, entitled "Estimation of the Effects of Dumping on Price and Volume of the Like Product in Investigation No. 731-TA-435 (F), Certain Steel Pails from Mexico," dated April 20, 1990 (INV-N-034) ("CADIC Memorandum").) If the price of Mexican pails was substantially above its current level, most if not all purchasers of Mexican pails would be expected to shift their purchases to U.S.-made pails, because Mexican and U.S.-made steel pails are relatively good substitutes. (See Memorandum to the Commission from the Applied Economics Division, Office of Investigations, entitled "Economic Memorandum, Investigation No. 731-TA-435 (Final): Certain Steel Pails from Mexico," April 19, 1990 (INV-N-033) at 10-13 ("Economics Memorandum").) Second, as discussed below, this increase in demand for U.S.-made pails would not cause a significant increase in the price U.S. producers receive for their pails.

[27] If there were significant levels of imports from countries not subject to the investigation, the increase in domestic shipments as a percentage of domestic shipments would be greater than the increase in domestic shipments as a percentage of U.S. apparent consumption. For example, if domestic production accounted for

(continued...)

In order to fully evaluate the effect of dumping on the domestic industry, I must also consider how the price of the domestic product is affected by the presence of dumped imports. Even though the volume effect is small, the overall effect may be material if the small reduction in volume results in a large decrease in price. At first glance, it might appear that the dumping of Mexican steel pails has had a large effect on the price of domestic pails. As noted previously, the dumping margin is 75.57 percent. Thus, the price of Mexican pails would be substantially higher absent the dumping.[28]

I am persuaded, however, that even a 75 percent increase in the price of Mexican steel pails would not produce a significant increase in the price charged by U.S. pail manufacturers. Given the nature of the U.S. steel pail industry and the low market penetration of the Mexican imports, it is clear that competition

---

[27](...continued)
only 50 percent of U.S. consumption, then an increase in domestic sales equal to 5 percent of U.S. consumption would amount to a 10 percent increase in domestic shipments. However, imports of steel pails from countries other than Mexico constituted less than 1 percent of U.S. consumption during the entire period of the investigation. (Staff Report at A-47 - A-48, Table 15)

[28] Elimination of the dumping might not cause the price to rise by the full amount of the dumping margin since the Mexican manufacturer sells approximately half of its production in the U.S. (Hearing Transcript at 113, Staff Report at A-44) If required to charge the same price in the U.S. as in Mexico, the Mexican firm might find it more profitable to decrease price in Mexico in addition to raising price in the U.S. rather than raising the U.S. price all the way to the current Mexican price. (See Richard Boltuck, "Assessing the Effects on the Domestic Industry of Price Dumping," Part I, May 10, 1988.) However, even if the Mexican's cut their home market price, the increase in their U.S. price would be substantial. (See CADIC Memorandum.)

among domestic producers, rather than the price of the Mexican imports, is the main determinant of the price charged by U.S. pail producers. Further, based on the evidence in the record, I conclude that the price of the domestic product would not rise by any substantial amount even in the absence of dumped imports.

Domestic producers of steel pails had substantial excess capacity throughout the period of the investigation. Capacity utilization in the production of steel pails ranged from 52 percent in 1987 to a high of 60 percent in 1989.[29] Thus, even if the U.S. product were to replace all the Mexican imports, substantial excess capacity would still exist. Indeed, since the Mexican imports have far less than a 10 percent market share, capacity utilization would still be significantly below 70 percent.

When an industry has substantial excess capacity, it can generally expand its output by a considerable amount without much increase in price. In the current case, the Commission's Applied Economics Division suggests that a five percent expansion in domestic production would cause price to rise by only one-half to one percent.[30] I agree with this estimate, and therefore conclude that elimination of all Mexican imports would result in

---

[29] Staff Report at A-21, Table 3.

[30] Staff estimates that the elasticity of domestic supply is between 5 and 10, meaning that a 1 percent increase in price would lead domestic producers to expand their output by between 5 and 10 percent. (Economics Memorandum at 4-8.)

an increase in the price of domestic pails of less than one percent.[31]

Other Effects on the Domestic Industry. In addition to considering the impact of dumping on the volume of sales made by the domestic industry and the price at which those sales occurred, the statute directs us to examine "the impact of such

---

[31] Any increase in the average price for steel pails will reduce the total quantity of pails purchased. However, in the current case, the change in the total quantity would be very small. The Applied Economics Division submits that the elasticity of aggregate demand for steel pails is between one and two. That is, a 1 percent increase in price would cause the total demand to decline by between 1 and 2 percent. (Economics Memorandum at 13-15) However, my analysis of the market response to a substantial increase in the price of plastic pails in 1988 leads me to believe that this estimate is too high. While the price of a representative steel pail declined by more than 15 percent relative to the price of the closest substitute -- plastic pails -- between 1987 and 1988, shipments of steel pails increased by less than 10 percent. (Staff Report at A-15, Table 2, and A-54, Table 16) Even considering other possible substitutes for steel pails, this evidence leads me to conclude that the elasticity of aggregate demand for steel pails is no greater than one. (The respondents in this case have consistently argued that there is a high degree of substitutability between steel and plastic pails, which would suggest that the elasticity of aggregate demand for steel pails is high. However, the evidence they offer is largely anecdotal, such as noting the shifts of certain customers from plastic to steel pails. No evidence placing these changes in the context of the overall market is provided. Such anecdotal evidence is of only limited value in determining the value of the elasticity of demand.)

Moreover, as discussed above, the increase in the price of steel pails would be quite small -- less than 1 percent. With a domestic price increase of less than 1 percent, the effect on overall demand is likely to also be very small -- i.e., no more than 1 percent. To the extent overall demand is reduced, however, this will further reduce the effect on domestic volume and price. Thus, the discussion outlined above constitutes the maximum effect of a cessation of dumped Mexican imports.

merchandise on domestic producers of like products. . . ."[32] In conducting this examination, we are instructed to consider such factors as industry employment, investment, and utilization of capacity.[33]

In general, the effect of dumping on these parameters follows from the effect on industry volume and price. For example, the effect on industry employment is directly related to the effect on volume since the employment level in an industry will generally rise or fall with changes in the quantity produced. In the current case, I do not believe the dumping had a material impact on employment because there was no material effect on industry output.

Investment levels depend on the expected future profitability of an industry. If dumping causes significant declines in industry prices or sales, and if these declines are expected to persist into the future, firms may not find it profitable to engage in as much investment as they would absent the dumping. Again, in the present case I find no material impact on investment given the slight impact dumping had on volume and price. Even without any dumping, domestic producers of steel pails would have had substantial excess capacity and would therefore have been unlikely to invest in additional capacity. Finally, as discussed above, the dumping had no material impact on capacity utilization.

---

[32] 16 U.S.C. 1677(7)(B)(i)(III).

[33] 19 U.S.C. 1677(7)(C)(iii).

Conclusion

I find that dumping of steel pails from Mexico did not cause material injury to an industry in the United States. The dumping led to only a small reduction in the quantity of steel pails sold by domestic producers and had very little effect on the price domestic producers can charge for their products. Thus, the overall effect on domestic producers was small. And, because there was no material effect on output, price, or revenue, there was no material effect on the other indicators of the impact on the domestic industry -- such as employment, investment, and capacity utilization. I therefore reach a negative determination in this investigation.

APPENDIX

The Brookings Institution

1775 MASSACHUSETTS AVENUE N.W. / WASHINGTON D.C. 20036-2188 / CABLES: BROOKINST / TELEPHONE: (202) 797-6000

Economic Studies Program

September 20, 1989

Honorable Anne Brunsdale
Chairman
U.S. International Trade Commission
500 E St., S.W.
Washington, D.C. 20436

Dear Chairman Brunsdale:

I enjoyed seeing you at the CADIC Seminar held at Brookings earlier this week and was pleased you could attend part of the afternoon discussion about private economists' use of the CADIC model.

I am writing to underscore two of the points I discussed in my own presentation and in the question and answer period that followed. As you know, I have testified before the Commission in a number of Title VII investigations. My remarks at the conference, and now in this letter, are based on this experience.

First, I noted that from my own personal experience, the CADIC model is extremely easy to use. I suggested that anyone familiar with the basic elasticity concepts can be comfortable with the program in 15 to 30 minutes.

Second, it is my experience that the costs of a "CADIC analysis" -- measured by the cost of collecting relevant data and the fees paid by parties to economic consultants -- are (or should be) far below the costs that are typically incurred in performing the "traditional" or "trend" analyses. The CADIC analysis requires information about a relatively small number of parameter values. Certain of these parameters, notably the market shares, are readily available from the Commission's own staff report. The other parameters relate to elasticities -- of demand, supply and substitution. For these values, economists typically turn to published estimates in the professional literature and, in all cases now, to the estimates given in the staff's report, which in my experience typically are consistent with not only the available published estimates but with other qualitative information known about the industry.

It is sometime alleged that because the various elasticities typically are not known with precision the estimated effects produced by the CADIC model are unreliable. In my view, this criticism misses the usefulness of CADIC, which allows economists for the parties, as well as those working for the Commission, to determine the <u>sensitivity</u> of the

estimated effects to differences in elasticities. By running CADIC with different elasticity values, the Commission can easily identify what assumptions make the critical difference in the outcome of a particular case (by the way, in many cases, large variations in elasticity assumptions make no difference to the outcome). This, in turn, helps focus the investigational inquiry on the precisely those facts in the record that best support one particular set of elasticities.

In contrast, the trend analysis in the cases with which I am most familiar has been far more expensive to carry out. Typically the economists for both parties implement that analysis by collecting and then reporting vast sums of data and institutional details about the particular industry, following what I think can be safely characterized as the "kitchen sink" approach to economic analysis. That is, produce as much data and other information as one can possibily collect. In one case, for example, counsel for the one of the parties proferred evidence relating to over 1000 lost sales -- an exercise whose cost I do not know, but which I can guess was well into six figures. In other cases, I have seen economists submit voluminous industry studies, backed by numerous tables and charts, all in an apparent effort to swamp the Commission with all available data that might have any relevance, however remote, to the investigation at issue.

In short, there is no doubt in mind that because it narrows the investigational analysis to the parameters that really determine the effect of an unfair trade practice, the CADIC model is far less expensive for the parties -- and the Commission itself -- to use than the more traditional trend techniques. The cost of using CADIC could be reduced further still if the Commission, or the staff, were to routinely make available at an early point in each case all the studies (published or otherwise) of which it is aware that report estimates of the key elasticity parameters required for running CADIC. Such a procedure would reduce the costs of having the parties' economists do literature searches and would focus the investigation and the parties even more quickly on the issues that are most important in resolving the outcome of particular cases.

Sincerely,

Robert E. Litan
Senior Fellow

ADDITIONAL VIEWS OF VICE CHAIRMAN RONALD A. CASS

Certain Steel Pails from Mexico
Inv. No. 731-TA-435 (Final)

I concur with my colleagues that an industry in the United States has not been materially injured or threatened with material injury by reason of less than fair value ("LTFV) imports of steel pails from Mexico. I join the Commission's definition of the like product and domestic industry, and its evaluation of the threat of injury to the domestic industry. I also join the discussion of the condition of the domestic industry and the discussion of causation of material injury by the subject imports to the extent that they accurately summarize information relevant to my disposition of these issues. I offer these Additional Views in order to explain my approach, which differs from that of my colleagues, to the analysis of material injury.

I. LIKE PRODUCT AND DOMESTIC INDUSTRY

In the preliminary investigation of the subject imports I expressed my view that the appropriate like product should include plastic as well as steel pails, although I conducted my analysis of material injury by reason of the imports based on the narrower like product definition, consisting only of steel pails, proposed by Petitioner. In this final investigation the evidence regarding the degree of substitutability between plastic and steel pails remains mixed, but it appears that there is less actual competition on a routine basis between these products than

seemed likely based on the evidence presented in the preliminary investigation. Many consumers have made investments in packing and handling equipment for a specific type of pail, making unlikely substitution in the absence of extreme fluctuations in the relative prices of plastic and steel pails.[1] Such a fluctuation did occur from mid-1988 to early 1989, when the price of polyethylene rose by about 50 percent, causing a smaller but still quite significant increase in the relative price of plastic pails.[2] Even in these circumstances, substitution remained limited. The record indicates that consumers accounting for only around 10-15 percent of the market considered purchases of both types of pails during the period investigated by the Commission.[3]

Moreover, my analysis of material injury would not change in this final investigation based on the scope of the like product. Inclusion of plastic pails would only serve to bolster my conclusion that imports have not caused or threatened to cause material injury to the domestic industry. For these reasons, I join the Commission's determination that steel pails and the producers of these pails constitute the appropriate like product and domestic industry.

---

[1] Reports at A-8.

[2] Report at Figure 9.

[3] Report at A-8.

III. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF LTFV IMPORTS

Title VII of the Tariff Act of 1930, as amended, requires the Commission to determine from the evidence whether a domestic industry is materially injured by reason of the LTFV imports under investigation. To do this, we must evaluate how the LTFV sales of subject imports altered the condition of the domestic industry.[4]

The statute suggests a three-part inquiry to guide this determination.[5] First, the statute directs us to consider the volume of allegedly dumped and subsidized imports. In the context of our inquiry into the effects of unfairly traded imports, this entails not only consideration of the absolute volume of such imports and volumes relative to U.S. consumption and production, but also an evaluation of the extent to which the volumes, and correlatively the prices, of the subject imports have been affected by the unfair trade practices.

---

[4] My views on the legal standard applicable to this and other Title VII cases are set out a length in other decisions. See, e.g., Certain Telephone Systems and Subassemblies Thereof From Japan and Taiwan, Inv. Nos. 731-TA-426 and 428 (Final), USITC Pub. 2237 (November 1989) (Dissenting Views of Vice Chairman Ronald A. Cass) ("Telephone Systems Final") at 143-241; New Steel Rails from Canada, Inv. Nos. 701-TA-297 and 731-TA-422 (Final), USITC Pub. 2217 (Sept. 1989) (Dissenting Views of Vice Chairman Cass) ("New Steel Rails Final") at 125-159; Digital Readout Systems and Subassemblies Thereof from Japan, Inv. No. 731-TA-390 (Final), USITC Pub. 2150 (Jan. 1989) (Concurring and Dissenting Views of Commissioner Cass) ("Digital Readout Systems") at 98-108; 3.5" Microdisks and Media Therefor from Japan, Inv. No. 731-TA-389 (Preliminary), USITC Pub. 2076 (Views of Commissioner Cass).

[5] 19 U.S.C. § 1677(7).

Second, we must examine the effects of the unfairly traded imports on the prices, and concomitantly the sales, of the domestic like product. We examine the prices at which the domestic and imported products were sold, and we assess whether there has been significant price underselling by LTFV imports or significant suppression or depression of the domestic products' prices by the LTFV imports.[6] Evidence relevant to the effect of the LTFV imports on domestic prices and sales includes the share of the domestic market held by the imported product, the role price plays in consumers' decisions respecting the imports and the domestic like product, and the degree to which consumers see the foreign and domestic products as substitutes, leading them to purchase one or the other of these products in response to changes in their relative prices.

Finally, we must examine the impact of these changes in the prices and sales of the domestic product on the domestic industry as reflected in employment and investment in that industry. Although we may consider all economic factors relevant to our assessment of the impact of imports on the domestic industry, we are constrained by the statute to evaluate these factors within the context of the business cycle and conditions of competition unique to that industry.[7]

In this investigation the information regarding imports and

---

[6] 19 U.S.C. § 1677(7)(C)(ii). See Telephone Systems Final (Dissenting Views of Vice Chairman Ronald A. Cass) at 260, n. 183.

[7] 19 U.S.C. § 1677(7)(C)(iii).

the domestic industry that formed the basis of my negative determination in the preliminary have not changed. I will, therefore, only briefly reiterate my analysis of this information here.

A. Volumes and Prices of LTFV Imports

In 1989, the first six months of which constitutes the period for which Commerce found LTFV sales, Respondent Envases exported *** steel pails to the United States, *** of which were actually shipped for consumption.[8] The comparable figures a year earlier were *** pails imported and *** shipped for U.S. consumption.[9] Shipments of Mexican imports accounted for only *** percent of U.S. steel pail consumption in 1989.[10] The comparable figure for 1988 was slightly greater, though still not a very large share of U.S. consumption.[11] By value, shipments of Mexican steel pails accounted for only *** percent of U.S. consumption during 1989.[12] U.S. producers accounted for the remaining *** percent by value of the market, with other importers going from less than *** by value a year earlier to ***.

Although import volumes and sales of the subject imports declined during the period in which they allegedly were sold at

---

[8] Report at A-44, Table 13 and A-47, Table 15.

[9] Id.

[10] Report at A-47, Table 15.

[11] Id.

[12] Report at A-48, Table 15.

LTFV, that does not indicate the effect of allegedly LTFV pricing on import volumes. We cannot, in other words, conclude from the simple correlation of alleged LTFV pricing and decreased imports that the LTFV pricing decreased imports or left import volumes unaffected. The relation between LTFV sales and import volumes depends principally on the price change for imports consequent to LTFV pricing. The Department of Commerce does not calculate this price change, but it does calculate the proportional difference between prices charged for the imported product offered for sale to the United States and the price for that product in the exporters' home country. This "dumping margin" is evidence that we may consider in drawing inferences respecting the effects of LTFV sales on import prices and volumes and, consequently, on domestic products' prices and sales.[13] In this investigation, the dumping margin calculated for Envases is 75.57 percent ad valorem.[14]

In cases in which dumping margins reflect a finding by Commerce that the foreign exporter has charged a lower price for its product in sales to the United States market than it has in actual sales to its home market (as opposed to comparisons between U.S. sales and a constructed value for foreign fair market value), the actual decrease in the U.S. price of the subject imports (compared to what that price would have been absent dumping) will not be equivalent to the full percentage of

---

[13] 19 U.S.C. § 1677(7). New Steel Rails Final at 127-137.

[14] Report at A-2.

the dumping margin. The extent to which the dumping margin results in decreased prices for sales to the U.S. is in large measure a function of the importance of each market (home and U.S.) to the foreign producer; an accessible indicator of relative importance is the proportion of its total sales in both of these markets that the producer makes in its home market.[15]

The evidence indicates that Respondent sold approximately half of its combined home-market and U.S. export sales in its home market.[16] The record evidence, thus, suggests that dumping of the magnitude found by Commerce would have had a significant effect on the price of Mexican imports, but that the price of the subject Mexican imports declined by considerably less than the full percentage amount of the dumping margin, indeed by only about half of the amount at most.[17] The actual effect of this price change on import volumes depends on information discussed

---

[15] See, e.g., Certain All-Terrain Vehicles from Japan, Inv. No. 731-TA-388 (Final), USITC Pub. 2163 (March 1989), (Additional Views of Commissioner Cass) at 58-60.

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. For a thorough explication of this subject, see R. Boltuck, Office of Economics, Assessing the Effects on the Domestic Industry of Price Dumping, USITC Memorandum EC-L-149 at 1, n. 1, 13, 19-21 (May 10,1988). A more accurate statement of the effects of dumping on import prices also may require some adjustment to reflect the fact that dumping margins are calculated on an ex-factory, rather than final sales price, basis. This adjustment almost inevitably will reflect a reduced effect from that calculated here.

[16] Report at A-44, Table 13.

[17] See n. 15, supra.

in the section immediately following. At the outset, however, the record supports inferences that while imports accounted a relatively small share of the U.S. market, LTFV pricing could have accounted for some part of the imports' sales.

B. Prices and Sales of the Domestic Like Product

The effect of the imports on prices and sales of U.S. domestic products cannot be inferred only from the information discussed above. In this case, evidence is persuasive that the dumping could not have caused material injury to the domestic industry through effects on the domestic like product's prices and sales.

Among the factors that determine these effects are the volume of the subject imports relative to the size of the market as a whole, the degree to which subject imports are substitutable for domestic products and for other imports, and the degree to which consumers change their purchasing on the basis of the prices of these products as a class.[18] In this investigation, as

---

[18] In asking us to look for the existence of significant price underselling (see 19 U.S.C. § 1677(7)(C)(ii)), Congress did not intend to equate that term with simple differences in observed prices. First, that concept would have been quite easy to articulate had that been Congress' intent. Second, that would not be a likely instruction from Congress, given the manifest irrelevance of such gross price differences to the effects of dumped imports on the U.S. industry making the competing domestic like product. As the Commission has recognized, the occurrence of price differences between imports and domestic products cannot provide a basis for inference of effects of dumping or of dumped imports on domestic products' prices without analysis of various product features and sales terms that may differ across products and sales. See, e.g., Certain Granite from Italy and Spain, USITC Pub. 2110, Inv. Nos. 701-TA-289 and 731-TA-381 (Final) (Aug. 1988). When adjustments for such differences are made, it

(continued...)

noted above, the imports account for a small volume of U.S. sales of steel pails, less than *** percent by value in 1989. It is unlikely that this small sales volume would have caused a significant decrease in the prices or sales volumes of the domestic steel pail producers, especially given the other evidence of record. The record indicates that the imports do not compete with domestic steel pails solely on price and that some customers place considerable value on quality and delivery, both of which have distinguished Mexican from American steel pails at least in some instances. Although these differences are not sufficient to greatly limit the competition between American and Mexican steel pails, when taken together with the small import volume, it does negate the possibility of large price and sales effects even from a decline in price as significant as apparently is accounted for by LTFV pricing here. In addition, the domestic consumption of steel pails increased between 1987 and 1988, with only a slight decline in 1989. In light of the expansion of the market, the reduction in Mexican steel pail prices consequent to LTFV pricing appears to have had at most only a modest effect on the like product's prices and sales. Overall, the evidence suggests that the LTFV imports had only very slight effect on prices and sales of the domestic like product.

---

[18](...continued)
is extraordinary to find price differences of more than a transitory duration. The common effect of price underselling, in most markets, will be depression of the like product's price. Reliable information on that effect will be more readily obtained.

C. Effects of Imports on Employment and Investment

The investment and employment data compiled by the Commission for the domestic industry producing steel pails, which are fully discussed in the Views of the Commission, do not suggest that the subject imports from Mexico had a material adverse impact on that industry. The industry was not prospering during 1986 and 1987, but industry indicators have been reasonably strong during the period for which the existence of LTFV sales were found. In 1988 the industry yielded a substantial net profit on its steel pail operations, and that experience has continued into 1989.[19] Production of steel pails has fluctuated some over the period of investigation, but grew significantly from 1987 to 1988, and in 1989 remained at near the 1988 levels,[20] as have industry shipments[21] of domestically produced pails. However, the value of U.S. shipments of domestically produced pails increased steadily over the period.[22] Capacity utilization also has increased steadily over the period.[23] Although employment has declined, labor productivity increased in 1988 and 1989.[24] These data, while not independently probative of the effects of imports, certainly do not suggest that imports have materially injured the domestic

---

[19] Report at A-32, Table 8.

[20] Report at A-14-15.

[21] Id. at A-24, Table 4.

[22] Id.

[23] Id. at A-14-15.

[24] Id. at A-26-28, Table 6.

industry.

IV. THREAT OF MATERIAL INJURY BY REASON OF LTFV IMPORTS

The record evidence in this investigation provides no basis for concluding that a threat of material injury from the allegedly LTFV imports exists. The information relating to the factors to be considered, as set out in Title VII,[25] is more fully discussed in the Views of the Commission. The statutory factors, although discussed individually, must be considered in the context of an assessment of the effects of imports; the question in a "threat" determination is whether the evidence respecting these factors, considered together with the information respecting actual effects of imports, provides a basis for belief that imminent material injury from the allegedly LTFV imports is a probability.[26]

Respondent Envases is currently operating a high level of capacity utilization and states that it has no plans to expand production by building additional facilities.[27] Apparently the large inventory maintained by Envases is of pails not suitable

---

[25] See 19 U.S.C. § 1677(F)(i), which lists ten factors to be considered, eight of which are applicable to this investigation. See also 19 U.S.C. § 1677(F).

[26] See 12-Volt Motorcycle Batteries from the Republic of Korea, Inv. No. 731-TA-434, USITC Pub. 2203 (July 1989) (Additional Views of Commissioner Cass) at 57. In preliminary investigations, of course, there is a lower evidentiary threshold for the determination of threat than there is for actual material injury from allegedly LTFV imports.

[27] Transcript of Hearing, p. 113.

for shipment to the United States.[28] Thus the record contains no indication that imports are likely to increase in the near future to levels that would materially injure the domestic industry. Moreover, it is unlikely the continued imports at current levels would be likely to materially injure the domestic industry. Imports at current levels have not significantly decreased the prices or sales of the domestic like product, nor is the domestic industry particularly vulnerable to the impact of imports given its recent financial indicators.

V. CONCLUSION

For the foregoing reasons, I find that the domestic industry producing steel pails has not been materially injured, or threatened with material injury, by reason of imports of steel pails from Mexico.

---

[28] Id. at 114, and Report at A-43.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On November 15, 1989, the U.S. Department of Commerce (Commerce) notified the U.S. International Trade Commission (Commission) of its preliminary determination that certain steel pails[1] from Mexico are being, or are likely to be, sold in the United States at less than fair value (LTFV). Accordingly, the Commission instituted investigation No. 731-TA-435 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of such imports. Notice of the institution of the Commission's investigation and establishment of a schedule for its conduct, including a public hearing to be held in connection with the investigation, was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register (54 F.R. 50445, December 6, 1989). Subsequently, Commerce extended the date for its final determination in the investigation from January 22, 1990, until not later than March 23, 1990 (54 F.R. 50523, December 7, 1989). The Commission, therefore, revised its schedule in the investigation to conform with Commerce's new schedule and issued the appropriate notice (54 F.R. 53380, December 28, 1989).[2] The hearing was held in the Commission's hearing room on March 29, 1990, at which time all interested parties were afforded the opportunity to present information for consideration by the Commission.[3] [4] The statute directs the Commission to make its final determination within 45 days of receipt of Commerce's final determination or, in this investigation, by May 7, 1990.

---

[1] For purposes of this investigation, certain steel pails are defined as cylindrical containers of steel with a volume (capacity) of 1 to 7 gallons, an outside diameter of 11-1/4 inches or greater, and a wall thickness of 29-22 gauge steel, presented empty, whether or not coated or lined. This investigation includes, but is not limited to, openhead, tighthead, and dome top steel pails.

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

[3] In a letter to the Commission dated Feb. 2, 1990, Counsel on behalf of the petitioners in the investigation requested that the hearing, originally scheduled for Mar. 27, 1990, be postponed for 2 days so that their main witnesses could attend the hearing. The Commission approved the postponement of the hearing and issued the appropriate notice (55 F.R. 8200, Mar. 7, 1990).

[4] A list of witnesses who appeared at the hearing is presented in app. B.

Background

On May 31, 1989, petitions were filed with the Commission and Commerce by counsel for the Pail Producers' Committee of the Steel Shipping Container Institute (SSCI),[5] alleging that an industry in the United States is materially injured by reason of imports from Mexico of certain steel pails that are alleged to be sold in the United States at LTFV. Accordingly, the Commission conducted preliminary antidumping investigation No. 731-TA-435 (Preliminary) under section 733 of the Tariff Act of 1930 (19 U.S.C. § 1673b). On July 26, 1989, the Commission published its preliminary determination in the Federal Register (54 F.R. 31090) that there was a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of certain steel pails from Mexico.

The Commission has not conducted previous or related investigations of the subject product.

Nature and Extent of Sales at LTFV

On April 2, 1990, Commerce published notice in the Federal Register (55 F.R. 12245) of its final determination that certain steel pails from Mexico are being, or are likely to be, sold in the United States at LTFV. The weighted-average margin on all sales was 75.57 percent. Commerce reported that one Mexican producer, Envases de Plastico, S.A. de C.V. (Envases), accounted for virtually all of the exports to the United States of the subject merchandise.

In order to arrive at its final dumping margin for steel pails imported from Mexico, Commerce compared the United States price of the pails to their foreign market value. Commerce calculated foreign market value based on the packed, delivered prices to unrelated customers in Mexico. Commerce made deductions, when appropriate, for inland freight and rebates and also deducted home-market packing costs and added U.S. packing costs. In turn, the United States purchase price was calculated based on CIF, duty-free prices to unrelated customers in the United States. Commerce made deductions, when appropriate, for rebates, brokerage and handling, foreign inland freight, and U.S. inland freight.

Commerce investigated sales during the period January 1, 1989, through June 30, 1989. Commerce examined U.S. sales of Envases totaling * * * pails, with a gross value of $* * *. Of these, * * * percent, by volume, and * * * percent, by value, were found to be sold at LTFV.[6]

---

[5] The SSCI, headquartered in Union, NJ, is a nonprofit trade association of firms producing various types of steel containers. The Pail Producers' Committee is the subset of this organization comprising those members who produce steel pails. In this investigation, the petitioners consist of the 10 members of the Pail Producers' Committee and 2 nonmember companies.

[6] David L. Binder, Director, Antidumping Division I, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, letter to

(continued...)

The Product

Description

Certain steel pails, hereinafter "steel pails," are watertight cylindrical steel containers having the following characteristics:

1. A volume of 1 to 7 gallons (80 to 95 percent of U.S. steel pail production is of the 5-gallon size);[7]

2. An outside diameter of 11-1/4 inches or greater; and

3. A wall thickness ranging from 29-gauge steel (a relatively lightweight steel) to 22-gauge steel (a very heavy steel).

Both U.S. and foreign-produced pails conform to the above definition.[8]

The steel pails subject to investigation are typically made in one of three configurations: openhead, tighthead, and dome top.[9] Openhead pails have a removable lid that covers the entire top of the pail. They may be either straight sided (i.e., fully cylindrical) or nesting (i.e., with a top slightly larger than the bottom so that the empty pails fit inside one another for ease of storage and shipping). Tighthead pails are usually fully cylindrical, with a top that is double-seamed (crimped) to the body. The top is fitted with a threaded metal or plastic plug or cap.[10]

Other steel pail design features include closures, e.g., the lug cover (for openhead pails), the bolt ring, the lever lock, and the ring seal; the fittings, e.g., a range of opening sizes, pouring spouts, caps, and tamper-proof seals; and the accessories, e.g., carry handles and the associated attachments (ears), special compartments, inserts, gaskets, and custom fittings.[11] Steel pails are often decorated by silk screening, lithography, painting, or decorative sleeves. For hazardous or other hard-to-handle materials, steel pails may also be lined with protective coatings and special treatments to prevent corrosion.[12]

---

[6](...continued)
Lynn Featherstone, Director, Office of Investigations, U.S. International Trade Commission, Apr. 3, 1990.

[7] Transcript of the conference in investigation No. 731-TA-435 (Preliminary) (Transcript of conference), p. 55.

[8] Transcript of conference, p. 90.

[9] Dome-top pails, which have a domed top to provide air space for liquids, represent a relatively small share of the domestic pail market. Petitioners stated that they are not aware of any imports of dome-top pails from Mexico. Petition, p. 4.

[10] Petition, p. 4.

[11] A Buyer's Guide to Steel Pails, Steel Shipping Container Institute.

[12] Petition, p. 4.

Most steel pails (domestic and imported) must comply with certain performance and construction criteria for shipping containers imposed by a number of private organizations and governmental agencies, including the National Railroad Freight Committee (NRFC), the National Motor Freight Association (NMFA), and the Office of Hazardous Materials of the U.S. Department of Transportation (DOT).[13] Established standards, which vary according to container end uses, relate to minimum construction gauge, maximum shipping weights, container headroom, physical performance testing, materials, and other matters concerning health and safety. These stringent requirements have apparently discouraged any move toward thinner, lighter gauge steel pails, because the pails must have the integrity to hold safely various hazardous materials during warehousing and transportation.[14] In addition to the DOT requirements, effective January 1, 1991, all hazardous materials contracted for by the General Services Administration's Federal Supply Service (GSA/FSS) will require certification that each package meets certain performance oriented packaging requirements prescribed in the United Nations' (U.N.) "Recommendations on the Transport of Dangerous Goods."[15]

Steel pails must be embossed with certain markings that indicate compliance with the various concerned agencies' and organizations' performance and construction criteria. For example, the DOT regulations require that all steel pails containing hazardous materials be embossed on a permanent head with the following information: the DOT insignia and the letters NRC (nonreusable container); the name or symbol of the person making the DOT mark; the gauge of the metal at its thinnest part; the rated capacity in gallons; and the year of manufacture.[16] The NMFA has similar marking requirements.[17] [18]

---

[13] For a description of several of these ratings, rules and regulations, see respondent's posthearing brief, attachment 2, exhibits 1 and 2; and 49 CFR § 178.35 (1988).

[14] Field visit with * * *, Mar. 26, 1990.

[15] The U.N. regulation requires that the preservation, packaging, packing, marking, and labeling of domestic and overseas hazardous material shipments shall comply with all requirements of the following: "The U.S. Department of Transportation (DOT) Regulations 49 CFR parts 171-177 Hazardous Materials Regulations; the Occupational Safety and Health Administration (OSHA) Regulations 29 CFR parts 1910.101-120 and 1910.1000-1910.1500, Relating to Hazardous and Toxic Substances; and the International Maritime Dangerous Goods (IMDG) Code. Test reports showing compliance with package requirements shall be made available to GSA contract administration/management representatives upon request" (55 F.R. 5512, Feb. 15, 1990).

[16] If the pail is manufactured of stainless steel, the DOT requires that it also be embossed with the type of steel used in the body and head sheets as identified by the American Iron and Steel Institute.

[17] See 49 CFR § 178.35 (1988), and respondent's posthearing brief, attachment 2, exhibits 1 and 2.

[18] Petitioners estimate that approximately 10 million pails annually, or roughly 12 percent of the annual apparent consumption of steel pails, can be used to transport nonhazardous materials and, therefore, do not need to meet

(continued...)

For the most part, U.S. and Mexican-produced pails are perceived as being of equal quality.[19] At the Commission's hearing, witnesses for both the petitioners and the respondent noted that Mexican pails were initially perceived as being of better quality because they were constructed of a heavier-gauge steel (e.g., 26-gauge), although the purchaser's order may have specified only 28- or 29-gauge steel.[20] More recently, Mexican pails appear to be made of the lighter-gauge steels when such gauges are specified.[21]

Manufacturing processes

Although the order of the manufacturing process described in the following section may vary slightly from company to company, the production process in the United States is fundamentally the same as that in Mexico.[22] To produce an openhead, tapered (nesting) pail, cold-rolled carbon steel sheets are slit, rolled, and welded along the sideseam to form a shell. A continuous weld, which best conforms with DOT requirements, apparently provides the best mating of the steel and is considered state-of-the-art production. After welding, the pails are expanded approximately 9/16-inch to strengthen the pail body, and the tops of the shells are then shaped to conform with the closure design (i.e., the top edge is beaded, curled, and flanged on a die curl). Two strengthening and nesting beads are then formed in the pail body, after which the ears (to which the handles are fastened) are welded onto the sides of the pail. The bottom of the pail is then seamed to the pail body (using a 10-3/4-inch bottom seamer), and the pail is tested for leaks. The lining, if required, is sprayed inside the pail, which is then ovencured.[23] Next, the pail may then be painted on the outside, and it is

---

[18](...continued)
DOT requirements or carry the DOT stamp. Petitioners' posthearing brief, pp. 9-10.

[19] Transcript of conference, p. 55. Witnesses for Envases and Yorktown remarked at several junctures that their pails had developed a reputation for better quality. See, e.g., Transcript of the hearing in investigation No. 731-TA-435 (Final) (Transcript of hearing), pp. 102-103 and p. 107.

[20] Transcript of hearing, pp. 37 and 103.

[21] Transcript of conference, p. 71.

[22] Transcript of conference, p. 92.

[23] Linings are used for protection against water, acids, alkalies, and some organic chemicals. Clear lacquer and rust inhibitor are used to provide protection against oxidation from air or water. Phenolics provide protection against certain acids, and epoxies offer protection against alkalies. Linings consisting of varying percentages of epoxy and phenolic materials are most commonly used today. In some instances, the needed protection is supplied by a flexible or semirigid polyethylene liner insert.

Both one- and two-coat lining systems are used. Generally a two-coat system provides a better lining, as it reduces the possibility of pinholes. The total thickness of the lining is approximately 1 millimeter. Petitioners' postconference brief, June 22, 1989, exhibit 3.

again ovencured. All pails are then baled (i.e., handles are added) and palletized for shipment. Covers can be placed on pails or placed in the shipping carton.[24]

Tighthead (closed-head) pails, similar to openhead pails, are produced from slit sheets that are rolled and welded along the sideseam. The resulting shell is expanded and the bottom is seamed in an 11-1/4-inch bottom seamer. Pails are tested for leaks, then processed in a Hi-Bake booth, where their interiors are sprayed with lacquer or lining. Heads (covers) are then permanently seamed onto the pails at a joint called the "chime," which constitutes an interlocking seal. Finally, the pails are painted, baked, baled, and palletized for shipment.[25]

Lithography and decoration on steel pails (except plain painting) is done prior to formation of the container and is frequently subcontracted out. Plain sheet is returned with often elaborate printing and decoration.[26] As noted earlier, steel pails range in wall thickness from 29-gauge to 22-gauge steel. According to an industry official, the shifting of production between the various gauges merely requires changing the dies in the cutting equipment.[27] The shifting of production from pails to larger size containers, such as drums, is prevented by limitations on the gauges and diameters of the forming machinery on the pails-production line.[28]

Uses

Pails are used to transport and sell (in domestic and overseas markets) a wide variety of powders and liquids, including foodstuffs, paint, chemicals, adhesives, petroleum products, coating materials, cement, and joint compounds.[29] In particular, tighthead pails are primarily used for liquids or for other products for which leakage is a concern. The end uses for imported and domestically produced products are essentially the same.

Substitute products

For certain applications, steel pails are interchangeable with plastic pails, making plastic pails a potential substitute for steel pails. The petitioners have argued that steel pail producers constitute the industry manufacturing the product most "like" steel pails imported from Mexico. Petitioners' arguments in favor of excluding plastic pails from the "like"

---

[24] Petitioners' postconference brief, exhibit 1, and field visits with * * * and * * *, Mar. 26, 1990.
[25] Ibid.
[26] Field visit with Brockway Standard, June 12-13, 1989.
[27] Ibid.
[28] Field visit with * * *, Mar. 26, 1990.
[29] Petition, p. 4.

product analysis include a discussion of the following areas of distinction between steel and plastic pails:[30]

1. Differences in production processes;
2. Differences in physical characteristics; and
3. Differences in performance standards.

The steel pail production process, described above, is markedly different from the production process for plastic pails, which is primarily an injection-molding operation used to produce openhead plastic pails, or a blow-molding process, used to produce tighthead plastic pails.[31] The petitioners further stated that steel and plastic pails are produced on different equipment, and that they share no common manufacturing facilities.[32]

The respondent in the investigation holds a different view of the like-product issue, stating that plastic pails have the same intrinsic qualities, essential characteristics, and uses as steel pails imported from Mexico.[33] It noted that steel and plastic pails are interchangeable for most applications and are marketed through the same channels of distribution. For these reasons, the respondent argues that steel and plastic pails are one like product constituting part of one domestic industry.[34]

Steel and plastic pails have certain distinct physical characteristics. Steel is stronger in that it has a high compression strength and can be stacked higher (to save floor space) for longer periods of time. It has greater rigidity (its shape is not distorted by hot or cold products), and it withstands internal pressure changes (no "cover popping").[35] On the other hand, plastic pails do not dent, are quieter, and are easier to open and reclose. For these reasons, consumers in certain industries prefer plastic pails.[36] Nevertheless, there are a number of applications that require steel pails, including the transportation of certain hazardous chemicals and the packaging of greases and lubricants used in coal mines.[37]

Although steel and plastic pails differ markedly in particular respects, there is at least some overlap between the end uses and channels of

---

[30] Petitioners' postconference brief, pp. 4-9.

[31] In the injection-molding process, high-density polyethylene (HDPE) pellets are melted and then injected into a mold that is cooled to form an openhead pail. In the blow-molding process, melted HDPE is extruded in the form of a long hollow tube enclosed in a mold. Air is then blown into the mold to form the tighthead pail. Once cooled, the pail is released from the mold and excess plastic is trimmed from the pail body. Field visit with * * *, Mar. 26, 1990.

[32] Transcript of hearing, pp. 11-12.

[33] Respondent's postconference brief, p. 6.

[34] Respondent's prehearing brief, sec. 5.

[35] A Buyer's Guide to Steel Pails, Steel Shipping Container Institute.

[36] Transcript of conference, pp. 22 and 52.

[37] Ibid., pp. 68 and 125.

distribution for the products.[38] A shift from steel to plastic pails is most likely to occur when the relative price of either steel or plastic changes significantly. For example, an increase in the price of resin (the main component in the production of plastics) could likely lead to a shift from the use of plastic to steel pails when buyers are capable of making such a switch.[39] For certain applications, lined and unlined steel and plastic pails are substitutable, although lined steel pails are more expensive than plastic pails for many uses.[40] Product substitution is somewhat limited, however, by investments made by pail consumers in equipment for material handling, head-closing, and labeling, which is designed to process a specific type of pail, and by certain pail storage requirements.[41]

With respect to aluminum pails, neither petitioners nor the respondent were aware of any uses for such pails, principally because aluminum is very high-priced and lacks important performance characteristics, such as strength.[42] Stainless steel pails, although relatively costly, are used to a certain extent to package food and medical products.[43]

---

[38] Ibid., pp. 49 and 76.

[39] Transcript of hearing, pp. 27-28. Petitioners' witnesses testified that approximately 10 to 15 percent of the market for pails shifted back and forth between steel and plastic pails, and that this segment consisted of only a few customers in the joint-compound and latex-paint industries. Transcript of hearing, pp. 12 and 30; Petitioners' prehearing brief, pp. 4-5, note 6; and Petitioners' posthearing brief, app. A, pp. 10-13 and exhibit 5. Respondent, however, stated that steel and plastic pails are interchangeable for the majority of products for which plastic and steel pails are used. Transcript of conference, p. 118.

[40] Petitioners' postconference brief, p. 7.

[41] Transcript of hearing, p. 28.

[42] Transcript of conference, pp. 52 and 124.

[43] Field visit with * * *, Mar. 26, 1990.

U.S. tariff treatment

The Harmonized Tariff Schedule of the United States (HTS), which replaced the Tariff Schedules of the United States (TSUS), became effective January 1, 1989.[44] Steel pails are provided for in HTS subheadings 7310.21.00 and 7310.29.00, which include a variety of containers in addition to pails (such as tanks, drums, and boxes), all having a capacity of less than 50 liters. The column 1-general rate of duty for both HTS subheadings, for products of countries entitled to most-favored-nation (MFN) treatment (including Mexico), is free.[45] Prior to 1989, steel pails were reported for statistical purposes under item 640.3020 of the former Tariff Schedules of the United States Annotated (TSUSA). Item 640.3020 covered steel pails exclusively.

The U.S. Market

The regional character

Except for a few U.S. producers with multiple plants, most firms are able to operate only in limited geographical areas, depending on the location of their plant.[46] Typically, a plant's market radius does not extend beyond 300 to 500 miles.[47] Petitioners allege that while LTFV imports have directly

---

[44] Serving as the basis for the HTS, 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 documentation purposes. Based on the Customs Cooperation Council Nomenclature, the HS is a detailed classification structure containing approximately 5,000 headings and subheadings describing articles in trade. The provisions are organized in 96 chapters arranged in 20 sections that, along with the interpretation rules and the legal notes to the chapters and sections, form the legal text of the system. Parties to the HS convention agree to base their customs tariffs and statistical programs upon the HS nomenclature.

[45] The rates of duty in column 1-general of the HTS are MFN rates and, in general, represent the final stage of the reductions granted in the Tokyo Round of the Multilateral Trade Negotiations. Column 1-general duty rates are applicable to imported products from all countries except those Communist countries and areas enumerated in general note 3(b) to the HTS, whose products are dutiable at the rates set forth in column 2 (25 percent ad valorem for 7310.21.00 and 7310.29.00); China, Hungary, Poland, and Yugoslavia are the only Communist countries currently receiving MFN treatment.

[46] Only 4 of the 11 steel pail producers reporting information indicated that they had more than one plant; one of these producers, * * *, limited its production to the * * * market.

[47] Mr. Warren Wackman, vice president of Southline Metal Products Co., stated at the conference, however, that 10 percent of his shipments can go 1,000 to 2,000 miles from his one plant. This possibility was discounted by

(continued...)

affected U.S. producers competing in the same regions in which the Mexican imports are primarily sold, there has been a "ripple effect" caused by efforts of those producers to expand their markets elsewhere in the United States in order to maintain their market share.[48]

In order to better assess the condition of the domestic industry and to provide guidance as to whether a regional industry analysis was appropriate, Chairman Brunsdale and Commissioners Eckes, Rohr, and Newquist expressed a desire to collect data by geographic region in the event of any final investigation.[49] The Commission's producers' and importers' questionnaires, therefore, were designed to collect certain trade-related information, financial information, and pricing information by establishment and by region. The questionnaires specified five regions of the United States defined as follows:[50]

> Midwest region.--The States of Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.
>
> Northeast region.--The States of Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia and the District of Columbia.
>
> Southeast region.--The States of Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and Puerto Rico.
>
> Southern region.--The States of Arkansas, Louisiana, Mississippi, Oklahoma, and Texas.
>
> Western region.--The States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

---

[47](...continued)
respondent's witnesses, who testified that expanding a plant's service range beyond that which could be served by trucks was impractical, due to the unreliability of rail transport. Transcript of conference, pp. 59 and 134.

[48] Petitioners' postconference brief, p. 24.

[49] See U.S. International Trade Commission, Certain Steel Pails From Mexico (Investigation No. 731-TA-435 (Preliminary)), USITC Publication 2205, July 1989, p. 16.

[50] During the design of the Commission's questionnaires, parties were afforded the opportunity to comment on the questionnaires. Neither counsel for the petitioners nor counsel for the respondent challenged the definitions of the regions.

Plant locations of U.S. producers of steel pails and the warehouse location for the U.S. importer of Mexican steel pails are shown in figure 1 and are presented in the following tabulation:

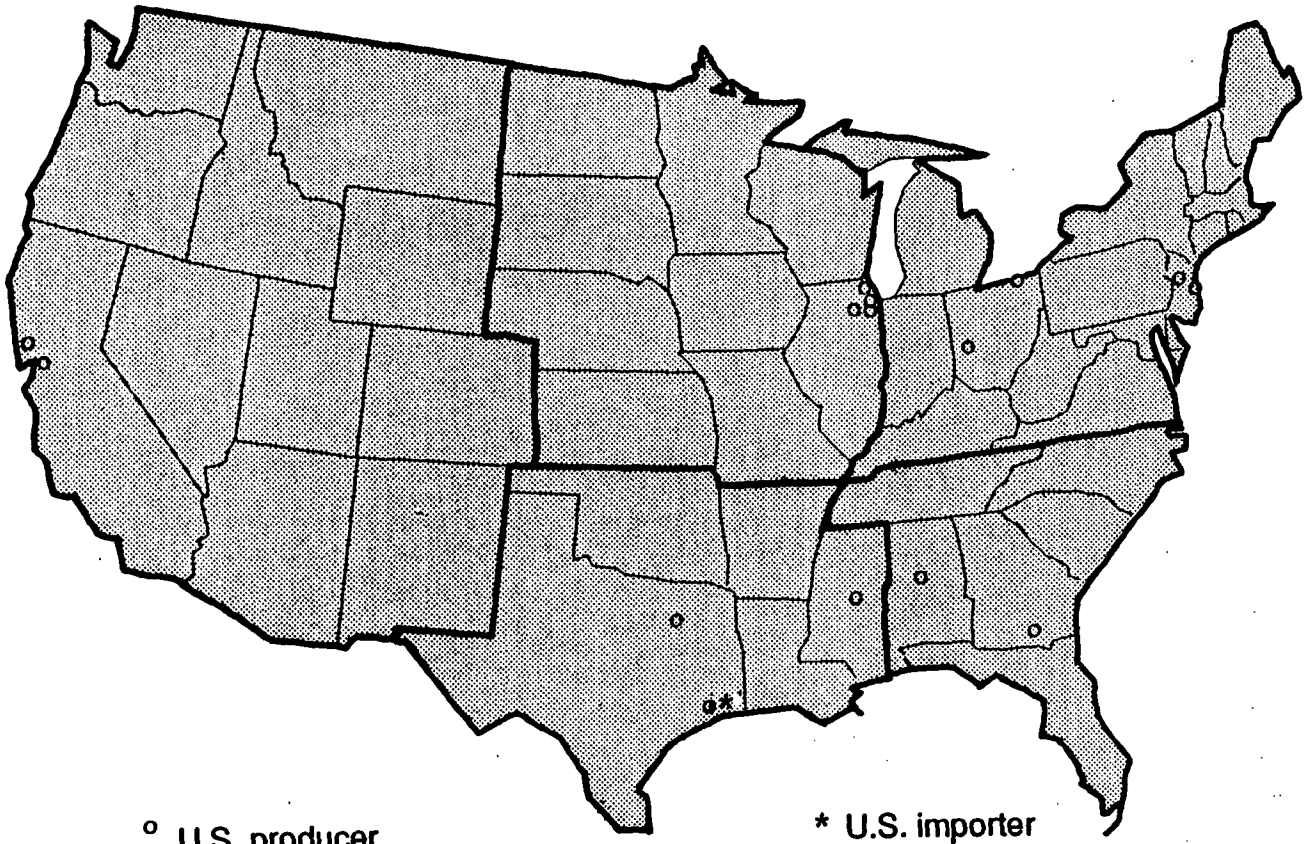
Firm	Location(s)
U.S. producers:	
Bennett Industries	Peotone, IL[1]
Brockway Standard, Inc.	Birmingham, AL[2]
	Homerville, GA[3]
	Dallas, TX
Central Can Co.	Chicago, IL
Chicago Pail	Chicago, IL[4]
Cleveland Steel Container Corp.	Cleveland, OH
Fein Container Corp.	Saddlebrook, NJ
B.W. Norton Mfg. Co., Inc.[5]	Oakland, CA
Pacific Rim Packaging Corp.	Richmond, CA
Prospect Industries Corp.	North Brunswick, NJ
Southline Metal Products Co.	Houston, TX
Van Leer Containers, Inc.	Chicago, IL
	Canton, MS
	Jersey City, NJ[6]
	Greenville, OH
U.S. importer:	
Yorktown Associates, Inc.	Houston, TX

[1] Plastic pail production also at this location.
[2] Plant closed in November 1989.
[3] Produced plastic pails at this location until June 1987.
[4] Plant closed * * *.
[5] Company also produces plastic pails in Hayward, CA and Vernon, CA.
[6] Plant closed in 1987.

Information regarding steel pails with respect to the statutory criteria for regional analysis are shown in table 1 and figures 2, 3, and 4.

Figure 1

Steel pails: Plant locations of U.S. producers and warehouse location of U.S. importer, 1989



Note.--Not drawn to scale. Locations are approximate.

Source: Steel Shipping Container Institute.

Table 1
Steel pails: U.S. producers' domestic shipments, shipments of imports, and apparent U.S. consumption, by regions, 1986-89[1]

(In percent)

Item	1986	1987	1988	1989
*	*	*	*	*	*	*

[1] * * * producers, accounting for * * * percent of domestic shipments of steel pails in 1989, provided data on their domestic shipments by regions. Because not all U.S. producers provided data on their domestic shipments by regions, market penetration by imports may be overstated.

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

Figure 2
Steel pails: Distribution of shipments by southern region producers, 1986-89

* * * * * * *

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

Figure 3
Steel pails: Sources of consumption within the southern region, 1986-89

* * * * * * *

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

Figure 4
Steel pails: Destination of imports from Mexico, 1986-89

* * * * * * *

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

Apparent U.S. consumption

Data on apparent U.S. consumption of steel and plastic pails were compiled from information submitted in response to questionnaires of the U.S. International Trade Commission. These data, as presented in table 2, consist of reported domestic shipments of U.S.-produced steel and plastic pails and reported shipments of imports of steel and plastic pails from Mexico and from other sources.[51]

In terms of quantity, apparent U.S. consumption of steel pails dipped slightly in 1987, by * * * percent from its 1986 level, before registering a strong increase in 1988, to a level of * * * million pails, a * * *-percent increase (table 2). Consumption fell by * * * percent in 1989 to * * * pails. In value terms, apparent consumption of steel pails grew from $* * * in 1986 to $* * * in 1989, representing a * * *-percent increase.

Apparent consumption of plastic pails, both in terms of quantity and value, rose steadily during 1986-88. The trend in value, however, was far more marked, with apparent consumption climbing * * * percent between 1986 and 1988, whereas in quantity terms, the total increased * * * percent in the same period. Consumption of plastic pails fell in 1989, by * * * percent based on quantity and by * * * percent when viewed in terms of value.

Combined apparent consumption of steel and plastic pails, in terms of quantity and value, increased through 1988. Value-based consumption figures grew faster than quantity-based figures, topping out at nearly $* * * in 1988, representing an increase of * * * percent over the 1986 figure. Consumption of steel and plastic pails fell in 1989, by * * * percent based on quantity and by * * * percent when viewed in terms of value.

Parties generally characterize the long-term trend in apparent consumption of steel pails as fairly flat.[52] In the 1970s there was a significant shift among users of pails from steel to plastic because of, among other factors, the increasing environmental awareness among consumers of solvent-based chemical products. Witnesses for both the petitioners and the

---

[51] The Commission received no information on imports of plastic pails from countries other than Mexico.

[52] Transcript of conference, p. 81.

Table 2
Certain pails: U.S. producers' domestic shipments, shipments of imports, and apparent U.S. consumption, by products, 1986-89

Item	1986	1987	1988	1989
	Quantity (1,000 units)			
Steel pails:				
U.S.-produced domestic shipments	76,574	75,138	80,944	78,927
Shipments of imports	***	***	***	***
Apparent U.S. consumption	***	***	***	***
Plastic pails:				
U.S.-produced domestic shipments	57,537	60,710	93,372	87,877
Shipments of imports	***	***	***	***
Apparent U.S. consumption	***	***	***	***
Steel and plastic pails:				
U.S.-produced domestic shipments	134,111	135,848	174,316	166,804
Shipments of imports	***	***	***	***
Apparent U.S. consumption	***	***	***	***
	Value (1,000 dollars)			
Steel pails:				
U.S.-produced domestic shipments	169,527	173,953	195,510	197,270
Shipments of imports	***	***	***	***
Apparent U.S. consumption	***	***	***	***
Plastic pails:				
U.S.-produced domestic shipments	139,499	156,394	258,271	251,589
Shipments of imports	***	***	***	***
Apparent U.S. consumption	***	***	***	***
Steel and plastic pails:				
U.S.-produced domestic shipments	309,026	330,347	453,781	448,859
Shipments of imports	***	***	***	***
Apparent U.S. consumption	***	***	***	***

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

respondent characterized plastic pails as the current preferred choice of the majority of their customers that could use either steel or plastic pails.[53]

[53] Ibid., pp. 50 and 117.

Public data on apparent U.S. consumption of plastic pails describe a market that is two to three times the size of that for steel pails.[54] Opinions differ, however, concerning the dynamism of the market. Respondent's chief witness, a former large purchaser of plastic pails, stated at the conference that the move from steel to plastic pails is continuing.[55] On the other hand, an official of a plastic-pail-producing firm commented that the current plastic pail market is small and rather static.[56]

The petition calculated apparent consumption of steel pails on the basis of U.S. Department of Commerce, Bureau of Census Industry Survey estimates of yearly shipments of 11-1/4-inch-diameter steel pails, 29 gauge and heavier, and on official statistics of imports from all sources. According to these figures, data collected through responses to Commission questionnaires constitute virtually 100 percent, by quantity, of 1988 apparent U.S. consumption of steel pails.[57]

U.S. producers

There are over 100 producers of various types of metal and plastic shipping containers in the United States. Of this number, however, the 12 petitioning firms named are believed to constitute virtually the entire group of firms producing steel pails as defined by the petition.[58] Steel pail producers are generally small- to medium-size companies; no one company exceeds $50 million in net sales annually. Producers are generally well dispersed throughout the country, except in the plains and Rocky Mountain States (fig. 1). As stated above, except for a few firms with multiple plants, most firms are only able to operate in limited geographical areas, depending on the location of their plant.

Of the over 50 questionnaires sent to likely producers of steel and/or plastic pails, the Commission received usable data from 16 companies.[59] Of

---

[54] Respondent's postconference brief, exhibit 11.

[55] Transcript of conference, p. 120.

[56] Conversation with * * *, June 12, 1989.

[57] By contrast, questionnaire data on plastic pails are believed to constitute roughly 34 percent, by quantity, of estimated 1989 apparent U.S. consumption of plastic pails. Estimates of plastic pail consumption are based on respondent's prehearing brief, exhibit 3.

[58] Ten of these firms belong to the Pail Producers' Committee of the Steel Shipping Container Institute; two do not.

[59] Ten companies, including one firm listed as a petitioner, returned a questionnaire indicating that they did not produce steel or plastic pails conforming to the definitions in the Commission's questionnaire during any part of the period of investigation (calendar years 1986-89). Most of the firms that did not respond to the Commission's producers' questionnaire are believed to be possible producers of plastic pails. Staff made concerted

(continued...)

the 16 companies, 5 reported exclusively producing plastic pails and 11 reported production of steel pails; 3 of these also reported production of plastic pails.[60] * * * of the 11 producers of steel pails reporting usable data supported the petition. * * *.[61]

Steel pails.--Brockway Standard, Inc. ("Brockway"), is the largest domestic producer of steel pails, accounting for * * * percent, by value, of reported 1989 domestic shipments. Brockway, headquartered in Atlanta, GA, has steel pail producing facilities in Homerville, GA, and Dallas, TX, and produces plastic pails in Morrow, GA. In November 1989, Brockway permanently closed its steel pail plant in Birmingham, AL. Although some of the equipment was moved to other pail producing facilities for use, the closure reduced its annual capacity to produce steel pails by * * * units, or roughly * * * percent of its total capacity in 1988. In addition, * * * production and related workers were laid off at the Birmingham plant. Brockway reported that the closure occurred because it * * *.

In addition to steel pails, which account for about * * * of its overall operations, Brockway also manufactures plastic pails, steel drums, paint and coffee cans, and decorative tins and is the world's leading manufacturer of 30- and 50-caliber ammunition boxes.[62] Brockway employs about 900 workers in production, sales, and administrative capacities.[63] In April 1988, Brockway's parent company was purchased by Owens-Illinois in a leveraged buyout.[64] In January 1989, * * *.[65]

Van Leer Containers, Inc. ("Van Leer"), a * * *, is the * * * producer of steel pails in the United States, accounting for a * * *-percent share, by value, of reported 1989 domestic shipments. Van Leer currently has plants in Chicago, IL (where it is based); Greenville, OH; and Canton, MS. A plant in Jersey City, NJ, closed in November 1987, allegedly due to lack of business, and the machinery and other equipment was redistributed among Van Leer's other

---

[59](...continued)
efforts to obtain responses from these companies. Staff estimated certain trade and related information of one U.S. producer of plastic pails on the basis of information it submitted during the Commission's preliminary investigation. This firm accounted for * * * percent of reported 1989 domestic shipments of plastic pails.

[60] Brockway Standard, Inc., until 1987 produced plastic and steel pails in its Homerville, GA, plant. Since then, the plastic pail operation has been moved to a different facility in Morrow, GA.

[61] Of the five reporting U.S. producers exclusively producing plastic pails, two did not wish to take a position on the petition, one supported the petition, and two did not respond to the question.

[62] Transcript of hearing, pp. 24-25.

[63] Ibid., p. 25.

[64] Transcript of conference, pp. 40 and 64. In a telephone interview on Apr. 4, 1990, * * *.

[65] Ibid.

production facilities.[66] Unlike Brockway, Van Leer does not produce plastic pails but produces other steel containers, such as drums. Steel pails make up roughly * * * percent of Van Leer's total sales.

Other significant domestic producers of steel pails include Pacific Rim Packaging Corp. ("Pacific Rim"), Richmond, CA;[67] Fein Container Corp., Saddle Brook, NJ; Prospect Industries Corp., North Brunswick, NJ; and Southline Metal Products Co. ("Southline"), Houston, TX. Pacific Rim is wholly owned by * * *.[68] Southline, the closest U.S. company to Mexico, is a somewhat smaller company, employing * * * workers in production of steel pails and drums.[69]

One firm, a petitioning company, left the steel pail market during the period of investigation. Chicago Pail Manufacturing Co., Chicago, IL, * * *.[70] In late 1989 Central Can Co., also of Chicago, IL, was sold. Although it continues to produce steel pails, it has withdrawn as a petitioner.[71]

There have not been any notable advances in production technology in the steel pail business during the period of investigation. Indeed, Brockway officials commented to staff during field visits that the basic technology for producing steel pails has not changed since the early 1960s. Nor did any U.S. producers indicate plans either to install new equipment or to expand their manufacturing facilities. The majority of the equipment used in steel pail manufacturing is produced by Carando Industries, a California manufacturer.

Plastic pails.--As stated above, several U.S. producers of steel pails also produce the plastic variety, namely Brockway;[72] Bennett Industries,

---

[66] Transcript of conference, p. 62. Although much of the machinery and equipment from Van Leer's New Jersey plant was redistributed among its other production facilities, it reported that its annual capacity to produce steel pails fell by * * * units, or approximately * * * percent of its total 1988 capacity to produce steel pails. Respondent alleges that Van Leer's New Jersey plant was closed not because of a loss of business but because of pollution problems. Respondent's posthearing brief, p. 8, and exhibit 1. * * *. (Telephone interview, Mar. 28, 1990.)

[67] Pacific Rim announced its intention to discontinue its steel pail operations by Mar. 31, 1990. Petitioners' posthearing brief, p. 12 and app. B. * * *. (Telephone interview, Apr. 6, 1990.)

[68] * * *.

[69] Mr. Wackman, vice president of Southline, testified at the hearing that prior to the full-scale entry of Mexico into the market, Southline entered into negotiations with the Mexican exporter to set up a joint venture that would produce and distribute steel pails for the U.S. market. These negotiations were broken off for unspecified reasons. Transcript of hearing, p. 22.

[70] Telephone interview, Mar. 29, 1990.

[71] Mark Del Bianco, counsel to petitioners, letter to Kenneth R. Mason, Secretary, U.S. International Trade Commission, June 23, 1989. * * *.

[72] * * *.

Peotone, IL; and B.W. Norton Manufacturing Co., Hayward, CA. Of these, Bennett Industries is by far the largest, accounting for * * * percent, by value, of total reported 1989 domestic shipments of plastic pails.[73] With the exception of Brockway, firms that produce both products concentrate on plastic pails as their main line. There are, however, other companies that are significantly larger producers of plastic pails. For example, Miller Manufacturing, Inc. ("Miller") of South St. Paul, MN, accounted for over * * * percent of reported domestic shipments of plastic pails in 1989.

U.S. importers

In order to collect data on U.S. imports from all sources of steel and plastic pails, the Commission sent questionnaires to 15 companies importing under TSUSA items 640.3020 (steel pails) and 772.2500 (plastic pails). However, one company accounted for all known imports of such pails from Mexico: Envases de Plastico, S.A./Yorktown Associates, Inc. ("Yorktown"), Houston, TX.[74] [75] Yorktown's reported imports account for over * * * percent, by value, of official U.S. import statistics for steel pails from Mexico and roughly * * * percent, by value, of such statistics for plastic pails from Mexico.[76]

Yorktown is, and has been since 1985, the exclusive agent for U.S. imports from the sole Mexican exporter of steel pails, Envases, of Mexico City. Although Envases began production of plastic pails before commencing production of the steel variety, Yorktown was initially retained to handle, and has continued to concentrate on, the U.S. marketing of steel pails. Yorktown currently handles nearly * * * times as many steel as plastic pails. Yorktown's responsibilities, for which it receives a commission, are primarily to obtain customers and ensure prompt and reliable service. Over * * * percent of Yorktown's sales were made to end users in 1989. It also sells significant quantities of pails to three distributors located in the South and Midwest. During the period of investigation, Yorktown maintained warehouse facilities in Houston and Laredo, TX, and employed * * * full-time workers.[77]

---

[73] Such shipments, however, make up roughly 34 percent of total 1989 domestic shipments of plastic pails, as estimated in exhibit 3 of respondent's prehearing brief.

[74] Envases acts as its own importer on shipments handled by Yorktown. See transcript of hearing, p. 131.

[75] The petition identified, in addition to Yorktown, three other alleged importers of steel pails from Mexico. The Commission also received importers' questionnaire responses from two other companies: * * *. Subsequently it was learned, however, that these companies, including those listed in the petition, did not import for their own account during the period of investigation. * * *.

[76] This latter figure is understated because TSUSA item 772.2500 also includes rubber pails.

[77] Yorktown's warehouse facility in Laredo was closed in 1986.

Channels of distribution

Steel and plastic pails are sold both to distributors and directly to end users, who use the pails to package their products. Distributors and producers market both standard pails and products with custom designs or decorations. Many end users report a growing need for "just-in-time" delivery service from their suppliers, whereas most domestic pail manufacturers endeavor to produce on a per-order basis, maintaining a minimal level of inventory.[78]

U.S. producers and importers were requested to report the percentage of steel and plastic pails that were shipped to distributors and directly to end users. In 1989, between 70 and 100 percent of the pails sold by domestic producers went directly to end users.[79] Yorktown's questionnaire response indicated the use of similar channels of distribution; specifically, over * * * percent of its shipments were direct to end users.

Consideration of Alleged Injury to an Industry in the United States

The information in this section of the report is based on data received from responses to Commission questionnaires. With regard to domestic shipments of steel pails, the Commission received timely responses from 11 producers of this product, accounting for virtually all of 1988 shipments.[80]

U.S. production, capacity, and capacity utilization

Nine U.S. producers, accounting for * * * percent of 1989 shipments of steel pails, provided data on their production and capacity. U.S. capacity to produce steel pails first increased from 128 million pails in 1986 to 132 million pails in 1987, but then dropped off to approximately 125 million pails in 1988 and 122 million pails in 1989 (table 3).[81] Capacity to produce

---

[78] Yorktown's warehouse capacity was widely cited by pail purchasers as giving it a crucial advantage over regional domestic producers in pail distribution.

[79] U.S. producers may employ exclusive distributorships for their products. These distributors may handle only one company's product or may be the only distributor for a producer in a particular geographic area of the United States. Transcript of hearing, pp. 49-51, and Petitioners' posthearing brief, app. A and pp. 1-3.

[80] Based on Census Industry Survey; Petition, exhibit A.

[81] Much of the decline in 1988 can be accounted for by Van Leer's closing of its Jersey City, NJ, plant in November 1987. As a result of this closure, Van Leer's annual capacity to produce steel pails fell by * * * units, or approximately * * * percent of its total 1986 capacity to produce steel pails. As mentioned above, in November 1989 Brockway permanently closed its steel

(continued...)

Table 3
Certain pails: U.S. capacity, production, and capacity utilization, by products, 1986-89

Item	1986	1987	1988	1989
	Average-of-period capacity (1,000 units)			
Steel pails	128,200	132,000	125,500	121,800
Plastic pails	48,180	48,180	48,780	49,200
Total	176,380	180,180	174,280	171,000
	Production (1,000 units)			
Steel pails	69,520	68,437	73,832	73,125
Plastic pails	31,455	33,507	36,651	35,125
Total	100,975	101,944	110,483	108,250
	Capacity utilization (percent)[1]			
Steel pails	54	52	59	60
Plastic pails	64	68	74	70
Average	57	56	63	63

[1] Computed from firms providing data on both production and capacity.

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

plastic pails increased slightly during the period of investigation, remaining constant in 1987 but edging up in 1988 and 1989. The total capacity for the combined products was influenced by the movements in steel pail capacity, with capacity figures lower in 1989 than they had been in 1986.

The trend in steel pail production demonstrated an inverse relationship to that of capacity, first falling in 1987, then rising strongly, by 8 percent, in 1988. Production then fell by 1 percent in 1989. Plastic pail production grew steadily, by 17 percent from 1986 to 1988, before falling by 4

[81](...continued)
pail plant in Birmingham, AL, reducing its annual capacity to produce steel pails by * * * units, or roughly * * * percent of its total capacity in 1988. Brockway and Van Leer were the only two U.S. producers reporting a reduction in their capacity to produce steel pails. * * * was the only U.S. producer reporting increased capacity to produce steel pails. Its annual capacity to produce steel pails steadily increased from * * * pails in 1986 to * * * pails in 1989.

percent in 1989. Overall production of steel and plastic pails increased during 1986-88, and despite a 2-percent decline in 1989, rose over 7 percent during the investigative period.

After a decline of over 2 percentage points from 1986 to 1987, capacity utilization figures for steel pails increased significantly in 1988.[82] In 1989, steel pail capacity utilization rates increased slightly, to 60 percent. Capacity utilization of facilities producing plastic pails demonstrated a strong increase in the 1986-88 period, rising 10 percentage points. In 1989, however, capacity utilization fell 4 percentage points. The combined trend for steel and plastic pails was similar to that for steel pails alone.

Capacity was reported on bases ranging anywhere from 40 hours to 168 hours per week (i.e., continuous operation) and from 50 to 52 weeks a year. This wide range of operation is explained by the fact that plastic pail facilities tended to operate virtually continuously, whereas steel pail plants often operated as few as 40 hours per week. Generally, steel pail producers operated only one 8- or 10-hour shift, although it is unclear whether there is any technical barrier to multiple-shift operation. Indeed, steel pail producers interviewed contended that additional shifts could be handled if business conditions warranted that step.[83]

There appear to be no constraints on production other than physical capacity. In particular, none of the steel pail producers contacted indicated any problems with attracting and keeping workers. Moreover, plant and equipment availability is ample, particularly in light of recent plant closings; one producer's used equipment can easily be retooled to fit another producer's line. With regard to availability of raw materials, the temporary tightness in the world steel market that occurred in late 1988 and early 1989 is now easing, according to domestic industry officials.[84] As for polyethylene resin, the main component of plastic pails, 1988 resin price increases, partially triggered by an explosion at a major ethylene plant, reversed themselves by mid-1989, and substantial increases in resin capacity were expected to occur during the latter half of 1989 and 1990.[85] According to the petitioners, resin price increases in 1988 were sharp enough to cause some plastic pail users to convert to using steel pails; this accounts, at

---

[82] Again, any increase in capacity utilization in 1988 in facilities producing steel pails may have been affected by the closing of Van Leer's plant.

[83] * * *, interview by USITC staff, June 12, 1989.

[84] Transcript of conference, p. 34. Respondent alleged that one of the petitioners, Southline, was unable to service its customers in 1988 due to a shortage of steel; Southline officials explained that the temporary interruption was due to a fire at one of * * *'s plants; * * * was Southline's major supplier at that time.

[85] Transcript of hearing, p. 64. See also, "PE Makers Look to a Rosier 1990," Chemical Marketing Reporter, Jan. 22, 1990.

least in part, for the increase in 1988 in capacity utilization of facilities producing steel pails, as shown in table 3.[86]

Capacity utilization figures for steel pails may be somewhat understated because some producers tend to run their plants only to fill special orders and are left with idle capacity the remainder of the time. An event that may have had a limited effect on overall production was an autumn 1986 wildcat strike at the production operations of Fein Container. Other than this, however, and the above mentioned closing of Van Leer's New Jersey plant in 1987 and Brockway's Birmingham, AL, plant in 1989, there were no unusual occurrences affecting capacity or production during the period of investigation.

U.S. producers' domestic and export shipments

Because U.S. producers generally do not keep large inventories, company shipments closely parallel production levels. Moreover, with regard to steel and plastic pails, all shipments reported were arm's-length domestic shipments; i.e., no company transfers were reported. Two producers of plastic pails, * * * and * * *, reported small quantities of export shipments, specifically to * * *.

According to data collected during the preliminary investigation, producers of steel pails normally ship more than 75 percent of their production as openhead, rather than tighthead, pails. Only * * * reported more than one-third of its shipments as tighthead pails and one company, * * *, shipped exclusively openhead pails.

Steel pails.--Eleven producers reported data on domestic shipments of steel pails during the period of investigation. Total domestic shipments of steel pails by U.S. producers decreased slightly from 77 million pails in 1986 to 75 million pails in 1987, before rebounding to 81 million pails in 1988 (table 4). In 1989, shipments fell to 79 million pails, or by 2 percent. The total value of U.S. producers' domestic shipments of steel pails increased from 1986 to 1989, most notably in 1988, when shipment values increased by 12 percent over their 1987 level.[87] Unit values rose throughout the 1986-89 period.

---

[86] Transcript of conference, pp. 9 and 22. Also see Petitioners' posthearing brief, app. A, pp. 10-11 and exhibit 5.

[87] As noted above, petitioners allege that in 1988 resin price increases were sharp enough to cause some plastic pail users to convert to using steel pails and that this accounts for the increase in shipments of steel pails in 1988. Petitioners submitted information from four U.S. producers accounting for * * * percent of domestic shipments in 1989 on their monthly sales to latex paint and joint-compound producers for 1987-89. Sales to these industries were * * * units in January 1988, * * * units in September 1988, and * * * units in October 1989. Petitioners' posthearing brief, app. A, pp. 10-13 and exhibit 5.

Table 4
Certain pails: Domestic and export shipments of U.S. producers, by types and by products, 1986-89

Item	1986	1987	1988	1989
	Quantity (1,000 units)			
Steel pails:				
Domestic shipments	76,574	75,138	80,944	78,927
Export shipments	0	0	0	0
Total	76,574	75,138	80,944	78,927
Plastic pails:				
Domestic shipments	57,537	60,710	93,372	87,877
Export shipments	***	***	***	***
Total	***	***	***	***
Steel and plastic pails:				
Domestic shipments	134,111	135,848	174,316	166,804
Export shipments	***	***	***	***
Total	***	***	***	***
	Value (1,000 dollars)			
Steel pails:				
Domestic shipments	169,527	173,953	195,510	197,270
Export shipments	0	0	0	0
Total	169,527	173,953	195,510	197,270
Plastic pails:				
Domestic shipments	139,499	156,394	258,271	251,589
Export shipments	***	***	***	***
Total	***	***	***	***
Steel and plastic pails:				
Domestic shipments	309,026	330,347	453,781	448,859
Export shipments	***	***	***	***
Total	***	***	***	***
	Unit value (per unit)			
Steel pails:				
Domestic shipments	$2.21	$2.32	$2.42	$2.50
Export shipments	(1)	(1)	(1)	(1)
Average	2.21	2.32	2.42	2.50
Plastic pails:				
Domestic shipments	2.42	2.58	2.77	2.86
Export shipments	***	***	***	***
Average	***	***	***	***
Steel and plastic pails:				
Domestic shipments	2.30	2.43	2.60	2.69
Export shipments	***	***	***	***
Average	***	***	***	***

[1] Not applicable.

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

Plastic pails.--Eight producers reported domestic shipments of plastic pails, and two of those producers reported export shipments of such pails. From 1986 to 1988, both the quantity and value of domestic shipments of plastic pails showed considerable increases, with value-based figures climbing 65 percent from 1987 to 1988. The quantity and value of shipments of plastic pails fell in 1989 by 6 and 3 percent, respectively.

As for export shipments, the producers who reported such shipments of plastic pails saw the value of their shipments * * * between 1986 and 1989.

Steel and plastic pails.--When viewed as a whole, the quantity and value of domestic shipments of steel and plastic pails both rose from 1986 to 1988, and then fell slightly in 1989. The rise in shipments, by quantity, of plastic pails between 1986 and 1987 outweighed the slight fall in the number of steel pails shipped during that period. Unit values increased from $2.30 in 1986 to $2.69 in 1989.

U.S. producers' inventories

Inventory data were provided by 12 of the 16 firms reporting production of steel or plastic pails during the period of investigation (table 5). U.S. producers' end-of-period inventories of steel pails fell from 251,000 pails in 1986 to 227,000 pails in 1987 before increasing to 244,000 pails in 1989. Movements in end-of-period inventory totals were contrary with regard to plastic pails, first rising by 14 percent from 1986 to 1988, then falling in 1989, by 6 percent.

Table 5
Certain pails: U.S. producers' inventories, by products, as of Dec. 31 of 1986-89

Item	1986	1987	1988	1989
	End-of-period inventories (1,000 units)			
Steel pails	251	227	238	244
Plastic pails	***	***	***	***
Total	***	***	***	***
	Share of domestic shipments (percent)[1]			
Steel pails	0.93	0.82	0.83	0.81
Plastic pails	***	***	***	***
Weighted-average	***	***	***	***

[1] Ratios are based on data supplied by firms that reported both inventory and shipment information.

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

As a share of domestic shipments, end-of-period inventories of steel and plastic pails--either when viewed separately or together--were very small during the investigation period. Because of the small sizes of the ratios, any trends in them have little meaning.

According to industry officials, ratios of inventories to shipments tend to be small because most pails, whether of steel or plastic, are made to order.[88] For these orders, a turnaround time of 1 week is the norm, but many customers permit longer leadtimes. These norms hold true even for relatively small orders.[89] Nevertheless, for standard, undecorated, or minimally decorated pails, domestic industry officials testified that maintenance of inventory makes it possible to respond to orders in a matter of hours.[90]

U.S. employment, wages, and productivity

Steel pails.--Nine producers, accounting for over 90 percent of 1989 reported domestic shipments, reported data on the number of production and related workers engaged in steel pail production, the total hours worked by such workers, and the wages and total compensation paid to such workers during the period of investigation. The number of workers employed in the production of steel pails remained virtually unchanged from 1986 to 1987, at near 1,114 workers (table 6). In 1988 and 1989 employment fell, reaching 1,030 workers. The number of hours worked by these employees increased slightly in 1987 before declining by 2 percent in 1988 and by another 4 percent in 1989. Wages and total compensation paid to these workers fell from 1986 to 1988, by 3 percent overall in the case of wages. In 1989, wages and total compensation remained virtually unchanged. After registering a 4-percent decline in 1987, hourly wages increased in 1988 and rose again in 1989 to a level roughly 2 percent higher than that in 1986.

Labor productivity, as measured by pails produced per hour, fell by 2 percent in 1987, to 28.5 pails per hour. Productivity then rebounded to 31.5 pails per hour in 1988 and 32.4 pails per hour in 1989. U.S. producers' unit-labor costs exhibited a declining trend throughout the period.

Plastic pails.--Five firms, accounting for roughly * * * percent of 1989 reported domestic shipments of plastic pails, provided data on employment in facilities producing that product. According to these data, both the number of workers employed in plastic pail production and the hours worked by those workers declined during the 1986-89 period, with a particularly sharp decline in hours worked from 1987 to 1988 (13 percent). Wages and total compensation paid to workers producing plastic pails, which first rose from 1986 to 1987, fell in 1988 to levels below those of 1986 and then increased slightly in 1989.

---

[88] Transcript of conference, p. 82.

[89] Ibid., p. 88. * * * noted that its average turnaround time was less than 1 week. * * *, field visit, June 13, 1989.

[90] Transcript of conference, pp. 32 and 58.

Table 6
Average number of production and related workers producing certain pails, hours worked,[1] wages and total compensation[2] paid to such employees, hourly wages, labor productivity, and unit-labor production costs, 1986-89[3]

Item	1986	1987	1988	1989
	Number of production and related workers (PRWs)			
Steel pails	1,115	1,114	1,069	1,030
Plastic pails	396	381	346	337
Total	1,511	1,495	1,415	1,367
	Hours worked by PRWs (thousands)			
Steel pails	2,390	2,401	2,346	2,257
Plastic pails	873	869	760	728
Total	3,263	3,270	3,106	2,985
	Wages paid to PRWs ($1,000)			
Steel pails	23,029	22,284	22,224	22,255
Plastic pails	6,629	6,816	6,409	6,451
Total	29,658	29,100	28,633	28,706
	Total compensation paid to PRWs ($1,000)			
Steel pails	29,877	29,144	28,654	28,633
Plastic pails	8,248	8,477	8,231	8,307
Total	38,125	37,621	36,885	36,940
	Hourly wages paid to PRWs[4]			
Steel pails	$9.64	$9.28	$9.47	$9.86
Plastic pails	7.59	7.84	8.43	8.86
Average	9.09	8.90	9.22	9.62
	Productivity (units per hour)[5]			
Steel pails	29.1	28.5	31.5	32.4
Plastic pails	35.4	37.9	47.4	47.5
Average	30.8	31.0	35.4	36.1

See footnotes at end of table.

Table 6--Continued
Average number of production and related workers producing certain pails, hours worked,[1] wages and total compensation[2] paid to such employees, hourly wages, labor productivity, and unit-labor production costs, 1986-89[3]

Item	1986	1987	1988	1989
	Unit-labor costs (per unit)[6]			
Steel pails	$0.43	$0.43	$0.39	$0.39
Plastic pails	.27	.26	.23	.24
Average	.38	.37	.34	.34

[1] Includes hours worked plus hours of paid leave time.
[2] Includes wages and contributions to Social Security and other employee benefits.
[3] Firms providing employment data accounted for more than 90 percent of the reported quantity of domestic shipments in 1989.
[4] Calculated using data from firms that provided information on both wages paid and hours worked.
[5] Calculated using data from firms that provided information on hours worked and production.
[6] On the basis of total compensation paid. Calculated using data from firms that provided information on total compensation paid and production.

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

The productivity of workers producing plastic pails increased between 1986 and 1989, climbing 34 percent over the 4-year period. Unit-labor costs declined between 1986 and 1988 before increasing by 5 percent in 1989.

As shown in the table, employment levels for producers of steel pails tended to fall throughout the period of investigation. At the conference, Brockway officials noted that its overall employment levels contracted by nearly 400 workers from 1986 to early 1989, a decline of nearly 30 percent.[91] Accordingly, in Brockway's experience, and for steel and plastic pail-producing firms as a whole, productivity showed a sharp rise toward the end of the period, because the same production levels were being maintained with fewer workers.

[91] Transcript of conference, pp. 33 and 63. Brockway estimated that 15 percent of the overall reduction occurred in steel pail production. The workforce reductions were undertaken, according to Brockway, in order to decrease overhead expenses.

Several of the firms reporting employment data to the Commission have workforces that are represented by unions. Those firms, and the unions involved, are listed in the following tabulation:

Company	Union
Bennett Industries	International Chemical Workers, International Leather Goods, Plastics, and Novelty Workers Union, AFL-CIO and its Southern Joint Board
Cleveland Steel Container Products	International Brotherhood of Teamsters
	United Steel Workers
Fein Container	International Brotherhood of Teamsters
B. W. Norton	United Steel Workers
Pacific Rim	International Association of Machinists
Prospect Industries	AFL-CIO, Local 409
Van Leer	United Steel Workers, and, International Chemical Workers

In its questionnaire, the Commission requested U.S. producers to provide detailed information concerning reductions in the number of production and related workers producing steel and/or plastic pails if such reductions involved at least 5 percent of the workforce, or 50 workers. * * * reported such layoffs. * * * reported two separate incidents of layoffs, one concerning plastic pail production and another concerning steel pail production. * * *'s layoff concerning a facility producing plastic pails was attributed to * * *. Its layoff involving workers at a steel pail facility was attributed to * * *. * * *'s reduction in force was connected to the * * *. The reported layoffs are shown in the following tabulation:[92]

Firm	Product	Date	Number of Workers	Duration	Reason
*	*	*	*	*	*

[92] * * *.

Financial experience of U.S. producers[93]

Nine producers, five producing only steel pails, three producing both steel and plastic pails, and one producing only plastic pails, provided usable income-and-loss data on the overall operations of their establishments within which pails are produced and separate income-and-loss data on their steel and/or plastic pail operations. These companies accounted for * * * percent of reported domestic shipments of steel pails and * * * percent of reported domestic shipments of plastic pails in 1989.

Data of the two largest producers, accounting for approximately * * * of the aggregate 1989 steel pail net sales, were verified. As the result of the verifications and revisions by other companies subsequent to the prehearing report, the data have been revised in the final report. These revisions were largely necessitated by three factors: (1) products other than steel pails under investigation were included in steel pail results, (2) deductions to gross sales for steel pail net sales were inconsistently applied from period-to-period, and (3) three of the four producers that previously had January-September data annualized for 1989 have since submitted full-year data. Additionally, 1986 results have been included in the final report.

Overall establishment operations.--On the basis of sales value in 1989, steel pail operations accounted for 32.5 percent, and plastic pail operations for 16.6 percent, of overall establishment operations for the nine producers providing both overall establishment and product data. Products produced in the establishments in addition to steel and plastic pails not under investigation are primarily steel drums for the steel pail producers and plastic containers for the producers of the plastic pails.

Sales of the establishment operations showed continuing improvement throughout the period of investigation, from $390.1 million in 1986 to $480.6 million in 1989, or an increase of 23.2 percent in the 1986-89 period (table 7). Operating income also showed substantial improvement during 1986-89, increasing from $6.3 million to $29.1 million. Although increasing significantly from 1986 to 1989, operating income as a percent of net sales remained at a moderate level, with rates of 1.6 percent, 2.7 percent, 5.6 percent, and 6.1 percent for 1986, 1987, 1988, and 1989, respectively.

Steel pail operations.--Sales, after remaining nearly at the 1986 level in 1987, improved by 11.6 percent to $149.0 million in 1988, and then by 4.9 percent to $156.2 million in 1989, for a net increase of 16.4 percent from $134.3 million in 1986 (table 8). The improvement in 1988 and 1989 allowed the producers to move in the aggregate from minimal operating income in 1986

---

[93] One producer, accounting for * * * percent of net sales of steel pails in 1988, was unable to provide annual 1989 income-and-loss data; therefore, January-September 1989 data submitted by this producer were annualized to derive aggregate 1989 results in order that financial data for the four most recently completed annual periods could be presented for all eight producers of steel pails.

Table 7
Income-and-loss experience of U.S. producers[1] on the overall operations of their establishments within which steel and plastic pails are produced, accounting years 1986-89

Item	1986	1987	1988	1989[2]
	Value (1,000 dollars)			
Net sales	390,088	395,698	459,141	480,586
Cost of goods sold	345,435	348,169	396,501	413,119
Gross profit	44,653	47,529	62,640	67,466
General, selling, and administrative expenses	38,387	36,678	36,947	38,335
Operating income	6,266	10,851	25,693	29,131
Shutdown expenses	***	***	***	***
Interest expense	3,939	3,982	3,385	6,684
Other income or (loss), net	***	***	***	***
Net income before income taxes	175	4,979	22,277	22,267
Depreciation and amortization included above	9,637	10,166	10,747	8,255
Cash-flow[3]	9,812	15,145	33,024	30,522
	Share of net sales (percent)			
Cost of goods sold	88.6	88.0	86.4	86.0
Gross profit	11.4	12.0	13.6	14.0
General, selling, and administrative expenses	9.8	9.3	8.0	8.0
Operating income	1.6	2.7	5.6	6.1
Net income before income taxes	(4)	1.3	4.9	4.6
	Number of firms reporting			
Operating losses	3	1	0	0
Net losses	3	1	0	1
Data	9	9	9	9

[1] * * *.
[2] January-September 1989 data are annualized for * * *.
[3] Cash-flow is defined as net income or loss plus depreciation and amortization.
[4] Less than 0.05 percent.

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

Table 8
Income-and-loss experience of U.S. producers[1] on their steel pail operations, accounting years 1986-89

Item	1986	1987	1988	1989[2]
	Value (1,000 dollars)			
Net sales	134,252	133,507	148,954	156,244
Cost of goods sold	120,985	120,322	128,877	137,229
Gross profit	13,267	13,185	20,077	19,014
General, selling, and administrative expenses	13,041	12,916	11,981	12,699
Operating income	226	269	8,096	6,315
Shutdown expenses	***	***	***	***
Interest expense	1,925	1,972	1,832	2,541
Other income or (loss), net	***	***	***	***
Net income or (loss) before income taxes	(2,283)	(2,548)	6,073	4,147
Depreciation and amortization included above	2,002	2,215	1,884	1,525
Cash-flow[3]	(281)	(333)	7,957	5,672
	Share of net sales (percent)			
Cost of goods sold	90.1	90.1	86.5	87.8
Gross profit	9.9	9.9	13.5	12.2
General, selling, and administrative expenses	9.7	9.7	8.0	8.1
Operating income	0.2	0.2	5.4	4.0
Net income or (loss) before income taxes	(1.7)	(1.9)	4.1	2.7
	Number of firms reporting			
Operating losses	3	4	2	2
Net losses	3	4	2	3
Data	8	8	8	8

[1] * * *.
[2] January-September 1989 data are annualized for * * *.
[3] Cash-flow is defined as net income or loss plus depreciation and amortization.

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

and 1987 to operating profit margins of 5.4 percent in 1988 and 4.0 percent in 1989.

The improvement in sales and the reduction of cost of goods sold as a percentage of sales in 1988 and 1989 compared with levels in 1986 and 1987 allowed the producers to improve from aggregate operating profits of $226,000 and $269,000 in 1986 and 1987, respectively, to profits of $8.1 million and $6.3 million in 1988 and 1989, respectively. Because there was a moderate increase in quantity sold in 1989 compared with 1986, the substantial improvement in operating profits is related primarily to increases in sales prices, or increased sales of higher-priced items, that offset the slight increase in unit costs. On a per-unit basis during 1986-89, sales increased by $0.20/unit and operating costs increased by $0.10/unit, for a net gain of $0.10/unit.

The largest component of costs for both steel and plastic pails is raw materials, which are essentially cold-rolled carbon steel sheet for steel pails and polyethylene resin for plastic pails. The tabulation below shows increasing costs for these items on a per-unit basis and as a percent of cost of goods sold during 1986-89:

Item	1986	1987	1988	1989
Steel pails:[1]				
Cost of steel sheet:				
Per pail.....	$1.25	$1.28	$1.42	$1.52
As a percent of cost of goods sold.....	58.7	59.4	64.6	65.9
Plastic pails:[2]				
Cost of polyethylene resin:				
Per pail.....	$0.71	$0.84	$1.18	$1.23
As a percent of cost of goods sold.....	51.7	55.3	64.2	66.6

[1] Based on data of 6 producers that were able to break out raw materials from other costs.
[2] Based on data of 3 producers that were able to break out raw materials from other costs.

The petitioners have stated that it is generally uneconomical to ship steel pails distances greater than 350 miles.[94] The only known importer of steel pails from Mexico during the period of investigation was located in Houston, TX; therefore, U.S. producers located within a 350-mile radius of that city may be most likely to be adversely affected by imports sold from that location. However, an income-and-loss analysis by geographic region shows mixed results. The Southern region, which consists of Texas as well as

[94] Transcript of conference, p. 59.

Arkansas, Louisiana, Mississippi, and Oklahoma, is actually performing better than the industry as a whole in terms of percentage increases in quantities sold and increases in net sales from 1987 to 1989. Additionally, its operating margins have shown the greatest improvement during 1986-89, although the 1989 margin is less than the margins in all other regions except the West. During the period of investigation, the region with the worst operating margins was the West, and the Southeast had the best. Individual plant sales, operating income or (loss), and operating income or (loss) as a percent of net sales are shown in appendix C. Selected financial data are presented by region in table 9.

Plastic pail operations.--Net sales of plastic pails showed substantial improvement during 1986-89 (table 10). An increase of 51.4 percent was experienced from $52.5 million in 1986 to $79.5 million in 1989. Operating income declined from 1986 to 1987 and then rose steadily during 1987-89. As a share of net sales, operating income decreased from 2.8 percent in 1986 to 0.9 percent in 1987 and then rose steadily to 5.8 percent in 1989. The quantity and value of net sales, operating income, and key financial ratios for both steel and plastic pails are shown in table 11.

The petitioners have stated that there is very little crossover between the steel and plastic pail markets, except for the switch in 1988 from plastic to steel pails because of the increase in the price of resin due to short supply.[95] It appears that for many applications, one type of pail is preferred over the other and switching may require relatively expensive modifications that would negate any price advantage. The increase in quantities sold and net sales for both types of pails during the period of investigation, including 1988, tends to support the statement that there is only minor crossover between the plastic and steel pails.

[95] Transcript of conference, p. 49.

Table 9
Steel pails: Selected financial data by geographic region, accounting years 1986-89

Item	1986	1987	1988	1989
	(1,000 units)			
Quantities sold:				
South[1]	***	***	***	***
Southeast[2]	***	***	***	***
Northeast[3]	***	***	***	***[4]
Midwest[5]	***	***	***	***
West[6]	***	***	***	***
Total	58,612	57,929	61,463	62,737
	(1,000 dollars)			
Net sales:				
South[1]	***	***	***	***
Southeast[2]	***	***	***	***
Northeast[3]	***	***	***	***[4]
Midwest[5]	***	***	***	***
West[6]	***	***	***	***
Total	134,252	133,507	148,954	156,244
	(1,000 dollars)			
Operating income or (loss):				
South[1]	***	***	***	***
Southeast[2]	***	***	***	***
Northeast[3]	***	***	***	***[4]
Midwest[5]	***	***	***	***
West[6]	***	***	***	***
Total	226	269	8,096	6,315
	(Percent)			
Operating income or (loss) as a share of net sales:				
South[1]	***	***	***	***
Southeast[2]	***	***	***	***
Northeast[3]	***	***	***	***[4]
Midwest[5]	***	***	***	***
West[6]	***	***	***	***
Weighted-average	0.2	0.2	5.4	4.0

[1] Data are for plants in * * *.
[2] Data are for plants in * * *.
[3] Data are for plants in * * *.
[4] * * *.
[5] Data are for plants in * * *.
[6] Data are for plants in * * *.

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

Table 10
Income-and-loss experience of U.S. producers[1] on their plastic pail operations, accounting years 1986-89

Item	1986	1987	1988	1989
	Value (1,000 dollars)			
Net sales	52,536	55,923	74,135	79,541
Cost of goods sold	44,882	49,411	64,621	67,297
Gross profit	7,654	6,512	9,514	12,244
General, selling, and administrative expenses	6,179	6,025	6,985	7,600
Operating income	1,475	487	2,529	4,644
Shutdown expenses	0	0	0	0
Interest expense	180	200	193	387
Other income or (loss), net	303	202	6	64
Net income before income taxes	1,598	489	2,342	4,321
Depreciation and amortization included above	2,168	2,580	3,112	2,590
Cash-flow[2]	3,766	3,069	5,454	6,911
	Share of net sales (percent)			
Cost of goods sold	85.4	88.4	87.2	84.6
Gross profit	14.6	11.6	12.8	15.4
General, selling, and administrative expenses	11.8	10.8	9.4	9.6
Operating income	2.8	0.9	3.4	5.8
Net income before income taxes	3.0	0.9	3.2	5.4
	Number of firms reporting			
Operating losses	1	2	2	1
Net losses	1	2	2	1
Data	4	4	4	4

[1] * * * .

[2] Cash-flow is defined as net income or loss plus depreciation and amortization.

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

Table 11
Certain pails: Net sales and key financial ratios for steel and plastic pails, accounting years 1986-89

Item	1986	1987	1988	1989
	Quantity (1,000 units)			
Net sales:				
Plastic	31,820	32,045	34,479	35,857
Steel	58,612	57,929	61,463	62,737
Total	90,432	89,974	95,942	98,594
	Value (1,000 dollars)			
Net sales:				
Plastic	52,536	55,923	74,135	79,541
Steel	134,252	133,507	148,954	156,244
Total	186,788	189,430	223,089	235,785
Operating income:				
Plastic	1,475	487	2,529	4,644
Steel	226	269	8,096	6,315
Total	1,701	756	10,625	10,959
	Share of net sales (percent)			
Operating income:				
Plastic	2.8	0.9	3.4	5.8
Steel	0.2	0.2	5.4	4.0
Weighted-average	0.9	0.4	4.8	4.6
	Per unit[1]			
Net sales:				
Plastic	$1.651	$1.745	$2.150	$2.218
Steel	2.291	2.305	2.423	2.490
Operating income:				
Plastic	.046	.015	.073	.130
Steel	.004	.005	.132	.101

[1] Values are determined by dividing total dollar amounts by units sold; therefore, apparent changes in per-unit values may be the result of changes in product mix rather than across-the-board unit increases or decreases.

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

Value of plant, property, and equipment.--The data provided by the U.S. producers on the end-of-period investment in productive facilities in which steel and plastic pails are produced are shown in the following tabulation (in thousands of dollars):

Item	1986	1987	1988	1989
Establishment:				
Original cost.....	146,468	156,882	170,852	148,734
Book value.....	83,161	84,500	91,559	96,078
Steel pails:				
Original cost.....	22,151	22,039	21,704	21,346
Book value.....	11,913	12,095	12,020	11,136
Plastic pails:				
Original cost.....	***	***	***	***
Book value.....	***	***	***	***

Capital expenditures.--The data provided by U.S. producers relative to their capital expenditures for land, buildings, and machinery and equipment used in the manufacture of steel and plastic pails are shown in table 12.

Research and development expenses.--None of the U.S. producers reported research and development expenses relating to steel or plastic pails.

Rate of return on total assets.--Of the eight firms supplying usable steel pail data, four firms,[96] including * * *, indicated that they could not supply asset information as requested. They said they could not because other products are produced on the same equipment as the steel pails and they did not have procedures that could accurately allocate applicable assets to the various product categories. Accordingly, rates of return based on data submitted by the other producers are probably not indicative of actual industry experience and are, therefore, not presented in this report. Ratios of operating income to net sales for steel pails are compared with corresponding published ratios for all fabricated metal products in the following tabulation (in percent):

Item	1986	1987	1988	1989
Operating income as a percent of net sales:				
Fabricated metal products[1].....	4.5	5.0	4.9	6.7
Steel pails[2].....	0.2	0.2	5.4	4.0

[1] Fourth quarter, 1986-88, third quarter 1989, Bureau of Economic Analysis, Department of Commerce, Quarterly Financial Report, p. 39.
[2] Compiled from questionnaire data.

[96] These firms accounted for * * * percent of aggregate 1989 sales of steel pails.

Table 12
Certain pails: Capital expenditures by U.S. producers, accounting years 1986-89

(In thousands of dollars)

Item	1986	1987	1988	1989
Establishment:				
Land and land improvements.....	***	***	***	***
Building or leasehold improvements.....	***	***	***	***
Machinery, equipment, and fixtures.....	14,147	9,823	11,672	18,803
Total.....	18,346	11,431	14,420	23,804
Steel pails:				
Land and land improvements.....	***	***	***	***
Building or leasehold improvements.....	***	***	***	***
Machinery, equipment, and fixtures.....	1,570	1,787	971	1,051
Total.....	1,713	1,873	1,068	1,193
Plastic pails:				
Land and land improvements.....	***	***	***	***
Building or leasehold improvements.....	***	***	***	***
Machinery, equipment, and fixtures.....	***	***	***	***
Total.....	***	***	***	***

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

Capital and investment.--The Commission requested U.S. producers to describe any actual or potential negative effects that imports of certain steel pails from Mexico have had on their growth, investment, development and production efforts, and ability to raise capital. Their responses are shown in appendix D.

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[97]--
>
> (I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),
>
> (II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,
>
> (III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,
>
> (IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,
>
> (V) any substantial increase in inventories of the merchandise in the United States,
>
> (VI) the presence of underutilized capacity for producing the merchandise in the exporting country,
>
> (VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,

---

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

> (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.[98]

The available data on foreign producers' operations (items (II) and (VI)) are presented in the section entitled "Ability of foreign producers to generate exports and availability of export markets other than the United States." Information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV)) is presented in the section entitled "Consideration of the causal relationship between imports of the subject merchandise and the alleged material injury." U.S. producers' comments regarding actual and potential negative effects of imports on existing development and production efforts (item (X)) are presented in appendix D. Item (I), regarding subsidies, and item (IX), regarding agricultural products, are not relevant in this case. The potential for "product-shifting" (item (VIII)) is not an issue in this investigation because there are no known producers subject to investigation or to final orders that use production facilities that can be shifted to produce steel pails.

Parties and staff are unaware of any dumping findings in third countries concerning steel pails from Mexico. Available data on U.S. inventories of the subject product (item (V)) follow.

---

[98] Sec. 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."

U.S. importers' inventories

From 1986 to 1989, Yorktown's reported end-of-period inventories of steel pails from Mexico * * * ; their 1989 level was over * * * that of 1986. The ratio of end-of-period inventories to reported shipments of imports of steel pails from Mexico steadily * * *, from * * * percent in 1986 to * * * percent in 1989. As shown in the following tabulation, inventories of plastic pails from Mexico also * * * during 1986-89:

Product	1986	1987	1988	1989
	Quantity (1,000 units)			
Steel pails.....	***	***	***	***
Plastic pails.....	***	***	***	***
	Ratio of inventories to shipments of imports (percent)			
Steel pails.....	***	***	***	***
Plastic pails.....	***	***	***	***

As seen by comparing the tabulation to table 5, inventories of imports of steel pails from Mexico as a percentage of shipments of such imports are substantially higher than U.S. producers' ratios. Mexican-import inventories ranged from * * * to * * * percent of shipments, whereas U.S. producers' ratios were below 1 percent during the period of investigation. This differential reflects a lower average turnaround time by imports, among other factors. At the preliminary conference, Mr. Joseph Rench, president of Yorktown, Envases' exclusive agent for its imports, stated that, on average, his turnaround time on orders is 1 to 2 days from his Houston warehouse.[99] This contrasts with the 1-week turnaround time commonly reported by U.S. manufacturers.

At the Commission's hearing, Mr. Rench testified that approximately 25 percent of his business involves lithographed pails for specific customers and the remainder of his business is for plain pails. Although Yorktown does not enter into contracts or letters of intent to supply its pail-consuming customers, it stocks steel pails, including lithographed pails, in sufficient quantities to cover its customers' estimated needs as expressed in a verbal commitment by the customer.[100] Roughly three-quarters of Yorktown's inventories, i.e., those pails that are not lithographed, could be sold to anyone who wanted to buy that specific kind or size of plain pail.[101]

---

[99] Transcript of conference, p. 136.
[100] Transcript of hearing, pp. 144-145.
[101] Ibid.

Ability of foreign producers to generate exports and availability of export markets other than the United States

Envases de Plastico, S.A. de C.V. is the only exporter of steel and plastic pails from Mexico to the United States.[102] It produces steel and plastic pails in a single plant in Huehuetoca, Mexico, near Mexico City. Envases has been producing steel pails since 1982 and has been exporting such pails to the United States since 1985. It commenced production of plastic pails in 1977.[103] Envases is a member of the Zapata Group, a collection of related companies under the control of the Zapata family, all producing products used in the packaging industry, such as food containers, bottle caps, and various enclosures.[104] Data provided by Envases concerning its capacity, production, shipments, and end-of-period inventories during the period of investigation are shown in table 13.

Envases' production of steel pails grew steadily from 1986 to 1988 to a level of * * * pails. Production fell, however, in 1989 to * * * pails, or by * * * percent. Because Envases estimates that exports to the United States will * * *, it projects that production in 1990 will * * * to * * * pails. Capacity to produce steel pails * * * throughout the period of investigation. Capacity utilization increased between 1986 and 1988, reaching a level of * * * percent in the latter year, and then * * * to * * * percent in 1989. End-of-period inventories * * * between 1986 and 1989, from * * * pails to * * * pails. These inventories, according to Jorge Sunol, Manager, Chief Engineer of Envases, could not be exported to the United States because of lithography in Spanish and/or because they don't have the DOT stamp on the bottom.[105]

---

[102] There are apparently other unidentified firms producing these products in Mexico, but they serve only the domestic market.

[103] Respondent commented at the preliminary conference that because Envases' previous experiences with exporting plastic pails had been disastrous, it has been cautious in reentering the export market for plastic pails. Accordingly, export levels of plastic pails, although increasing, are still only * * * those of steel pails.

[104] Transcript of conference, p. 132. During a field visit with Envases, * * *.

[105] Transcript of hearing, p. 114 and pp. 146-147. As noted above, petitioners estimate that approximately 10 million pails annually, or roughly 12 percent of the annual apparent consumption of steel pails, can be used to transport nonhazardous materials and, therefore, do not need to meet DOT requirements or carry the DOT stamp. Petitioners' posthearing brief, pp. 9-10.

Table 13
Certain pails: Envases' production, capacity, capacity utilization, end-of-period inventories, home-market shipments, and exports to the United States,[1] 1986-89 and projected 1990

Item	1986	1987	1988	1989	Projected-1990
*	*	*	*	*	*	*

[1] Envases' only export market for steel and plastic pails is the United States.

Source: Data supplied by counsel for Envases de Plastico, S.A. de C.V.

Envases' home-market sales fluctuated but generally exhibited a * * * trend during the 1986-89 period. * * * in 1987, home-market sales reached * * * pails, but by 1988 they had been outpaced by sales to the United States. Export sales to the United States grew by * * * percent between 1986 and 1988 before falling * * * percent in 1989. As a share of production, exports to the United States steadily increased from 1986 to 1988, until they constituted * * * of Envases' total production. Envases exported no steel pails to third countries during the period covered by the investigation. * * *.[106]

Envases sources the steel used in its production of steel pails from various suppliers, * * * at the present time. In the past, Envases obtained steel from sources such as * * *. It does procure steel domestically, but respondent commented at the conference that currently available quantities of Mexican steel are not sufficient for Envases' needs, nor is the steel always of the right gauge. Thus, Envases is required to source offshore for a considerable portion of its supply.[107] * * *.[108]

Currently, Envases has no plans to establish production facilities in the United States. Petitioners alleged, however, that Envases does have plans to

[106] Field visit with Envases de Plastico, S.A. de C.V., Mar. 16, 1990.
[107] It is important to note, however, that Envases has a competitive advantage over U.S. steel pail producers in procuring foreign steel, inasmuch as current U.S. import restrictions against some of the countries from which Envases obtains steel allow Envases to buy steel from them at a lower price than that facing U.S. steel pail producers. Petitioners' witnesses estimated that Envases has up to a $20/ton cost advantage in this regard. Transcript of conference, p. 72.
[108] Field visit with Envases de Plastico, S.A. de C.V., Mar. 16, 1990.

establish an additional Mexican plant in Baja California, so as to serve better the California market.[109] Envases has recently concluded an agreement with a U.S. firm, TCR Industries, to act as its distributor in California, but has denied that it plans to expand capacity by constructing an additional plant.[110] With regard to TCR Industries, this firm has indicated that it intends to market primarily plastic pails.[111]

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

U.S. imports

Data on U.S. imports of steel and plastic pails are shown in table 14. The data presented in the table were compiled from the response to the Commission's questionnaire by Yorktown, which accounted for all imports from Mexico of such pails during the period of investigation.

Steel pails.--Imports of steel pails from Mexico increased from * * * pails in 1986 to * * * pails in 1988, or by * * * percent. In 1989 such imports declined by * * * percent to * * * pails. In value terms, the rise between 1986 and 1988 was even more marked, with imports increasing by * * * percent from $* * * to $* * *. In 1989 the value of imports fell * * * percent to $* * *. Unit values of imports of steel pails from Mexico moved upward from $* * * in 1986 and 1987 to $* * * in 1988. In 1989 unit values fell to $* * *.

* * * reported a small amount of imports of steel pails from * * * during 1986-88. These imports increased in volume during that period, but were never more than * * * percent of the total imported from Mexico. Unit values were consistently above those of the Mexican pails.

Plastic pails.--Plastic pail imports from Mexico were minimal in comparison with steel pail imports; however, they did demonstrate an increasing trend during 1986-88. Like imports of steel pails, they fell in 1989, both in terms of quantity and value. In 1986, unit values of imports of plastic pails were lower than those of steel pails. During 1987-89, however, unit values of imports of plastic pails were equal to those of steel pails.

Steel and plastic pails.--When viewed in their entirety, imports of steel and plastic pails demonstrated the same trends, in terms of quantity and value, as did imports of steel pails when viewed separately.

---

[109] Transcript of conference, p. 19.
[110] Ibid., p. 75.
[111] A.S. Rumfola, letter to Kenneth R. Mason, June 21, 1989.

Table 14
Certain pails: U.S. imports for consumption, by products and by sources, 1986-89

Item	1986	1987	1988	1989
*	*	*	*	*	*	*

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

U.S. market penetration by imports

Questionnaire data were used to calculate penetration ratios for imports of steel pails into the domestic market for steel pails and the market for steel and plastic pails combined. Reported imports from Mexico account for over * * * percent of the quantity of total 1988 imports from Mexico of steel pails entered under TSUSA item 640.3020, according to official statistics. In turn, reported U.S. producers' domestic shipments of steel pails, as defined in the petition, are believed to constitute virtually all of actual 1988 domestic shipments of such pails. Reported domestic shipments of plastic pails, however, constituted roughly 34 percent, by quantity, of estimated 1988 domestic shipments of plastic pails.[112] Consequently, import penetration of the subject merchandise into the market for steel and plastic pails combined is substantially overstated.

Steel pails.--U.S. market penetration by shipments of imports (in terms of quantity) of steel pails from Mexico steadily increased from * * * percent in 1986 to * * * percent in 1988 (table 15). The ratio declined to * * * percent in 1989. In value terms, market penetration ratios for shipments of imports from Mexico were consistently lower than in quantity terms; they increased from * * * percent in 1986 to * * * percent in 1988 before falling to * * * percent in 1989. Shipments of imports of steel pails from other countries were a minor factor in the U.S. market throughout the period of investigation.

Steel and plastic pails.--In terms of quantity, when the U.S. market for plastic and steel pails is viewed in its entirety, U.S. producers can be seen to have lost approximately * * * percentage points of market share between 1986 and 1988. Producers held nearly * * * percent of the market in 1989, up

[112] As estimated in respondent's prehearing brief, exhibit 3.

Table 15
Certain pails: U.S. producers' domestic shipments, shipments of imports from Mexico and all other countries, and apparent consumption, by products, 1986-89

Item	1986	1987	1988	1989
	Quantity (1,000 units)			
Steel pails:				
U.S. producers' shipments...	76,574	75,138	80,944	78,927
Shipments of imports from--				
Mexico.....	***	***	***	***
All other countries[1]	***	***	***	***
Total.....	***	***	***	***
Apparent U.S. consumption...	***	***	***	***
Plastic pails:				
U.S. producers' shipments...	57,537	60,710	93,372	87,877
Shipments of imports from--				
Mexico.....	***	***	***	***
All other countries.....	0	0	0	0
Total imports.....	***	***	***	***
Apparent U.S. consumption...	***	***	***	***
Steel and plastic pails:				
U.S. producers' shipments...	134,111	135,848	174,316	166,804
Shipments of imports from--				
Mexico.....	***	***	***	***
All other countries[1]	***	***	***	***
Total.....	***	***	***	***
Apparent U.S. consumption...	***	***	***	***
	Share of consumption quantity (percent)			
Steel pails:				
U.S. producers' shipments...	***	***	***	***
Shipments of imports from--				
Mexico.....	***	***	***	***
All other countries[1].....	***	***	***	***
Total imports.....	***	***	***	***
Steel and plastic pails:				
U.S. producers' shipments...	***	***	***	***
Shipments of imports of steel pails from Mexico...	***	***	***	***
Shipments of nonsubject imports[2].....	***	***	***	***
Total imports.....	***	***	***	***

See footnotes at end of table.

Table 15--Continued
Certain pails: U.S. producers' domestic shipments, shipments of imports from Mexico and all other countries, and apparent consumption, by products, 1986-89

Item	1986	1987	1988	1989
	Value (1,000 dollars)			
Steel pails:				
U.S. producers' shipments...	169,527	173,953	195,510	197,270
Shipments of imports from--				
Mexico.....	***	***	***	***
All other countries[1]	***	***	***	***
Total.....	***	***	***	***
Apparent U.S. consumption...	***	***	***	***
Plastic pails:				
U.S. producers' shipments...	139,499	156,394	258,271	251,589
Shipments of imports from--				
Mexico.....	***	***	***	***
All other countries[1]	***	***	***	***
Total.....	***	***	***	***
Apparent U.S. consumption...	***	***	***	***
Steel and plastic pails:				
U.S. producers' shipments...	309,026	330,347	453,781	448,859
Shipments of imports from--				
Mexico.....	***	***	***	***
All other countries[1]	***	***	***	***
Total.....	***	***	***	***
Apparent U.S. consumption...	***	***	***	***
	Share of consumption value (percent)			
Steel pails:				
U.S. producers' shipments...	***	***	***	***
Shipments of imports from--				
Mexico.....	***	***	***	***
All other countries[1].....	***	***	***	***
Total imports.....	***	***	***	***
Steel and plastic pails:				
U.S. producers' shipments...	***	***	***	***
Shipments of imports of steel pails from Mexico...	***	***	***	***
Shipments of nonsubject imports[2].....	***	***	***	***
Total imports.....	***	***	***	***

[1] * * *.
[2] * * *.

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

roughly * * * percentage points from 1988. Value-based shares of shipments of imports of steel pails from Mexico increased steadily from * * * percent in 1986 to * * * percent in 1988 and 1989. Quantity-based shares rose from * * * percent in 1986 to * * * percent in 1988 and then fell to * * * percent in 1989.

Market characteristics and prices

The demand for steel pails is derived from the demand for a large number of end-use and intermediate-use items such as paints, solvents, joint compounds, asphalt coatings and sealants, agricultural chemicals, and oils and greases, all of which may be stored, transported, and dispensed from pails. Because several of these intermediate-use products are inputs for the residential and commercial construction industries, the demand for steel pails is in part seasonal.

Steel pails are sold on a unit basis, most often in truckload quantities. Since the cost of cold-rolled steel sheet accounts for 55 to 65 percent of the total cost of a steel pail, steel pail prices are largely determined by the thickness and cost of the steel used in fabricating the side walls, top, and bottom.[113] [114] Other product features that may add substantially to the price are linings or surface treatments of the steel and external decoration, such as lithography, offset or screen printing, or painting, as dictated by individual customer order.

Substitutes for steel pails include plastic pails, plastic bags in corrugated boxes, and 2-1/2-gallon plastic bottles.[115] Plastic pails are generally viewed as the best substitutes. For example, injection-molded high-density polyethylene pails are generally substitutable or even preferred over steel pails that have been treated with clear lacquer or a rust-inhibiting lining to contain products such as water-reducible paints, coatings, and joint compounds.[116]

Although steel and plastic pails may serve as alternatives, consumer preferences, tradition, filling and handling machinery, and weight considerations often seriously limit the substitution or simultaneous use of steel and plastic pails by an individual customer. In some cases plastic

---

[113] Transcript of hearing, pp. 47-48.

[114] The relationship between the price of steel pails and the price of cold-rolled steel sheet is illustrated in fig. 8 in the section discussing input costs.

[115] Prehearing elasticity memorandum, p. 10.

[116] * * *, plant manager for * * *, reported that the most representative and substitutable product is a 5-gallon polyethylene pail with a 90-mm wall thickness. Heavier 100 and 120-mm products are sold in lesser quantities to customers in the paint industry, and the "short 5," which actually has a capacity of 4.5 gallons, is favored by producers of joint compound and textures.

pails cannot be substituted for steel pails regardless of their relative costs. Strong solvents, class B poisons, highly flammable or combustible products, overseas shipments, and containers requiring great compressive strength, freedom from static, or the ability to be directly heated are examples of steel-only markets. Conversely, plastic packaging enjoys advantages over steel in appearance, ease of handling, and resistance to denting.

During the 1970s a number of industries switched from using steel to using plastic pails. Petitioners and respondent differ strongly on the potential for a continuing long-term conversion from steel to plastic and the degree to which the relative costs of steel and polyethylene affect the demand for steel pails.[117] In fact, the trend toward plastic pails was temporarily reversed during a recent period. Because of continued increases in the prices of polyethylene, a number of large consumers of plastic pails switched back to steel in the period from mid-1988 to early 1989.[118] [119]

Available evidence indicates that purchasers generally view U.S. and Mexican pails as being substitutable.[120] Seven purchasers that bought both U.S. and Mexican steel pails reported that the quality of the imported product was comparable to the domestic product. Six purchasers stated that the Mexican quality was superior, and one reported that it was inferior. Purchaser opinions regarding U.S. and Mexican service were mixed. Six purchasers reported that the Mexicans provided better service, mainly because they inventory larger stocks of steel pails and can better meet just-in-time delivery requirements. However, three purchasers reported that U.S. service was better, citing longer Mexican leadtimes and erratic delivery. Reported average leadtimes for shipments of U.S. pails were between 2 and 21 days, but for Mexican pails ranged from 1 day to 7 weeks.

Most U.S.- and Mexican-produced pails are sold directly to firms that use the pails to package their products.[121] These firms sell to painting, building, and roofing contractors; government agencies; retail outlets; lumber yards; metal finishers; and home owners. A smaller share of the domestic and imported steel pail market goes to distributors that also sell steel pails to paint, chemical, and coatings manufacturers. Although the initial purchasers

---

[117] Petitioners' prehearing brief, pp. 34-37; respondent's prehearing brief, pp. 27-42.

[118] Petitioners' prehearing brief, pp. 34-37; respondent's prehearing brief, p. 38.

[119] The price of high-density polyethylene resins rose by 30.7 percent during 1987 and 25.5 percent in 1988, before falling 15.4 percent during 1989. (Bureau of Labor Statistics, Labstat Series Report.) The price rise for polyethylene during 1988 was attributed by the petitioners at the preliminary conference to a confluence of unique events, including a shortage in the supply of ethylene in the United States caused by an explosion at a major ethylene plant. Transcript of conference, p. 22.

[120] Purchaser price trends are presented in app. E.

[121] See the section of this report entitled "Channels of distribution."

generally know the manufacturer and country of origin of the steel pails, the customers that buy the packaged product often are not aware of or interested in the country of origin of the steel pails.

Purchasers generally contact one to three suppliers before making a purchase of steel pails. Supply arrangements in the form of contracts or letters of intent are typically entered into with major steel-pail-consuming manufacturers. However, spot sales are also common. For the most part, sales terms are negotiable, although in some cases the supplier sets the terms. When pail producers use price lists, discounts are almost always given. Purchasers typically buy steel pails on a daily, weekly, or monthly basis, although prices are usually guaranteed for a fixed period ranging from 30 days to 6 months. Prices are generally quoted on a delivered basis.

Because of transportation costs and just-in-time delivery requirements, U.S. producers sell most of their steel pails to customers located within 500 miles of their facilities. Transportation costs are an important consideration, accounting for between 2 and 7 percent of the total delivered cost of a steel pail.

Questionnaire price data.--The Commission requested U.S. producers and importers to provide quarterly price data between January 1987 and December 1989 for six steel pail products that are representative of the market. Since plastic pails can be substituted for steel pails in some applications, the Commission also requested price data for a plastic pail product. In order to determine whether the market for steel pails is separated into different regions, U.S. producers and importers were also asked to identify the sales by geographic region (as defined below).

Midwest region.--The States of Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.

Northeast region.--The States of Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, and the District of Columbia.

Southeast region.--The States of Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and Puerto Rico.

Southern region.--The States of Arkansas, Louisiana, Mississippi, Oklahoma, and Texas.

Western region.--The States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

For each representative product listed below, price data for sales to the largest customer and total sales to all customers in each region were requested for each quarter:[122]

PRODUCT 1: 28/26-gauge 5-gallon openhead steel pail

PRODUCT 2: 28/26-gauge 5-gallon openhead steel pail with lithograph of not more than 3 colors

PRODUCT 3: 29-gauge 5-gallon openhead steel pail

PRODUCT 4: 29-gauge 5-gallon tighthead steel pail

PRODUCT 5: 26-gauge 5-gallon openhead steel pail

PRODUCT 6: 26-gauge 5-gallon openhead steel pail with epoxy phenolic lining

PRODUCT 7: 90-mm 5-gallon polyethylene pail.

Nine U.S. producers and one U.S. importer reported price data for the period covered by the investigation, although not for all periods or for each product requested.[123] The responding U.S. producers accounted for about 79 percent, by quantity, of total reported domestic shipments of steel pails in 1989.[124] The responding U.S. importer accounted for * * * percent of total U.S. imports of steel pails from Mexico.[125]

---

[122] Currently, 5-gal. steel pails account for approximately 80 to 95 percent of the total steel pail market. Transcript of conference, p. 55.

[123] Of the 12 firms listed in support of the petition, 3 did not submit any price data and 3 others did not provide usable data for analysis. * * *. In general, these incomplete price series trended upward.

Of the usable price data, staff received the most responses for products 1, 3, and 5, for which the number of responding firms were 6, 5, and 5, respectively. * * *.

[124] The 4 responding firms that produce plastic pails accounted for roughly * * * percent of reported total domestic shipments of plastic pails in 1989.

[125] Yorktown has sold small quantities of Mexican-produced plastic pails in the United States that are not covered by the petition.

Price trends.--Quarterly weighted-average net delivered selling prices for U.S. producers' shipments of five of the six steel pail products increased during the 3 years covered by the investigation (table 16). The prices for products 1, 2, 4, 5, and 6 increased erratically by amounts ranging from 5 to 15 percent. The price for product 3 declined by 23 percent in the first quarter of the investigation period; it then fluctuated slightly but remained at approximately the same level for the rest of the period. Overall, the price for product 3 fell by 20 percent.

The quarterly weighted-average net delivered selling price for producers' shipments of the one plastic pail product increased irregularly by * * * percent from the beginning of the period until the first quarter of 1989. The price then fell by * * * percent during the remainder of the period. Overall, the price was * * * percent higher in the fourth quarter of 1989 than in the first quarter of 1987.

Quarterly net selling prices for the U.S. importer's shipments of steel pail products from Mexico fluctuated during the period of investigation, but * * *. The price for product 1 * * * during the period of investigation. For product 3, the price * * * in 1987, then * * * during 1988 and 1989, for a net * * * of * * * percent. The Commission did not receive sufficient price data to present complete price series for the remaining imported steel pail products.

The quarterly net delivered selling price for the U.S. importer's shipments of the one plastic product * * *, then * * * by * * * percent through the first quarter of 1989. The price then * * * by * * * percent for the rest of the period. Overall, the price * * *.

Staff also compared trends in U.S. prices of the product that experienced the greatest penetration by imports from Mexico with trends in U.S. prices of the products with smaller Mexican shares of the U.S. market. * * *.[126] Prices of U.S.-produced standard pail products 1, 3, and 5 are presented in figure 5. Prices for U.S. product 1, which * * *, increased, as did U.S. prices of product 5, * * *. In the case of product 3, * * *, its U.S. price fell in the first quarter of 1987, as did the U.S. prices of products 1 and 5, and then fluctuated slightly but remained at approximately the same level for the rest of the period.

[126] A standard steel pail does not have a lining or lithography.

Table 16
Certain pails: Weighted-average net delivered prices of steel pail products 1-6 and plastic pail product 7 reported by U.S. producers and importers of Mexican steel pails, by products and by quarters, January 1987-December 1989

(Per hundred pails)

Period	Product 1		Product 2		Product 3		Prod. 4	Product 5		Product 6		Product 7	
	U.S.	Mexico	U.S.	Mexico	U.S.	Mexico	U.S.	U.S.	Mexico	U.S.	Mexico	U.S.	Mexico
1987:													
Jan.-Mar..	$206.40	***	$254.72	***	$214.66	***	$236.75	$246.47	***	$255.37	***	***	***
Apr.-June.	193.62	***	253.12	***	166.13	***	227.08	230.65	***	373.85	***	***	***
Jul.-Sept.	196.95	***	267.86	***	178.22	***	270.43	253.04	***	259.81	***	***	***
Oct.-Dec..	211.43	***	263.64	***	166.59	***	271.03	240.78	***	256.73	***	***	***
1988:													
Jan.-Mar..	215.11	***	258.65	***	152.61	***	235.46	252.81	***	323.25	***	***	***
Apr.-June.	225.22	***	265.90	***	154.70	***	257.84	250.93	***	279.44	***	***	***
Jul.-Sept.	226.31	***	252.37	***	167.49	***	296.06	271.26	***	349.73	***	***	***
Oct.-Dec..	230.27	***	268.37	***	168.57	***	296.65	310.00	***	345.51	***	***	***
1989:													
Jan.-Mar..	234.18	***	288.77	***	161.06	***	296.67	276.06	***	402.51	***	***	***
Apr.-June.	237.38	***	282.46	***	170.13	***	299.72	335.18	***	358.33	***	***	***
Jul.-Sept.	231.38	***	288.67	***	163.08	***	292.92	277.44	***	351.47	***	***	***
Oct.-Dec..	238.08	***	285.18	***	171.27	***	249.10	280.02	***	293.33	***	***	***

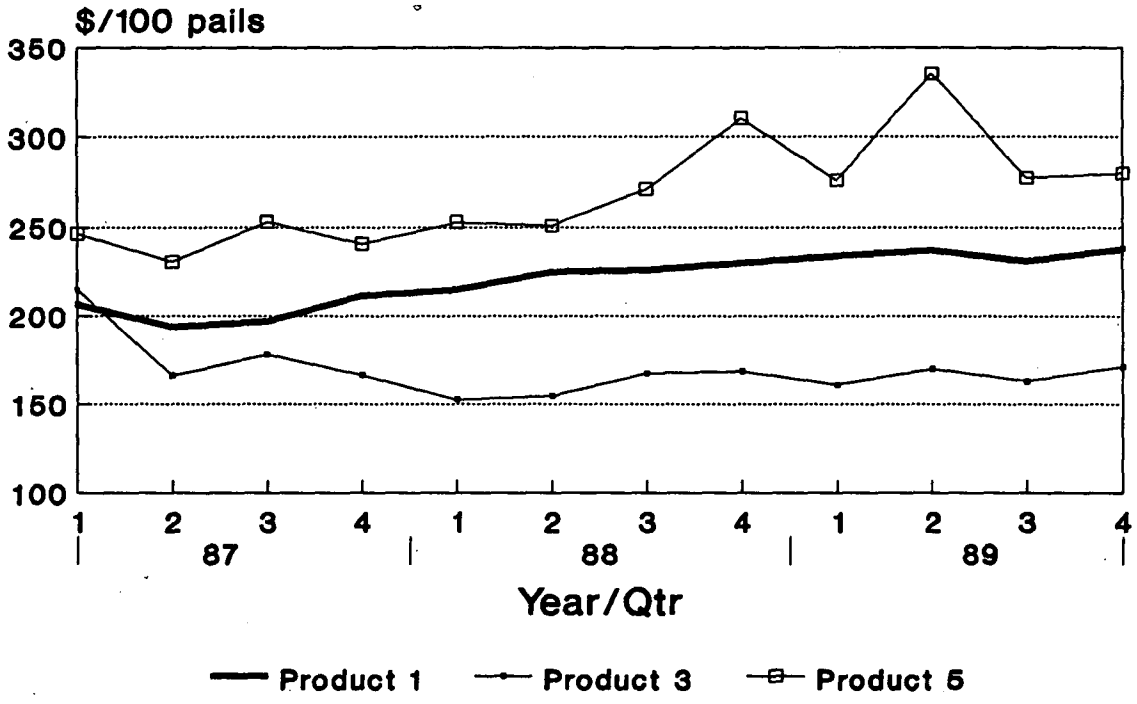
[1] No data reported.

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

Price comparisons.--Comparisons of prices for similar U.S.- and Mexican-produced products are presented in table 17. Figures 6-7 show the range and weighted-average prices of U.S. and Mexican pail products 1-7. In most of the cases for which comparisons were possible, U.S. prices were higher than Mexican prices, including all quarters for which comparisons were possible for products 1, 2, 5, and 6. Mexican prices were generally higher for product 3, and underselling was split evenly between the two sources for product 7. * * *.

U.S. and Mexican price comparisons were possible for six of the seven products covered for at least 7 of the 12 quarters. Mexican prices for product 1 were below domestic prices in all 12 quarters, with margins ranging from 3 to 21 percent. The same was true for the eight possible comparisons of product 2, for which margins of underselling ranged from 21 to 27 percent. For product 3, the Mexican prices were higher than the domestic prices in 8 quarters by between 3 and 14 percent, and lower in 4 quarters by between less than 1 and 13 percent. Product 5 price comparisons show that the Mexican product was priced lower in all 9 quarters for which comparisons were available by between 5 and 30 percent. Mexican prices for product 6 were lower than U.S. prices in all 7 quarters for which price comparisons were available by between 18 and 43 percent. For product 7 the Mexican prices were lower than the domestic prices in 6 quarters by between 3 and 12 percent, and higher in the remaining 6 quarters by between 1 and 19 percent.

Figure 5
Steel pails: Net weighted-average delivered prices in dollars per 100 pails for U.S.-produced steel pail products 1, 3, and 5, by quarters, January 1987-December 1989



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

Table 17
Certain pails: Average margins of underselling (overselling) by the subject imports from Mexico, by products and by quarters, January 1987-December 1989

(In percent)

Period	Prod. 1	Prod. 2	Prod. 3	Prod. 5	Prod. 6	Prod. 7
*	*	*	*	*	*	*

[1] No price comparison is possible.

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

Figure 6
Steel pail products 1, 2, 3, and 4: Range and weighted-average delivered prices of U.S. and Mexican steel pails, by quarters, January 1987-December 1989

* * * * * * *

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

Figure 7
Steel pail products 5 and 6 and plastic pail product 7: Range and weighted-average delivered prices of U.S. and Mexican steel and plastic pails, by quarters, January 1987-December 1989

* * * * * * *

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

Regional pricing.--The Commission received only limited regional price data.[127] U.S. producers reported the most complete regional price data for product 1. The quarterly weighted-average net selling prices for U.S. producers' shipments of product 1 sold to the 5 geographic regions are presented in table 18.

Regional prices of U.S.-produced product 1 varied widely through time within regions and at the same time between regions, probably largely as a result of the small sample collected. For example, U.S. prices in the South ranged from $* * * per hundred pails in April-June 1987 to $* * * per hundred pails in October-December of the same year. In the West, in April-June 1987 the same pails were selling for $* * * per hundred. Except for the Western region, prices moved upward during the investigation period--a trend consistent with the national average. Available prices for Mexican pails were * * *.

Staff compared the prices of U.S. product 1 sold in regions where shipments of imports from Mexico were the largest with the prices of U.S. product 1 sold in regions with fewer sales of Mexican product 1. The majority of imports from Mexico of * * *.

---

[127] Five U.S. producers, accounting for * * * percent of 1989 total steel pail shipments, reported limited regional pricing data.

Table 18
Steel pails: Weighted-average net delivered prices of steel pail product 1 reported by U.S. producers and importers of Mexican steel pails, by regions and by quarters, January 1987-December 1989

(Per hundred pails)

Period	West		Southeast		South		Midwest		Northeast	
	U.S.	Mexico	U.S.	Mexico	U.S.	Mexico	U.S.	Mexico	U.S.	Mexico
	*	*	*	*	*	*	*			

[1] No data reported.

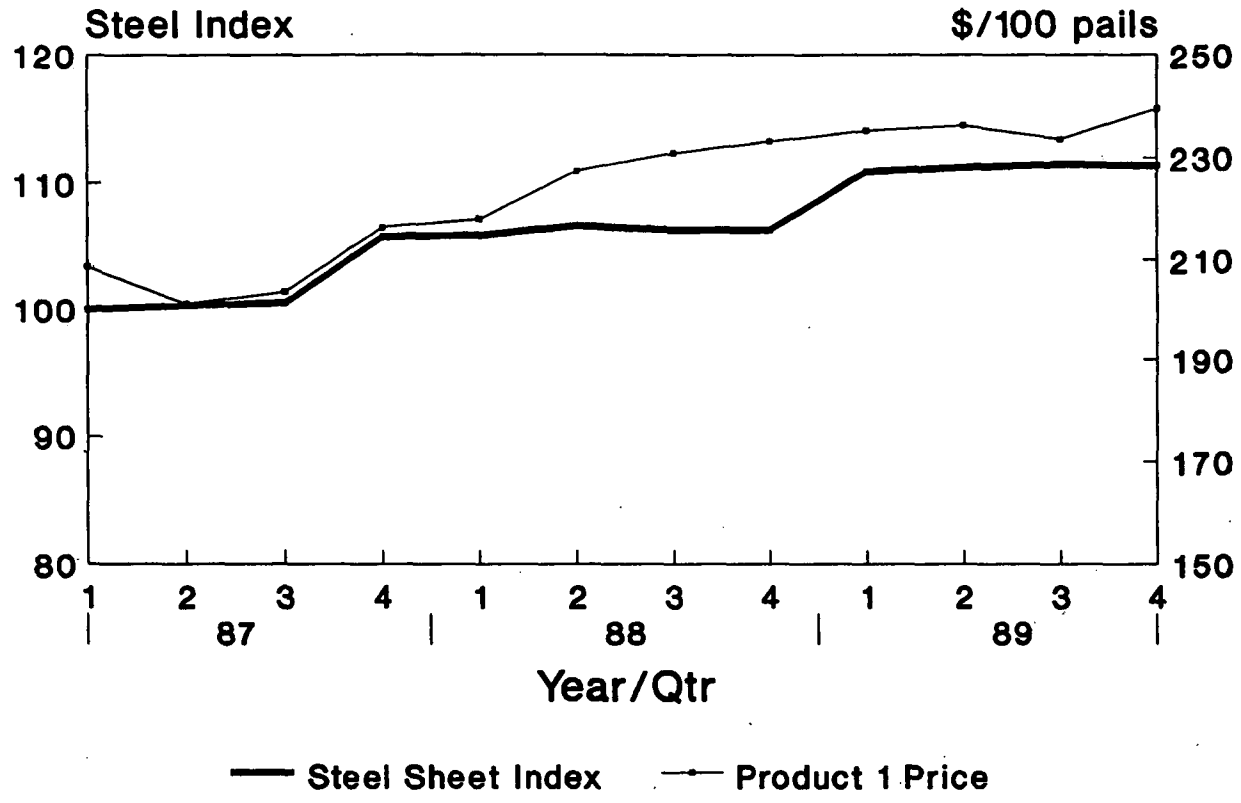
Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Input costs.--Cold-rolled steel accounts for about 55 to 65 percent of the direct manufacturing cost of a steel pail, and polyethylene resin accounts for a similar share of the cost of a plastic pail.[128] The prices of both cold-rolled steel sheet and high-density polyethylene resin increased during the period of investigation. From January 1987 to December 1989, the price of the steel input increased by 12 percent. Product 1 prices tracked the steel prices to some extent, as shown in figure 8. Prices for product 1 increased by 14 percent during the investigation period, and in 7 of the 12 quarters, a rise or fall in the price of steel was followed by a concurrent change in the price for product 1.

Meanwhile, the price for polyethylene resin showed greater movement. Resin prices increased by 74 percent from the first quarter of 1987 to the first quarter of 1989, then fell by 16 percent over the remainder of the period. Product 7 prices and resin prices are highly correlated, as shown in figure 9.

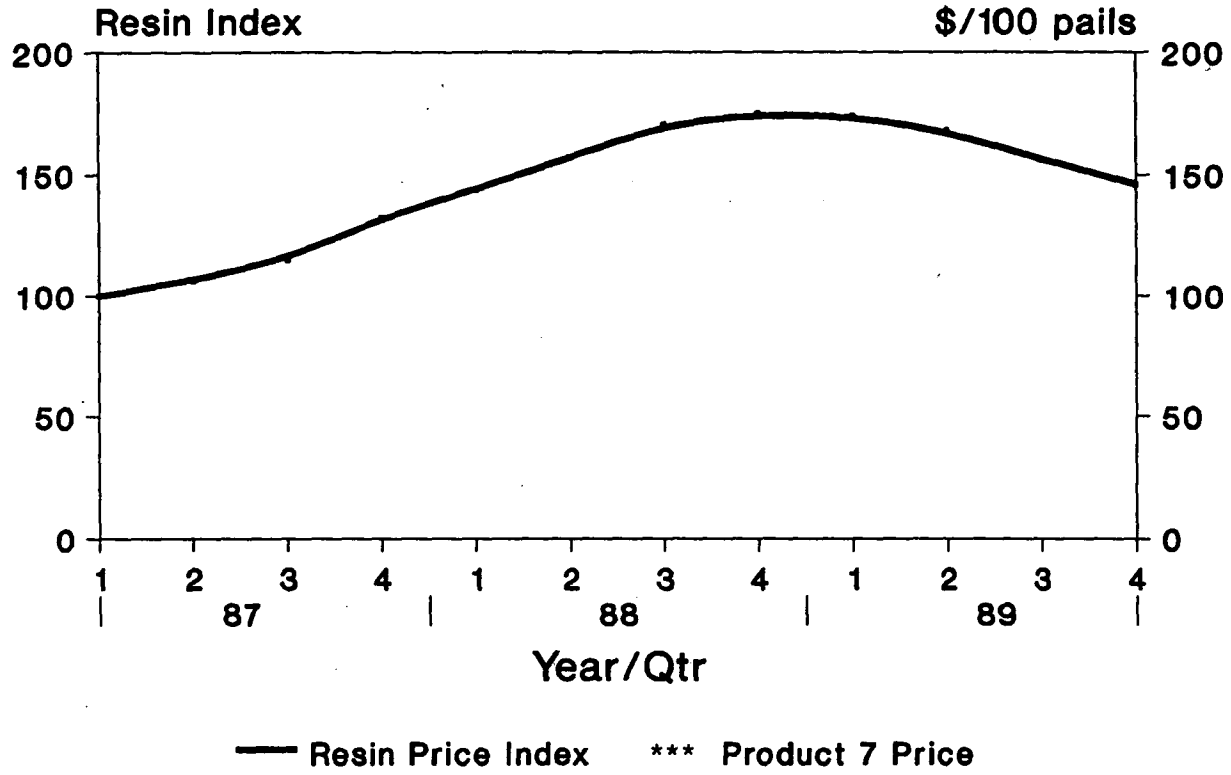
[128] See the section of this report entitled "Financial experience of U.S. producers."

Figure 8
Producer price indexes for cold-rolled steel sheet and weighted-average net delivered prices for U.S.-produced steel pail product 1, by quarters, 1987-89



Source: Compiled from data published by the Bureau of Labor Statistics and data submitted in response to questionnaires of the U.S. International Trade Commission.

Figure 9
Producer price indexes for high-density polyethylene resin and weighted-average net delivered prices for U.S.-produced plastic pail product 7, by quarters, 1987-89



Source: Compiled from data published by the Bureau of Labor Statistics and data submitted in response to questionnaires of the U.S. International Trade Commission.

Exchange rates

Quarterly data reported by the International Monetary Fund indicate that during the period January 1987 through December 1989 the value of the Mexican peso depreciated sharply, by 60.5 percent, against the U.S. dollar (table 19).[130] Adjusted for movements in producer price indexes in the United States and Mexico, the real value of the Mexican currency appreciated 31.4 percent between January-March 1987 and the fourth quarter of 1989.

Table 19
Exchange rates:[1] Nominal and real exchange rates of the Mexican peso and producer price indexes in the United States and Mexico,[2] by quarters, January 1987-December 1989

(January-March 1987=100)

Period	U.S. producer price index	Mexican producer price index	Nominal exchange-rate index	Real exchange-rate index[3]
1987:				
January-March.....	100.0	100.0	100.0	100.0
April-June.....	101.6	129.1	82.6	104.9
July-September.....	102.8	165.3	70.2	112.9
October-December....	103.2	206.3	57.5	114.9
1988:				
January-March.....	103.8	287.8	45.6	126.4
April-June.....	105.6	310.4	45.0	132.1
July-September.....	107.1	322.0	45.0	135.3
October-December....	107.6	328.1	45.0	137.2
1989:				
January-March.....	109.9	346.1	44.1	138.9
April-June.....	111.8	357.4	42.5	135.8
July-September.....	111.3	365.7	40.9	134.4
October-December....	111.7	372.1[4]	39.5	131.4[4]

[1] Exchange rates expressed in U.S. dollars per Mexican peso.

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

[3] The real exchange rate represents the nominal rate adjusted for relative movements in producer prices in the United States and Mexico. Producer prices in the United States increased by 11.7 percent between January 1987 and December 1989, compared with a 272.1-percent increase in Mexican prices during the same period.

[4] Based on Mexican producer price data for October only.

Source: International Monetary Fund, International Financial Statistics, February 1990.

[130] International Financial Statistics, February 1990.

Lost sales and lost revenues

During the preliminary and final investigations, 5 firms reported 73 allegations of lost sales, involving 44 customers, and 18 allegations of lost revenue, involving 17 customers.[131] Allegations of lost sales over the period of investigation involved 11.5 million pails, with a declared net value of $22.0 million. The same five firms claimed to have lost revenues of $5.0 million on sales retained by them. Staff contacted the 18 customers listed below to verify 38 allegations representing $13.0 million in alleged lost sales and $1.1 million in alleged lost revenues.

* * * was cited by * * * for a sale lost in * * * of * * * pails, with a net value of $* * *, and by * * * for a lost sale of $* * * and a revenue loss of $* * * in * * *. * * *, purchasing manager for the * * * plant of * * *, with responsibility for procuring almost * * * steel pails annually, was contacted. * * * stated that * * * does not rely upon a formal bid-solicitation cycle, and he has dealt with seven steel manufacturers, including * * *, over a number of years.[132] Currently * * * buys * * * percent of its steel pails from Yorktown, with the remainder of its business split equally between two domestic producers. * * * stated that, for this reason, the * * *-unit lost-sales claim by * * * for * * * exceeded the volume of potential business available from his firm at that time.

* * * reported that, in general, Yorktown's prices are competitive, but in line with the domestic producers. Prices for the imported pails have been approximately * * * to * * * cents lower per pail for the lighter gauges, but as much as * * * higher for heavier gauge pails, according to * * *. He listed accommodation with just-in-time work schedules, availability, and quality as the factors he considers ahead of price when making procurement decisions. By keeping * * * to * * * pails in stock in its * * * warehouse, Yorktown has been able to guarantee * * * a * * * -to- * * * turnaround. * * * provides * * * -to- * * * days delivery, and * * * requires * * * -to- * * * days to deliver its product.[133]

* * * further stated, in regard to the lost-revenue claim of $* * * per pail made by * * * for * * *, that he believed two domestic manufacturers, * * * and * * *, were below * * *'s initial high bid in addition to Yorktown. On the lost-sale allegation by * * *, * * * felt that the alleged value of the accepted offer, estimated at $* * * per pail, was far below any price * * * managed to get.[134] * * * also stated that * * * had 10 quality complaints on

---

[131] Two additional firms, * * * and * * *, indicated lost sales and revenues but did not provide sufficient information to allow staff to investigate their claims.

[132] * * * made a written submission to the Commission in opposition to the petition, and * * *.

[133] * * * stated that * * * approached several pail suppliers in late 1986 about maintaining inventory of pails for * * * and that only * * * was willing to do so.

[134] * * * had failed to date its price quotation, making it difficult for * * * to identify the specific sale.

* * *'s products over the 3-year investigation period that were significant factors in his determination not to award business to that company.[135]

The * * *, a producer of marine and industrial coatings, was cited for a lost sale of * * * pails, worth $* * *, in * * * by * * *, a lost sale of * * * pails, worth $* * *, in * * * by * * *, and two losses in * * * resulting from the reduction of orders by * * * units, worth $* * *, by * * *.

* * *, who annually purchases about * * * nonstandard steel pails for * * *'s plant, stated that quality and delivery time ranked equally in importance in his procurement decision, and that Envases' pails rated higher than the domestic products on both counts.[136] * * * would not confirm the individual allegations but offered that * * *'s annual bid process results in two suppliers being selected and that * * * probably had lost its potential sales in * * * to * * * and not, as alleged, to Yorktown.

* * * named * * * for a lost sale of * * * pails, worth $* * *, in * * *. * * *, who purchases * * * steel pails annually for * * *, reported that * * * had not purchased Mexican pails during the last 3 years. * * * stated that they had not been approached by any representatives of Mexican pails and that their principal supplier was * * *.

The * * * was named by * * * for a lost sale of * * * pails, worth $* * *, in * * * and by * * * for a sale of * * * units, worth $* * *, in * * *. The same company was cited by * * * for lost revenues on a sale of * * * pails in * * *. * * * at the * * * plant in * * *, stated that although the current company policy is to maintain two suppliers for steel pails and one for plastic, * * * has purchased from as many as four steel pail producers in some periods. Accordingly, * * * challenged the * * * claim of lost sales to his firm in 1985 as excessive. As an operator in the "low-end" of the steel pail market, the representative for this * * * producer reported that any quality advantage of the Mexican imported pail was of secondary importance to * * * but asserted that the superior turnaround service his firm has received from Yorktown has been valuable.

* * * cited * * * for yearly lost sales during 1987-89 of * * * 26/28-gauge steel pails, worth $* * *. * * * reported[137] buying * * * Mexican 26/28 gauge steel pails in 1987, and * * * in 1988 but did not buy any Mexican 26/28-gauge steel pails in 1989. Overall, * * * bought * * * steel pails, worth $* * *, in 1987; * * * steel pails, worth $* * *, in 1988; and * * * steel pails, worth $* * *, in 1989. The Mexican shares of * * *'s steel pail

---

[135] In response to Commissioner Rohr's request at the Commission's hearing for contemporaneous documentation of complaints, respondent submitted documents from companies, including * * *. Respondent's posthearing brief, attachment 1. Exhibit C of that attachment contains one letter documenting * * *'s problems with steel pails produced by * * *.

[136] These points were echoed in a written submission to the Commission by * * *'s corporate purchasing manager.

[137] Purchaser questionnaire response.

purchases on a value basis for 1987-89 were * * * percent, * * * percent, and * * * percent, respectively.

* * * alleged a lost sale to * * * of * * * pails worth $* * *, occurring in * * *. * * * claimed a lost sale in each of the 3 years covered, totaling * * * pails, with a net worth of $* * *, and an undated revenue loss on * * * units of $* * *. * * * of * * * stated that a record of both superior performance and service gave Yorktown an edge in competing for his business. * * * confirmed that * * *'s claims of lost sales and revenue in * * * probably did reflect bids or actual sales by Yorktown. For 1988, however, other domestic producers may have taken potential business from * * *.

* * * listed * * * under a lost sales allegation of * * * pails, worth $* * *, in * * *, as did * * * for a loss of * * * units, worth $* * *, in * * *. * * * cited * * * for both lost sales of * * * pails, worth $* * *, over three occasions in 1988 and a revenue loss of $* * * on a * * * sale of * * * pails. * * * stated that when soliciting annual bids from three to four companies to supply approximately * * * steel pails, he considers the quality of the pail and service provided to be of greater importance than a relatively lower price. On this basis Yorktown has gained its current position as primary supplier, with about * * * percent of * * *'s pail business. * * * reported that over the last few years Yorktown's prices have been marginally lower than those of the domestic competition. * * * has also, however, purchased 24-gauge pails from Yorktown at a higher price than those quoted by domestic firms, either for the service advantage or because domestic sources did not supply the pails to * * * consistently or in sufficient quantities.

On the lost-revenue allegation made by * * * for * * *, * * * stated that * * * offered the lowest overall bid, and that * * * may also have come in below * * *. Similarly, * * * thought that * * *'s lost-sales claim for * * * may, in part, represent a loss to * * * rather than Yorktown. * * * also pointed out in connection with * * *'s lost-sales estimate for * * * that the three claims, each citing a sales potential of * * * pails, are overstated. * * * lost sales in * * * because * * * understood that * * * was unable to obtain the necessary steel for several months. Finally, at one period * * * removed * * * from consideration as a supplier because of a quality problem.[138]

* * *, a petitioner, listed * * * in an allegation of both lost sales and lost revenue of an unspecified amount. * * * stated that, in fact, * * * has never purchased or sold Envases' pails but instead continues to serve as a distributor solely of * * * pails. * * * added that * * * company has fought hard to preserve its distribution relationship with * * * in the face of vastly lower prices for the Mexican product partly out of respect for a longstanding business relationship and partly to prop up what * * * considers to be the last remaining viable regional producer willing to supply distributors such as * * *.

---

[138] The record in this investigation does not contain contemporaneous written documentation from * * * with respect to the alleged quality problem with * * *'s steel pails.

* * *, a roofing and driveway sealant manufacturer that purchases several million pails annually for its half-dozen plants, was named by * * * in a lost-revenue allegation of $* * * on a quotation originally involving * * * pails, and by * * * for a lost sale of * * * pails, worth $* * *. * * * of * * * did not recall either sale but believed that both amounts far exceeded the amount * * * location would purchase in any given order, and probably in any year. * * * does not buy in large, annually contracted amounts.

* * * purchases imported Mexican pails only for the * * * plant, its smallest, and only as a secondary or tertiary supply. * * * stated that * * * is not aware that Mexican prices have been significantly lower than domestic producers'. * * * added that the heavier gauge steel used frequently in the Mexican pails creates some problems in filling and transporting * * *'s products.

* * * was named in a lost-sale allegation of * * * pails, worth $* * *, in the first quarter of * * * by * * * and in a lost-sale allegation of * * * units, worth $* * *, in * * * by * * *. * * * of * * * purchases about * * * pails annually from two main and one secondary pail producer in order to bid on Government contracts with * * * for the transport of paint, solvents, oils, and hazardous materials.

* * * stated that the unit price of $* * * cited in the * * * allegation was a quote from * * *, and that Yorktown was quoting $* * * at that time for pails meeting the same DOT specification.[139] The alleged order volume of * * * would represent, according to * * *, potential business over several months resulting from a particular bid to the Government by * * *, and would seldom go to a single firm. Currently, * * * is buying almost * * * percent of its pails from Yorktown, with a similar amount coming from * * * and the remainder from * * *. * * * stated that * * *'s allegation of an accepted Mexican quote of $* * *, * * * cents below * * *'s quote, was probably inaccurate. * * * does not recall purchasing a Mexican pail for less than $* * * during the 2 years * * * has done business with Yorktown.[140] Again, * * * stated that * * * pails was probably twice the potential business available to any pail producer in the period indicated in the allegation.

* * * emphasized that the restrictions and exacting performance requirements inherent in Government contracting, including penalties for "leakers," late deliveries, and the failure to document cost minimization, require * * * to consider quality, service, and price equally when making procurement decisions. On all criteria * * * rated the imported product as equal or superior to the domestic product. Yorktown initially approached * * * with a price about * * * percent below that of the domestic producers

---

[139] * * * cited a purchase from * * * from a * * * invoice for * * * pails at a unit price of $* * *. * * * orders by relevant Government specifications rather than by conventional industry product definitions.

[140] * * * also reported that he informed * * * that its prices were above not only * * *'s but also at least one other domestic manufacturer's when * * *.

and has kept its prices in a range of * * * percent above or below the price of the lower priced of the two domestic regional producers ever since. * * * stated that on the basis of * * * appraisal of the imported product and Yorktown's service, * * * would be willing to pay a premium of between * * * and * * * percent for the Mexican product over the pails currently available from domestic producers.

* * * of * * * was named by * * * in a lost revenue allegation of $* * * on * * * pails sold in * * *. * * * of * * * confirmed the accuracy of the allegation. Although * * * does not believe the * * * plant will ever purchase pails from Yorktown because of the substantial transportation costs involved and concerns over potential availability, damage, and quality problems, * * * had been discussing a possible purchase from Yorktown in 1988 and received the alleged price quote.

* * * alleged to have lost a sale in * * * of * * * pails, worth $* * *, to * * *, a roof-coatings manufacturer in * * *. When contacted by staff, * * * of * * * did not recall having purchased an imported pail at any time in the past. * * * stated that the number of pails involved in the sale alleged by * * *, * * * main supplier, was * * * times greater than * * * annual consumption of pails.

* * * alleged to have lost $* * * in revenue on a quotation made initially on * * * pails in * * * to * * *, a * * * manufacturer in * * *. * * * alleged to have lost a sale to the same company in * * * for * * * pails, worth $* * *. * * * of * * * did not recall either sale, the former being made before * * * joined the firm. * * * noted that his firm does not purchase * * * pails, as indicated in * * *'s allegation, but only * * * ones. * * * stated that the price differentials alleged, $* * * and $* * *, respectively, were far in excess of what * * * has witnessed in the market. * * * stated that prices for the imported pails are approximately $* * * lower than those for the domestic product.

* * * is currently buying about * * * percent of its * * * pails per year from Yorktown, with the remaining share alternating among three domestic producers according to price and availability. * * * does not perceive any substantial differences in quality among the domestic and imported pails but stated that * * * company appreciates the overnight service it gets from Yorktown's Houston warehouse and would be willing to pay a few cents per pail more than the lowest priced domestic pail in order to receive it.

* * * cited one lost sale in * * * of * * * pails, worth $* * *, and two instances of lost revenue in * * * and * * *, totaling $* * *, on sales of * * * pails to * * * of * * *. * * * of * * * confirmed the likely accuracy of all three allegations. * * * stated that the consistently lower prices offered by Yorktown have earned it * * * percent of * * *'s business, with the remainder split between two domestic manufacturers. * * * believes that the domestic pails are superior in construction and lithography, and would favor them over the imported product at the same price.

* * * cited a lost sale in * * * of * * * pails, worth $* * *, to * * * of * * *. * * *, who purchases about * * * custom-painted steel pails monthly for * * *, stated that * * *'s claim to have lost that sale to imports from

Mexico was false because * * * firm has not purchased any imported pails beyond a single truckload that was returned to Yorktown as unacceptable in * * *. * * * found the imported pail to be substandard because of inconsistent finishing around the side weld and the sharpness of the lugged top. Yorktown has not since been considered as a potential supplier.

* * * believes that the presence of Yorktown in the market has caused pail prices in the region surrounding * * * to be lower than they would be otherwise. * * * stated that the imported pails consistently undersell the domestic ones, but then added that the Mexican product might sometimes be more expensive, because Yorktown often offers a heavier, 26-gauge pail priced and marketed to compete with the domestic 28/26.

* * * cited a lost sale in * * * of * * * pails, worth $* * *, to * * * of * * *. * * *, who coordinates annual purchases of * * * steel pails on behalf of many * * * plants across the country, was contacted by staff. * * * confirmed that * * * first began buying Mexican pails in the period of the allegation, and that * * *, as a principal supplier, lost some of its business with * * *, though not necessarily the entire account represented by the * * * figure. * * * stated that the $* * * price differential alleged seemed greater than any * * * remembered but did not rule it out. Yorktown's Houston warehousing capability has been a benefit from * * *'s perspective, but the Mexican and domestic products match up equally on other criteria, such as quality and availability.[141]

* * * stated that, all other factors equal, * * * prefers to do business with firms that manufacture domestically. * * * has not purchased any Mexican pails within the past * * * because they are not competitive at their current price of $* * * to $* * * above that of the domestic pails.

* * * cited * * * for a lost sale of * * * pails in * * *. * * *, who buys * * * of steel pails annually for * * *, could not identify the specific sale, but reported buying * * * of Mexican pails in 1989 from * * *. * * * stated that they generally buy from distributors and are usually aware of but not concerned about the country of origin of the pails. * * * estimated that the current price for 28/26-gauge steel pails was between $* * * and $* * * per hundred and that the Mexican prices were similar to the U.S. prices.

* * * named * * * for a * * * lost sale of * * * pails, worth $* * *. * * * of * * * reported that * * * had not purchased any Mexican steel pails during the last 3 years. * * * had purchased * * * from * * * but stopped buying them because of quality problems. * * * buys roughly * * * steel pails a year, and their current major supplier is * * *, a distributor. * * * used to buy from * * *, and currently all their steel pails are U.S. made.

---

[141] * * * mentioned that there is one domestic producer that * * *'s firm has tried and rejected on quality grounds, but that the various domestic producers * * * now uses at its several plants all provide good quality.

APPENDIX A

THE COMMISSION'S AND COMMERCE'S FEDERAL REGISTER NOTICES

[Investigation No. 731-TA-435 (Final)]

Certain Steel Pails From Mexico; Import Investigations

AGENCY: United States International Trade Commission.

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

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-435 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Mexico of certain steel pails,[1] provided for in subheadings 7310.21.00 and 7310.29.00 of the Harmonized Tariff Schedule of the United States (previously reported under item 640.30 of the former Tariff Schedules of the United States), that have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determination on or before January 22, 1990, and the Commission will make its final injury determination by March 14, 1990 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

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

EFFECTIVE DATE: November 15, 1989.

FOR FURTHER INFORMATION CONTACT: Brian C. Walters (202-252-1198), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain steel pails from Mexico are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673). The investigation was requested in a petition filed on May 31, 1989, by counsel for the Pail Producers' Committee of the Steel Shipping Container Institute, Union, NJ. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (54 FR 31090, July 26, 1989).

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

Public service list.—Pursuant to § 201.11(d) of the Commission's rules (1 CFR 201.11(d)), the Secretary will

[1] For purposes of this investigation, certain steel pails are defined as cylindrical containers of steel with a volume (capacity) of 1 to 7 gallons, and outside diameter of 11-¼ inches or greater, and a wall thickness of 29-22 guage steel, presented empty, whether or not coated or lined. This investigation includes, but is not limited to, openhead, tighthead, and dome top steel pails.

prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the public 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 and business proprietary information service list.—Pursuant to section 207.7(a), of the Commission's rules (19 CFR 207.7(a) as amended (53 FR 33039, August 29, 1988, and 54 FR 5220, February 2, 1989)), the Secretary will make available business proprietary information gathered in this final investigation to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) 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.

Staff report.—The prehearing staff report in this investigation will be placed in the nonpublic record on January 26, 1990, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on February 8, 1990, at the U.S. International Trade Commission, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on January 30, 1990). A nonparty who has testimony that may aid the Commission's deliberation may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on February 2, 1990, at the U.S. International Trade Commission Building. Pursuant to § 207.22 of the Commission's rules (19 CFR 207.22) each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is February 5, 1990.

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

Written submissions.—Prehearing briefs submitted by parties must conform with the provisions of § 207.22 of the Commission's rules (19 CFR 207.22) and should include all legal arguments, economic analyses, and factual materials relevant to the public hearing. Posthearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on February 15, 1990. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before February 15, 1990.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for 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 prehearing and posthearing briefs, and may also file additional written comments on such information no later than February 20, 1990. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs.

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

Issued: November 27, 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-28487 Filed 12-5-89; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-801]

Final Determination of Sales at Less Than Fair Value; Certain Steel Pails From Mexico

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

ACTION: Notice.

SUMMARY: We determine that certain steel pails from Mexico (hereinafter steel pails) are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of steel pails from Mexico. The ITC will determine within 45 days of the publication of this notice whether these imports materially injure, or threaten material injury to, the U.S. industry.

EFFECTIVE DATE: April 2, 1990.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Bradford Ward, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 377-4136 and 377-5288, respectively.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that steel pails from Mexico are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act). The estimated weighted-average dumping margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On November 15, 1989, the Department published an affirmative preliminary determination (54 FR 47542). At the request of the respondent, Envases de Plastico, S.A. de C.V. (Envases), we postponed our final determination until no later than March 23, 1990, pursuant to section 735(a)(2)(A) of the Act (54 FR 50523, December 7, 1989). Verification of Envases' questionnaire responses was conducted in Mexico from January 8 through 12, 1990, and in Houston, Texas at the facilities of Envases' unrelated commissionaire, Yorktown Associates, on January 15, 1990.

Interested parties submitted comments for the record in their case briefs dated February 7, 1990, and in their rebuttal briefs dated February 14, 1990.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS item numbers. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage.

Prior to January 1, 1989, certain steel pails were classified under item 640.3020 of the *Tariff Schedules of the United States Annotated* (TSUSA). This merchandise is currently classifiable under HTS subheadings 7310.21.00 and 7310.29.00.

The scope of this investigation includes certain steel pails from Mexico, which are cylindrical containers of steel, with a volume (capacity) of 1 through 7 gallons, an outside diameter of 11¼ inches or greater, and a wall thickness of 29-22 gauge steel, presented empty, whether or not coated or lined. This investigation includes, but is not limited to, openhead, tighthead, and dome top steel pails.

Period of Investigation

The period of investigation is January 1, 1989 through June 30, 1989.

Such or Similar Comparisons

We have determined that all of the steel pails covered by the investigation constitute one such or similar category.

Product comparisons were made on the basis of the following criteria, listed in order of importance: volume (capacity), steel gauge, type of opening, interior lining, fittings and lithography. Where there were no sales of identical merchandise in the home market with which to compare merchandise sold in the United States, sales of the most similar merchandise were compared on the basis of the characteristics described above. We made adjustments for differences in the physical characteristics of the merchandise in accordance with section 773(a)(4)(C) of the Act.

Fair Value Comparisons

To determine whether sales of steel pails from Mexico to the United States were made at less than fair value, we compared the United States price to the foreign market value, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

As provided for in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price, where the merchandise was sold to unrelated purchasers prior to importation into the United States. We calculated purchase price based on CIF, duty-free prices to unrelated customers in the United States. We made deductions, where appropriate, for rebates, brokerage and handling, foreign inland freight, and U.S. inland freight.

Where the merchandise was sold to unrelated purchasers after importation into the United States, we used exporter's sales price (ESP) to represent the United States price, as provided for in section 772(c) of the Act. We calculated ESP based on CIF, duty-free prices to unrelated customers in the United States. We made deductions, where appropriate, for rebates, discounts, commissions, foreign inland freight, brokerage and handling, U.S. inland freight, credit expenses, and indirect U.S. selling expenses.

We recalculated the indirect selling expenses reported by Envases on ESP sales in order to allocate such expenses on a percentage basis of U.S. sales value, rather than a per-unit amount.

We recalculated the inventory carrying expense reported by Envases on ESP sales in order to account for the average time the merchandise is in Mexico as well as in the United States. See our response to Comment 5.

In accordance with section 772(d)(1)(c) of the Act, we added to United States price the amount of value-added tax (VAT) that would have been collected on the export sale had it been subject to the tax. We computed the hypothetical amount of VAT added to United States price by applying the home market VAT rate to a United States price net of all charges and expenses that would not have been incurred had the product been sold in the home market.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated

foreign market value based on the packed, delivered prices to unrelated customers in the home market. We made deductions, where appropriate, for inland freight and rebates. We deducted home market packing costs and added U.S. packing costs.

On comparisons involving purchase price sales, we made a circumstance of sale adjustment where commissions were paid in both the home and U.S. markets, in accordance with 19 CFR 353.56(a). Where commissions were paid only in the U.S. market, we added the amount of the U.S. commission to the foreign market value and subtracted the lesser of home market indirect expenses or U.S. commissions, pursuant to 19 CFR 353.56(b)(1). For all purchase price transactions, we made a circumstance of sale adjustment for differences in credit terms.

On comparisons involving ESP sales, we deducted credit expenses. We also deducted indirect selling expenses, in accordance with 19 CFR 353.56(b)(2).

Where appropriate, we made further adjustments to the home market price to account for differences in the physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations. Based on information obtained at verification, we recalculated Envases' reported costs for lithography and coating materials costs. See our responses to Comments 2 and 7 below.

We recalculated the indirect selling expenses reported by Envases on home market sales to allocate them as a percentage of sales value, rather than on a per-unit basis.

We made a circumstance of sale adjustment in accordance with section 773(a)(4)(B) of the Act to eliminate any differences in taxation between the two markets. Because the home market prices were reported net of VAT, this adjustment was made by adding the hypothetical tax on the U.S. sale to both the United States price and the foreign market value.

Currency Conversion

No certified rates of exchange, as furnished by the Federal Reserve Bank of New York, were available for the period of investigation. In place of the official certified rates, we used the average monthly exchange rates published by the International Monetary Fund as best information available.

Interested Party Comments

Comment 1: Envases claims that the Department should compare U.S. sales to home market sales at the same level of trade, in accordance with 19 CFR 353.58. Envases claims that it sells to three distinct levels of trade based on annual purchasing estimates, namely small, large, and "supergrade" purchase volume categories. As further support for its comparison criteria, Envases contends that under section 773 of the Act, comparisons must only be made between customers who purchase comparable commercial quantities and, therefore, sales made at different quantity levels should be excluded from comparisons of sales at that level. In addition, while acknowledging that its request to consider "supergrade" customers as a distinct level of trade was not made until verification, Envases claims that the request does not constitute new information because the factual information upon which the request was based was submitted to the Department in a timely manner.

Petitioners contend that Envases has failed to support its claim that its pricing practices are based on differences in quantities or alleged levels of trade and, therefore, the merchandise should only be compared on the basis of physical characteristics. Petitioners claim that Envases' customer groupings are arbitrary and do not reflect any formal pricing policy for the claimed levels of trade. Petitioners further state that Envases' customer categorization is inconsistent, noting several instances where a particular customer was placed in more than one category, and also noting instances where sales of identical pails to the same customer are reported with identical prices in different customer volume levels. As well, petitioners cite examples where the net price to a customer in one category is the same for an identical pail to a customer in a different category. Finally, petitioners argue that Envases' claim for the "supergrade" customer classification came too late in the investigation and is, therefore, untimely under 19 CFR 353.31.

DOC Position: Based on our analysis of the questionnaire response and our findings at verification, we have determined that Envases did not adequately support its categorization of customers as constituting distinct levels of trade. As we stated in our verification report, there is no official company policy establishing these purchase volume categories, nor did we observe any evidence that these categories represent distinct, definable levels of trade. In addition, the response contained numerous discrepancies between the sales listings and the supporting documentation for the categorization of customers, as noted by the petitioners. Furthermore, additional documentation provided by Envases at verification to support its contention also contained numerous discrepancies in the customer categorization methodology and pricing claims between categories. As a result, we do not consider that Envases has demonstrated that its customer categories constitute different levels of trade.

According to 19 CFR 353.55, when comparing U.S. price with foreign market value, the Department normally will use sales of comparable quantities of merchandise. In this case, Envases attempted to demonstrate that prices varied depending on whether the purchaser is a large-volume or small-volume customer. From our review of the price and quantity information reported by Envases, there is no clear trend that customers in one category pay prices different from those that customers in other categories pay.

Comment 2: Petitioners claim that the Department should reject Envases' claim for lithography costs because the charges for lithography performed by a related company, Industria Metalica del Envase, S.A. de C.V. (IMESA), do not represent "arm's length" transactions. Therefore, petitioners contend that the Department should use best information available (BIA) for these costs to calculate the difference in merchandise adjustment. As BIA, petitioners propose calculating lithography costs based on Envases' verified in-house painting data and petitioners, own costs, as submitted to the Department.

Envases states that, in accordance with Departmental practice expressed in Certain All-Terrain Vehicles from Japan (54 FR 4864, 4868, January 31, 1989) (ATVs), the Department should accept Envases' reported lithography costs because the transfer prices charged by the related company, IMESA, are above IMESA's costs. As an alternative, Envases suggests that if the Department does not accept Envases' reported expenses, it should use IMESA's lithography costs as presented to the Department at verification.

DOC Position: For purposes of constructed value, section 773(e) of the Act provides that transactions between related parties will be disregarded if they do not fairly reflect market prices. With respect to related party transactions in a situation involving a difference in merchandise adjustment, the statute is silent. Even assuming that an arm's length analysis were appropriate, we would be unable to determine in this case whether the transfer prices at issue were, in fact, made at arm's length. IMESA did not provide lithography services to any other entities, and Envases did not

purchase these services from any other entities.

Therefore, lacking arm's length prices, we have used IMESA's costs for lithography presented at verification as best information available for the calculation of difference in merchandise adjustments. However, we recalculated these costs using IMESA's material and labor costs and applying the verified direct overhead rate for Envases' base coating costs to obtain an average per-color cost. We did not use IMESA's variable overhead rate included in its cost worksheet because it appeared to include IMESA's company overhead expenses as well as direct overhead associated with lithography operations.

Comment 3: Envases claims that the Department should adjust home market price by deducting "quantity extra" surcharges applied to small volume home market sales.

Petitioners contend that this claim is untimely under 19 CFR 353.31(a)(i) as it was not made until the beginning of verification. Even if it were timely, petitioners argue that the "quantity extra" was not applied on a consistent basis.

DOC Position. We agree with petitioners and have not made any adjustment based on a "quantity extra" charge. Envases first made this claim and provided the data for the price adjustment at the start of verification. Therefore, it is untimely under 19 CFR 353.31(a)(i).

Comment 4: Petitioners contend that the Department should reject Envases', claim for home market commissions as the claim was not made until a month after the preliminary determination and after the original scheduled date for verification.

Envases responds that the claim was first made prior to the preliminary determination, a week before the original scheduled verification and two months prior to the actual verification date. Consequently, its claim is timely under 19 CFR 353.31 and the commission expense should be allowed.

DOC Position: We agree with Envases. The commission expense was reported in time for consideration and we have made a circumstance of sale adjustment for comparisons involving home market sales with commissions, in accordance with 19 CFR 353.56(a)(2).

Comment 5: Petitioners contend that Envases' reported inventory carrying expense for ESP sales does not account for time in inventory while the merchandise is in Mexico. Therefore, the Department should recalculate this expense to incorporate this component.

Envases contends that it reported its U.S. inventory carrying expense correctly. Its calculation includes the Mexican inventory period since its methodology incorporates merchandise in inventory from the time the product leaves the plant.

DOC Position: We verified that Envases' inventory carrying expense included inventory time in Mexico. Envases' calculated this part of the inventory carrying expense using the U.S. interest rate over the entire inventory period. Since Department policy is to use the home market interest rate for the inventory period that the merchandise is in the home market, we recalculated this expense to account for the time the merchandise is in Mexico, using the verified Mexican interest rate. Envases did not provide separate Mexican and U.S. inventory periods. Therefore, as best information available, we calculated the Mexican inventory period using export shipment data provided at verification.

Comment 6: Envases contends that certain home market sales were not made in the ordinary course of trade because they were samples or single, small volume sales to potential customers. Consequently, in accordance with 19 CFR 353.46, these sales should be excluded from calculation of foreign market value.

DOC Position. The information that Envases has provided in the questionnaire responses and at verification does not prove that the sales in question were samples or otherwise outside the ordinary course of trade. The sales in question appear no different from the other home market sales reported in that they were of similar quantities and prices as sales made to other customers. Consequently, we have rejected Envases' claim.

Comment 7: Petitioners contend that the Department should reduce the cost reported for interior coatings materials, as incorporated into the difference in merchandise adjustment, to reflect the discrepancy between Envases' reported and actual costs, as noted in the verification report.

Envases responds that this discrepancy represents a very small percentage of the total cost of manufacture for each pail. Therefore, the discrepancy should be disregarded as insignificant.

DOC Position: We have corrected the reported interior coatings costs based on our findings at verification.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation, under section 733(d) of the Act, of all entries of steel pails from Mexico, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the subject merchandise from Mexico exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Envases de Plastico, S.A. de C.V.	75.57
All others	75.57

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, pursuant to section 735(c)(1) of the Act, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist with respect to steel pails, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on steel pails from Mexico entered, or withdrawn from warehouse, for consumption, on or after the effective date of the suspension of liquidation, equal to the amount by which the foreign market value exceeds the U.S. price.

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

Dated: March 23, 1990.

Lisa B. Barry,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-7447 Filed 3-30-90; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX B

LIST OF WITNESSES APPEARING AT THE COMMISSION'S HEARING

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: CERTAIN STEEL PAILS FROM MEXICO

Investigation No: 731-TA-435 (Final)

Date and Time: March 29, 1990 - 9:30 a.m.

Sessions were held in connection with the investigation in the Main Hearing Room (room 101), United States International Trade Commission, 500 E Street, S.W., Washington, DC.

In Support of the Imposition of Antidumping Duties:

Schagrin Associates
Washington, DC.
On behalf of

Pail Producers Committee, Steel Shipping Container Institute, Union, NJ

John T. Stirrup, President, Brockway Standard, Inc.

Warren Wackman, Sr., President, Southline Metal Co.

Alvin Jimmerson, Vice President of Sales, Southline Metal Co.

Robert A. Coleman, Vice President of Sales, Brockway Standard, Inc.

Harry F. Payton, Chief Financial Officer, Brockway Standard, Inc.

Roger B. Schagrin)
Mark C. Del Bianco) --OF COUNSEL

In Opposition to the Imposition of Antidumping Duties:

Dow, Lohnes & Albertson
Washington, DC.
On behalf of

Envases de Plastico S.A. de C.V. ("Envases")

Jorge Sunol, Manager, Chief Engineer, Envases

Craig Cornett, Purchasing Manager, Enmar Finishes Division, Ameron, Inc.

Joseph Rench, President, Yorktown Associates

Barbara Main, Vice President and Purchasing Manager,
Texas Refinery Corp.

Carrie A. Simon)
Douglas J. Heffner) --OF COUNSEL

APPENDIX C

U.S. PRODUCERS' NET SALES, OPERATING INCOME, AND OPERATING INCOME AS A PERCENT OF NET SALES, BY INDIVIDUAL PLANTS

Selected financial data by plant and region, as reported in Commission questionnaires, are presented below for each of the U.S. producers (in thousands of dollars, except where noted).

Item	1986	1987	1988	1989
*	*	*	*	*	*	*

APPENDIX D

IMPACT OF IMPORTS ON U.S. PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS (INCLUDING EFFORTS TO DEVELOP A DERIVATIVE OR MORE ADVANCED VERSION OF THE LIKE PRODUCT), GROWTH, INVESTMENTS, AND ABILITY TO RAISE CAPITAL

Responses of firms to the following questions:

1. Since January 1, 1986, has your firm experienced any actual negative effects on its growth, investment, ability to raise capital, or existing development and production efforts as a result of imports of steel pails from Mexico?

* * * * * * *

2. Does your firm anticipate any negative impact of imports of steel pails from Mexico?

* * * * * * *

3. Has the scale of capital investments undertaken been influenced by the presence of imports of steel pails from Mexico?

* * * * * * *

APPENDIX E

PURCHASER PRICE TRENDS

Purchaser price trends

During the investigation period, quarterly weighted-average net delivered prices of domestic pails reported by purchasers[1] showed general upward movement, which was consistent with the price trends reported by producers. Overall, the prices for steel pail products 1, 2, 5, and 6, and plastic pail product 7 increased by between 3 and 48 percent. The price for product 3 fell by 20 percent in 1987, then increased by 25 percent during 1988 and 1989, for a net decrease of less than 1 percent during the period of investigation. Contacted purchasers did not report any price data for product 4.

Purchasers reported limited price data for Mexican pail products. Available comparisons show that, in most cases, Mexican pails were priced below corresponding U.S. pail products.

Table E-1
Certain pails: Weighted-average net delivered prices of steel pail products 1-6 and plastic pail product 7 reported by U.S. purchasers, by products and by quarters, January 1987-December 1989

(Per hundred pails)

Period	Product 1	Product 2	Product 3	Product 5	Product 6	Product 7
1987:						
Jan.-Mar...	$203.94	$217.83	(1)	$156.67	$243.92	$152.83
Apr.-June..	201.72	217.77	$197.00	156.99	231.55	153.38
Jul.-Sept..	205.00	216.99	157.27	156.86	242.72	156.73
Oct.-Dec...	193.36	217.92	157.00	169.64	243.29	176.77
1988:						
Jan.-Mar...	215.11	228.07	180.82	215.67	255.80	188.85
Apr.-June..	213.15	228.02	164.42	217.50	256.81	209.23
Jul.-Sept..	221.20	228.98	189.87	217.81	270.32	211.85
Oct.-Dec...	216.01	228.84	188.93	215.98	268.50	212.07
1989:						
Jan.-Mar...	224.22	222.91	194.58	231.72	267.16	207.33
Apr.-June..	223.80	225.82	198.33	232.81	259.21	201.45
Jul.-Sept..	224.45	227.43	199.53	232.46	266.11	203.05
Oct.-Dec...	222.38	229.48	196.84	231.48	251.07	186.16

[1] No data reported.

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

[1] Nine purchasers reported usable price data.