

SPARKLERS FROM THE PEOPLE'S REPUBLIC OF CHINA

Determination of the Commission
in Investigation No. 731-TA-464
(Preliminary) Under the Tariff Act
of 1930, Together With the
Information Obtained in the
Investigation



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Washington, DC 20436

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-464 (Preliminary)

SPARKLERS FROM THE PEOPLE'S REPUBLIC OF CHINA

Determination

On the basis of the record¹ developed in the subject investigation, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the People's Republic of China of sparklers,² provided for in subheading 3604.10.00 of the Harmonized Tariff Schedule of the United States (previously under item 572.30 of the former Tariff Schedules of the United States), that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On July 2, 1990, a petition was filed with the Commission and the Department of Commerce by Elkton Sparkler Co., North East, MD and Diamond Sparkler Co., Youngstown, OH, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of sparklers from the People's Republic of China. Accordingly, effective July 2, 1990, the Commission instituted preliminary antidumping investigation No. 731-TA-464 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of July 11, 1990 (55 F.R. 28466). The conference was held in Washington, DC, on July 24, 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 Sparklers are fireworks, each comprising a cut-to-length wire, one end of which is coated with a chemical mix that emits bright sparks while burning. HTS subheading 3604.10.00 covers all imported fireworks.

VIEWS OF THE COMMISSION

We determine that there is a reasonable indication that the domestic industry producing sparklers is materially injured by reason of sparkler imports from the People's Republic of China (China), which are alleged to be sold at less than fair value.

Like Product and Domestic Industry.

To determine whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury, the Commission must first define the "domestic industry" corresponding to the imported merchandise under investigation.

"Domestic industry" is defined as:

. . . the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product. 1/

"Like product" is defined as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation." 2/ The Commission's like product determination is essentially factual, and analysis of "like" and "most similar in characteristics and uses" is performed case-by-case. 3/

1/ 19 U.S.C. § 1677(4)(A).

2/ 19 U.S.C. § 1677(10).

3/ Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 (CIT 1988) ("Asocoflores") (the like product issue "is essentially one to be based on the unique facts of each case").

In determining whether a domestic product is "like" the imported article subject to investigation, the Commission has analyzed a number of factors, including (1) physical characteristics and uses, (2) interchangeability, (3) channels of distribution, (4) common manufacturing facilities and production employees, (5) customer or producer perceptions, and, where appropriate, (6) price. 4/ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a given investigation. The Commission has found minor distinctions in physical characteristics and uses to be an insufficient basis for finding separate like products; instead, the Commission looks for clear dividing lines between products. 5/

4/ E.g., Industrial Nitrocellulose from Brazil, Japan, the People's Republic of China, the Republic of Korea, the United Kingdom, and West Germany, Inv. Nos. 731-TA-439 through 444 (Final), USITC Pub. No. 2295 (June 1990) at 4.

5/ Asocoflores, 693 F. Supp. at 1168 ("It is up to the ITC to determine objectively what is a minor difference."). According to the legislative history to section 1677(10):

The requirement that a product be "like" the imported article should not be interpreted in such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the [domestic] product and [the imported] article are not "like" each other nor should the definition of "like product" be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under investigation.

S. Rep. 249, 96th Cong., 1st Sess. 90-91 (1979), quoted in, Cambridge Lee Industries, Inc. v. United States, 728 F. Supp. 748, 750-51 (CIT 1989).

The Department of Commerce designated the "class or kind" of imports subject to this investigation as "sparklers", which are defined as follows:

Sparklers are fireworks, each comprising a cut-to-length wire, one end of which is coated with a chemical mix that emits bright sparks while burning. Sparklers are currently classifiable under HTS subheading 3604.10.00. 6/

Sparklers are produced in several colors according to a simple manufacturing process -- rolls of wire are straightened and cut to length, dipped in a vat of chemicals, dried, dipped again, and dried again. Sparklers are produced in standard sizes identified as Numbers 8 (approximately 7.25 inches long), 10 (9.25 inches), 14 (13.25 inches), 20 (18 inches), and 36 (31 to 33 inches). The most popular sizes are numbers 8 and 10. 7/

The parties agree that all sparklers, regardless of size and color, are a single like product. 8/ The record supports this position, as domestic sparklers of all colors and sizes share common physical characteristics and uses, are interchangeable, are marketed through identical channels of distribution, and are produced in the same manufacturing facilities by the same production employees. While the available evidence indicates that longer length sparklers are sold at a higher price and that colored sparklers are generally more expensive than gold sparklers, we find these

6/ 55 Fed. Reg. 31088, 31089 (July 31, 1990); Report at B-6.

7/ The numbers, 8, 10, 14, 20, and 36, correspond to the length of the box in which the sparklers are packaged. The actual sparklers are slightly shorter. Report at A-3 n.3.

8/ Petitioners' Post-conference submission at 3; Respondents' Post-conference brief at 13.

price differences to be comparatively minor, and an insufficient basis for finding separate like products.

Accordingly, we find a single like product, sparklers regardless of color or length, and define the domestic industry as all domestic manufacturers of sparklers.

Related Parties.

The statute permits the Commission to exclude from the domestic industry, under "appropriate circumstances"; a domestic producer who is related to an exporter or importer of the product subject to investigation, or a domestic producer who itself imports the subject product. 9/ The provision enables the Commission to minimize distortions in aggregate industry data that might result from inclusion of data from related parties whose operations are shielded from the effects of LTFV imports. 10/ The Commission has broad discretion to exclude related parties based on the facts of each case. 11/

9/ Section 1677(4)(B) provides:

When some producers are related to the exporters or importers, or are themselves importers of the allegedly subsidized or dumped merchandise, the term "industry" may be applied in appropriate circumstances by excluding such producers from those included in that industry.

(emphasis added).

10/ E.g., Certain Residential Door Locks and Parts Thereof from Taiwan, Inv. No. 731-TA-433 (Final), USITC Pub. No. 2253 (Jan. 1990) at 11.

11/ Empire Plow Co. v. United States, 675 F. Supp. 1348, 1353 (CIT 1987); accord, e.g., Granular Polytetrafluorethylene Resin from Italy and Japan, Inv. Nos. 731-TA-385 and 396 (Preliminary), USITC Pub. No. 2043 (Dec. 1987) at 9.

The Commission generally analyzes the related party issue by considering (1) whether the firm is a "related party" within the meaning of the provision, and (2) if the firm is a related party, whether "appropriate circumstances" exist for excluding the firm from the domestic industry. 12/

We find that one of the domestic producers, Diamond Sparkler Co., due to its relationship to an importer, B.J. Alan Co., is a related party. Diamond and B.J. Alan "have some common shareholders and certain common officers, the most visible of whom is Bruce Zoldan, who is president of both companies." 13/ These "sister" companies have a close operating relationship, reflected in the fact that B.J. Alan purchases and distributes all of Diamond's sparkler production. 14/

In light of our determination that Diamond is "related" under the statute, we must consider whether "appropriate circumstances" exist for exclusion of Diamond from the domestic industry. To determine whether "appropriate circumstances" exist for excluding data concerning domestic sparklers from Diamond from the domestic industry, the Commission has looked at several factors, including:

12/ Empire Plow Co., 675 F. Supp. at 1353.

13/ Petitioners' brief at 12, 16.

14/ Domestic producers related to importers have been considered "related" in past investigations. E.g., Certain Telephone Systems and Subassemblies Thereof from Japan and Taiwan, Inv. Nos. 731-TA-426 and 428 (Final), USITC Pub. No. 2237 (Nov. 1989) at 16 (parties considered related if either imported directly or related to an importer); Certain All Terrain Vehicles from Japan, Inv. No. 731-TA-388 (Final), USITC Pub. No. 2163 (March 1989) (sister company to an importer deemed "related"). There are other aspects to the relationship between Diamond and B.J. Alan that support the finding that Diamond should be considered related to B.J. Alan, but that cannot be explicitly discussed because they are confidential.

(1) the percentage of domestic production attributable to the importing producer; 15/

(2) whether the primary interests of the related producer lay in domestic production or importation; 16/

(3) the reasons the U.S. producer has decided to import the product subject to investigation, i.e., whether to benefit from the LTFV sales or subsidies or whether to enable it to continue production and compete in the U.S. market; 17/ and

(4) the position of the related producers vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry. 18/

We find that appropriate circumstances do not exist for the exclusion of Diamond from the domestic industry. Diamond represents a significant portion of domestic production. 19/ Moreover, the evidence indicates that Diamond's "primary interest" is that of a domestic producer of sparklers. 20/ Diamond's operations do not appear to have been shielded

15/ In past investigations, the Commission has declined to exclude certain domestic producers based, at least in part, on their substantial share of domestic production. E.g., Electromechanical Digital Counters from Brazil, Inv. No. 731-TA-453 (Preliminary), USITC Pub. No. 2273 (April 1990) at 13-15 (related party included, in part, because it accounted for a significant portion of domestic production); Pressure Sensitive PVC Battery Covers from West Germany, Inv. No. 731-TA-452 (Preliminary), USITC Pub. No. 2265 (March 1990) at 9-11 (same).

16/ E.g., ATVs, USITC Pub. No. 2163 at 19-20 (not excluding producing entity related to importer because its primary interest was producing, not importing).

17/ Empire Plow Co., 675 F. Supp. at 1354; accord, e.g., Telephone Systems, USITC Pub. No. 2237 at 16; ATVs, USITC Pub. No. 2163 at 19-20; Polychloroprene from France and the Federal Republic of Germany, Inv. Nos. 731-TA-446 and 447 (Preliminary), USITC Pub. No. 2233 (Nov. 1989) at 9-11.

18/ Empire Plow Co., 675 F. Supp. at 1354; accord, e.g., Telephone Systems, USITC Pub. No. 2237 at 16-17.

19/ Report at A-7.

20/ Transcript at 18; Report at A-7, n.22 and accompanying text.

from the effects of subject imports by its relationship with B.J. Alan. Finally, as reflected by the staff report, the profitability and sales data with respect to Diamond sparklers reported by B.J. Alan will not significantly skew the data reported by the domestic industry. For all of these reasons, we find that Diamond should be considered part of the domestic industry. 21/

Reasonable indication of material injury

The statute directs the Commission to determine whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports. 22/ "Material injury" is defined as "harm which is not inconsequential, immaterial or unimportant." 23/ In assessing material injury, the statute sets forth specific factors for the Commission to consider. 24/ No one factor is determinative, 25/ and the Commission is entitled to consider other economic factors relevant to analysis of the

21/ A second U.S. producer imported sparklers that accounted for a small proportion of its total shipments over the period in which the imported sparklers were sold. We find this limited import activity to be an insufficient basis on which to exclude that producer as a related party under section 1677(4)(B).

22/ 19 U.S.C. § 1673b(a).

23/ 19 U.S.C. § 1677(7)(A).

24/ The Commission must consider (I) the volume of imports, (II) the effect of imports on prices in the United States for like products, and (III) the impact of imports on domestic producers of like products. 19 U.S.C. § 1677(7)(B). The Commission is obliged to explain its analysis of volume, price effect, and impact of imports. Id. Specific subfactors that the Commission must evaluate, but need not necessarily discuss in its views, are set forth in section 1677(7)(C).

25/ 19 U.S.C. § 1677(7)(E)(ii) ("The presence or absence of any factor . . . shall not necessarily give decisive guidance with respect to the determination by the Commission of material injury.").

industry in question, so long as such factors are identified and their relevance is fully explained. 26/

The domestic industry in this investigation performed poorly throughout the period of investigation, as reflected in operating income, profitability, and cash flow data. 27/ The record also reflects the unsatisfactory performance of the domestic industry with respect to employment, 28/ and investment. 29/ Moreover, trends in output, 30/ sales, 31/ productivity, 32/ return on investment, 33/ and capacity utilization 34/ suggest that the condition of the domestic industry has deteriorated. Accordingly, we find that the domestic industry is materially injured. 35/

26/ 19 U.S.C. § 1677(7)(B).

27/ Report at Table 6 at A-16. In light of the fact that there are so few domestic producers, we restrict this discussion to general terms out of a concern for the confidentiality of the relevant information.

28/ Report at Table 4 at A-20.

29/ E.g., Report at A-26 (capital expenditures). We note, however, that the sparkler industry is not particularly capital intensive.

30/ Report at Table 2 at A-11.

31/ Report at Table 3 at A-14.

32/ Report at Table 4 at A-15.

33/ Report at Table 7 at A-16.

34/ Report at Table 2 at A-11.

35/ Acting Chairman Brunsdale joins in this discussion of the condition of the domestic industry. However, she does not reach a separate legal conclusion regarding the presence or absence of material injury based on this information. While she does not believe an independent determination is either required by the statute or useful, she finds the discussion of the condition of the domestic industry helpful in determining whether any injury resulting from dumped imports is material.

Reasonable Indication of Material Injury by Reason of Allegedly LTFV Imports

In its consideration of whether the material injury is by reason of subject imports, 36/ the Commission is directed to consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant. In this investigation, imports of sparklers from China have decreased over the period of investigation in absolute terms, but have increased in relative terms. 37/

In absolute terms, sparkler imports reportedly decreased steadily in both volume and value over the period of investigation. 38/ Because overall

36/ See, e.g., S. Rep. No. 249 at 74-75 ("Nor is the issue whether less-than-fair-value imports are the principal, a substantial, or a significant cause of material injury. Any such requirement has the undesirable result of making relief more difficult to obtain for industries facing difficulties from a variety of sources; industries that are often the most vulnerable to less-than-fair-value imports."), accord, e.g., Metallwerken Nederland, BV v. United States, 728 F. Supp. 730, 737 (CIT 1989).

37/ We also note that there is information on Chinese exports to the United States that suggests that these exports consistently increased in both volume and value terms throughout the period of investigation. According to information submitted by the China Chamber of Commerce of Importers and Exporters of Foodstuffs, Native Products and Animal-By-Products ("CCCFNA"), sparkler exports to the United States increased substantially in absolute terms, from 153 million units (valued at \$993,000) in 1987 to 185 million units (valued at \$1,318,000) in 1989. Report at A-19. We intend to explore in any final investigation the discrepancy in data between export figures provided by the CCCFNA and import data reflected in responses to Commission questionnaires.

38/ Imports decreased from 164 million units (valued at \$1.1 million) in 1987, to 112 million units (\$842,000) in 1988, to 100 million units (\$766,000) in 1989. However, imports increased dramatically in the first quarter of 1990, as compared to the first quarter of 1989. Report Table 9 at A-22.

We note that while a small number of sparklers were imported from Hong Kong, Report at A-19, petitioners allege that there is no sparkler production there. Petitioners' APO Submission brief at 7. Imports of

(continued...)

domestic consumption of sparklers decreased even more substantially, however, imports from China captured an increasing share of domestic consumption over the period of investigation, as measured both in volume and value.

In terms of volume, the U.S. market share of subject imports increased steadily, from 46.1 percent in 1987 to 51.5 percent in 1988 to 57.3 percent in 1989. 39/ In value terms, import penetration increased from 1987 to 1988, and then decreased from 1988 to 1989. 40/

In assessing the price effect of imports, the Commission is directed to consider significant price underselling by the imported merchandise and whether the effect of imports otherwise depresses or suppresses prices. 41/ In this investigation, the Commission requested pricing data with respect to

38/(...continued)

sparklers from Hong Kong are not subject to investigation, and have not been considered in our analysis of imports. We accept, however, the possibility that at least a portion of these imports originated in China, and that our import figures may be somewhat understated. In any final investigation, we intend to attempt to clarify whether the country of origin of the imports from Hong Kong is actually China. Cf., Color Picture Tubes from Canada, Japan, The Republic of Korea, and Singapore, Inv. Nos. 731-TA-367 through 370 (Final), USITC Pub. No. 2046 (Dec. 1987) at 9 n.36.

39/ Report at Table 10, A-23.

40/ Report at Table 10, A-23. Interim figures indicate that the market share of imports increased dramatically in the first quarter of 1990, as compared to the first quarter of 1989.

41/ Acting Chairman Brunsdale does not give much weight to the evidence of price underselling in her determination of material injury by reason of allegedly LTFV imports. Rather, she believes that given the probable close substitutability of domestic sparklers and subject imports, the allegedly high dumping margins and the significant U.S. market share of the subject imports, there is a reasonable indication that the domestic industry producing sparklers is materially injured by reason of the allegedly LTFV imports.

the two highest volume products sold in the United States, No. 8 and No. 10 gold sparklers. Price comparisons were also segregated by channels of distribution. Prices for sales to wholesalers/distributors were compared separately from prices to retailers.

While prices varied widely over the period of investigation according to season, transaction volume, and channel of distribution, as a general matter we find that prices for domestic No. 8 and 10 gold sparklers were flat or increased, while import prices were flat or decreased. 42/ Domestic price increases were spurred by increases in the cost of producing sparklers. 43/

Reported prices indicate that sparklers from China undersold domestic sparklers by substantial margins. 44/ While the lower price of Chinese sparklers is alleged to reflect their lower quality, the evidence gathered by the Commission on this point is mixed. 45/ Moreover, the price differential in some cases has increased over the period of investigation, while there is no evidence of any corresponding change in quality. We find that the significant margins of underselling cannot be entirely explained by the alleged difference in quality between domestic and imported sparklers. The observed price increases for domestic sparklers notwithstanding, we find that there is a reasonable indication that allegedly LTFV imports have

42/ Pricing information is confidential and cannot be discussed in detail.

43/ Transcript at 20. Report at A-25, n.66 and accompanying text; id. at A-15.

44/ Report Tables 11 and 12 at A-26.

45/ Report at A-24-A-25.

significantly suppressed domestic prices by preventing further price increases. 46/ This analysis is supported by evidence of lost revenue to the domestic industry attributable to imports. 47/

We also note that the unit values of domestic products generally increased over the period of investigation, which could result from either price increases spurred by increased costs of production, or a change in the overall mix of products sold by the domestic industry. It may be, for example, that the domestic producers are abandoning to the low-priced imports the relatively inexpensive No. 8 and No. 10 gold sparklers, which is the bulk of the domestic market, and instead are concentrating their sales in the more expensive longer sparklers where competition from China is either less intense or nonexistent. In any final investigation, the Commission will attempt to analyze the extent to which the domestic industry has moved away from producing and selling products where import competition is concentrated.

While overall domestic consumption of sparklers has apparently decreased, we find that there is a reasonable indication that the allegedly LTFV imports, through their increasing market share and low prices, are a cause of material injury to the domestic industry.

46/ This phenomenon is reflected, for example, in the testimony that domestic producers have sold sparklers at breakeven prices, or even at a loss just to move inventory. Transcript at 20.

47/ Report at A-27.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On July 2, 1990, counsel for Elkton Sparkler Co., North East, MD and Diamond Sparkler Co., Youngstown, OH (petitioners) filed petitions with the U.S. International Trade Commission (Commission) and the U.S. Department of Commerce (Commerce) alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports from the People's Republic of China (China) of sparklers¹ that are alleged to be sold in the United States at less than fair value (LTFV). Accordingly, effective July 2, 1990, the Commission instituted investigation No. 731-TA-464 (Preliminary), under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from China of such merchandise into the United States.

The statute directs the Commission to make preliminary determinations within 45 days of receipt of the petition or, in this case, by August 16, 1990. Notice of the institution of this investigation and of a conference to be held in connection therewith was posted in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and published in the Federal Register of July 11, 1990 (55 F.R. 28466). Commerce published its notice of initiation in the Federal Register of July 31, 1990. Copies of the Commission's and Commerce's Federal Register notices are presented in appendix A. The Commission held a public conference on July 24, 1990, at which time all interested parties were allowed to present information and data for consideration by the Commission. A list of witnesses who appeared at the conference is presented in appendix B. The Commission voted on this investigation on August 13, 1990.

The Commission has conducted no previous investigations on sparklers. A report issued in 1921 addressed fireworks, among other products. Also, report No. Con. 7-9-2 (1977) of the Summaries of Trade and Tariff Information covered fireworks, with supplements issued in 1981 and 1983.

The Product

Description and uses

The product that is the subject of this investigation is the type of civilian pyrotechnic class of fireworks known as sparklers. The subject product falls into the category of so-called "safe-and-sane" fireworks.² They throw off brilliant sparks when burning. Sparklers are legal in 38 States, as shown in figure 1. Sparklers are used in the celebration of the Fourth of July and other holidays, birthdays, weddings, and other special occasions and in theatrical shows and other entertainments.

¹ Sparklers are fireworks, each comprising a cut-to-length wire, one end of which is coated with a chemical mix that emits bright sparks while burning. Fireworks are classified in subheading 3604.10.00 of the Harmonized Tariff Schedules of the United States (HTS).

² Martin Grayson and David Eckroth, eds., Kirk-Othmer Encyclopedia of Chemical Technology, 3d ed. (New York: John Wiley & Sons Inc., 1982), pp. 486-487.

Sparklers vary in length, with five standard sizes, the smallest (No. 8) being about 7-1/4 inches long and the largest (No. 36) being up to 33 inches long.³ Most sparklers sold in the United States are the No. 8 and No. 10 sparklers, the two smallest sizes. These are less costly to manufacture and the least expensive to purchase. Almost all imports are of No. 8 and No. 10 sparklers. The domestic industry supplies almost all of the longer sparklers sold in the United States. Respondents⁴ note that the longer sparklers are difficult to transport without substantial breakage.⁵ U.S. producers reported their 1989 U.S. shipments, and importers their 1989 imports, by size, as shown in the following tabulation (in percent of the total):

<u>Size</u>	<u>U.S. producers¹</u>	<u>Importers</u>
No. 8 (about 7-1/4 inches long)-----	58.3	56.1
No. 10 (about 9-1/4 inches long)-----	24.2	42.7
No. 14 (about 13-1/4 inches long)----	8.7	*** ²
No. 20 (about 18 inches long)-----	5.2	***
No. 36 (about 31-33 inches long)-----	<u>3.5</u>	<u>***</u>
Total-----	100.0	100.0

¹ Includes data reported for B.J. Alan Co. rather than those reported for Diamond Sparkler Co. (Diamond). (See discussion in the section of this report entitled "U.S. producers.")

² * * *

The majority of sparklers sold in the United States give off a yellow ("gold") color while burning. Other sparklers, however, give off sparks of other colors.⁶ Industry representatives reported that gold sparklers are relatively safer and more reliable than colored sparklers and result in fewer product liability and performance complaints.⁷ Also, the chemicals used in making colored sparklers are somewhat less stable than those used in making gold sparklers and the products must be handled more carefully in the manufacturing process. Only one U.S. producer, New Jersey Fireworks Manufacturing Co. (New Jersey Fireworks), produces any colored sparklers; Elkton Sparkler Co. (Elkton), which pioneered in the development of colored sparklers, discontinued their production years prior to the period of investigation.⁸ U.S. producers reported their 1989 U.S. shipments, and importers their 1989 imports, by color, as shown in the following tabulation (in percent of the total):

³ The size numbers correspond approximately to the length of the box, with the sparklers being slightly shorter. Transcript of the public conference (transcript), pp. 9-10.

⁴ Respondents in this investigation consist of an ad hoc coalition of U.S. importers of the subject product.

⁵ Transcript, p. 55.

⁶ Petitioners argue that these other colors are "very often faint and indistinguishable." Transcript, p. 12.

⁷ Transcript, pp. 36-37 and 42 and questionnaire response of * * *.

⁸ Transcript, p. 29.

<u>Color</u>	<u>U.S. producers¹</u>	<u>Importers</u>
Gold-----	***	45.8
Red-----	***	22.7
Green-----	***	22.7
Blue-----	***	8.8
Total-----	100.0	100.0

¹ Includes data reported for B.J. Alan rather than those reported for Diamond. (See discussion in the section of this report entitled "U.S. producers.")

Manufacturing process

Sparklers are manufactured in a relatively simple process. Rolls of wire are straightened and cut to length by machine. The length and diameter of the wire used is determined by the size of the finished sparkler. The wire used is usually steel. The cut lengths of wire are placed in a vibrating machine that shakes them into wooden frames.⁹ The frames are then taken to a dipping area where the wires are dipped into a vat containing a viscous mixture of shellac or dextrin containing an oxidizing agent (usually a chlorate or nitrate); pyroaluminum; steel filings, zinc filings, or copper filings; and one or more other chemical compounds to impart color and control burn rate and other characteristics. The sparklers are dipped, dried, dipped again, and dried again. The burnable mixture is thus built up on the wire to the desired diameter in a manner similar to that used in making dipped candles. Two dips appear to be standard in the manufacturing of both domestic and imported sparklers. Gold sparklers are dried with heated air; sparklers of other colors require a lower drying temperature. The dried sparklers are then boxed and the boxes wrapped in plastic.

U.S. tariff treatment

Effective January 1, 1989, imports of sparklers were classified in HTS subheading 3604.10.00, covering all fireworks.¹⁰ The current column 1-general rate of duty for fireworks (including sparklers), applicable to imports from China, is 11 cents per kilogram, including the weight of all coverings, packing materials, and wrappings (19 percent ad valorem equivalent in 1989).¹¹

⁹ In the Chinese industry, the wires are placed into frames by hand.

¹⁰ Prior to 1989, sparklers were classified in item 755.15 of the former Tariff Schedules of the United States, which covered all fireworks.

¹¹ The rates of duty in column 1-general of the HTS are the most-favored-nation (MFN) rates and are applicable to imported goods from all countries except those Communist countries and areas enumerated in general note 3(b) to the HTS. MFN rates would not apply if preferential tariff treatment is sought and granted to eligible products from eligible developing countries under the Generalized System of Preferences, the Caribbean Basin Economic Recovery Act, or the products of Israel under the Special rate of duty column. Eligible sparklers imported from Canada are subject to a reduced duty rate of 6.6 cents per kg, including the weight of all coverings, packing material, and wrappings under the United States-Canada Free-Trade Agreement. The column 2 rate of duty, applicable to certain Communist countries, is 26 cents per kg, including the weight of all coverings, packing material, and wrappings.

Nature and Extent of the Alleged Sales at LTFV¹²

On the basis of comparisons of U.S. prices and foreign market values, the petitioners allege that sparklers from China are being sold in the United States at 63 to 93 percent below fair value. U.S. prices were based on available f.o.b. Hong Kong prices, adjusted by deducting brokerage and handling fees. Because China has a nonmarket economy, petitioners used the factors of production methodology to determine the foreign market value. Petitioners provided material cost data, which are alleged to be comparable to those for China, and wage rates for India were applied. The margins calculated were 79 percent for No. 8 sparklers and 55 percent for No. 10 sparklers.¹³

The U.S. Market

Apparent U.S. consumption

In the United States, the vast majority of sparklers are consumed on the July 4th holiday. A much smaller quantity of sparklers are used on New Year's Eve, and the remainder at birthday parties and other celebrations throughout the year. The industry has, therefore, an extremely seasonal market.¹⁴ Orders for sparklers are placed throughout the year, although imports from China are often ordered almost a year in advance whereas U.S.-produced sparklers are mostly ordered only 3 to 6 months in advance. The majority of shipments occur during April-June. U.S. producers and importers reported their 1989 orders and U.S. shipments by month, as shown in the following tabulation (in percent of the total):

Month	<u>Orders</u>		<u>Shipments</u>	
	<u>U.S. producers¹</u>	<u>Importers</u>	<u>U.S. producers¹</u>	<u>Importers</u>
January-----	***	5.3	***	15.0
February----	***	6.8	***	5.6
March-----	***	2.2	***	6.8
April-----	***	6.5	***	8.1
May-----	***	7.7	***	11.8
June-----	***	5.0	***	19.5
July-----	***	***	***	1.0
August-----	***	***	***	***
September---	***	***	***	***
October----	***	***	***	***
November---	***	2.6	***	8.1
December---	***	6.1	***	14.2
Total---	100.0	100.0	100.0	100.0

¹ Includes data reported for B.J. Alan rather than those reported for Diamond. (See discussion in the section of this report entitled "U.S. producers.")

¹² This information was taken from the petition, pp. 10-17.

¹³ Corrected margins as presented in Commerce's notice of initiation.

¹⁴ Because of the seasonality of shipments and imports, certain first-quarter data may not be indicative of annual trends. Such data are noted in this report.

There are no known published data on U.S. consumption of sparklers. At the conference, petitioners and respondents agreed that consumption has generally been increasing.¹⁵ However, in conditions of drought, such as those that affected the Midwest during the summer of 1987, consumption declines.¹⁶

Apparent U.S. consumption, as presented in this report, is calculated from questionnaire responses of U.S. producers and importers. Because not all companies provided data, consumption is believed to be understated.¹⁷ As calculated, apparent U.S. consumption of sparklers increased from 1987 to 1988, decreased in 1989, and increased strongly in the first quarter of 1990 compared with the same period of 1989 (table 1). Consumption rose from 258 million units, valued at * * *, in 1987 to 264 million units and * * * in 1988, increases of 2 percent and * * * percent, respectively. Consumption fell to

Table 1

Sparklers: U.S. shipments¹ by U.S. producers² and of imports from the People's Republic of China, Hong Kong,³ and all other countries, and apparent U.S. consumption, by quantity and value, 1987-89, January-March 1989, and January-March 1990

Item	1987	1988	1989	January-March--	
				1989	1990
<u>Quantity (million units)</u>					
U.S. producers' U.S. shipments..	138	127	90	15	***
U.S. shipments of imports from--					
China.....	119	136	122	7	28
Hong Kong.....	***	***	***	***	***
All other countries.....	***	***	***	***	***
Total imports.....	120	137	123	7	29
Apparent U.S. consumption.....	258	264	213	22	***
<u>Value (1,000 dollars)</u>					
U.S. producers' U.S. shipments..	***	***	***	***	***
U.S. shipments of imports from--					
China.....	1,071	1,404	1,027	114	308
Hong Kong.....	***	***	***	***	***
All other countries.....	***	***	***	***	***
Total imports.....	***	***	***	***	***
Apparent U.S. consumption.....	***	***	***	***	***

¹ Includes company transfers and open-market sales.

² Includes data reported for B.J. Alan Co. rather than those reported for Diamond Sparkler Co. (See discussion in the section of this report entitled "U.S. producers.")

³ Petitioners allege that sparklers from China are transshipped through Hong Kong.

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

¹⁵ Transcript, pp. 38 and 68, respectively.

¹⁶ Ibid., p. 38.

¹⁷ Also, certain importers did not provide usable partial-year data.

213 million units in 1989, representing a 19-percent drop, and the value fell * * * percent, to * * *. From January-March 1989 to January-March 1990, consumption * * * in volume and in value.¹⁸

U.S. producers

Three companies produced sparklers in the United States during the period of investigation. Petitioners Elkton and Diamond account for the majority of production. The third producer is New Jersey Fireworks. All producers expressed support for the petition.

Elkton Sparkler Co., North East, MD.--Elkton is the largest U.S. producer of sparklers, accounting for * * * of 1989 U.S. shipments. Elkton was founded in 1945, and the company remains a family owned and operated fireworks supplier.¹⁹ In * * *, Elkton imported * * *.

Diamond Sparkler Co., Youngstown, OH.--Diamond is also a family owned and operated sparkler producer. Diamond began production in 1984, after purchasing the assets of a former sparkler producer, Acme Specialty Fireworks Co.²⁰ In 1989, Diamond brand sparklers accounted for * * * of U.S. shipments. Diamond does not import sparklers.²¹

Diamond produces and packages sparklers for sale solely to B.J. Alan Co., a related company.²² This relationship is depicted in figure 2. (* * *.) Company transfers are valued at * * *. Shipments, inventory, financial, and pricing data were requested for B.J. Alan's sales of Diamond brand sparklers and are presented, as appropriate, in this report.²³ The reporting entity is identified in each section of the report.

B.J. Alan is a * * * U.S. importer of sparklers from China. During the period of investigation, imported sparklers accounted for * * *.²⁴

¹⁸ Because of the seasonality of shipments, these first-quarter data may not be indicative of annual trends.

¹⁹ Transcript, p. 8.

²⁰ Meeting with company officials, July 5, 1990, and petition, pp. 21-22.

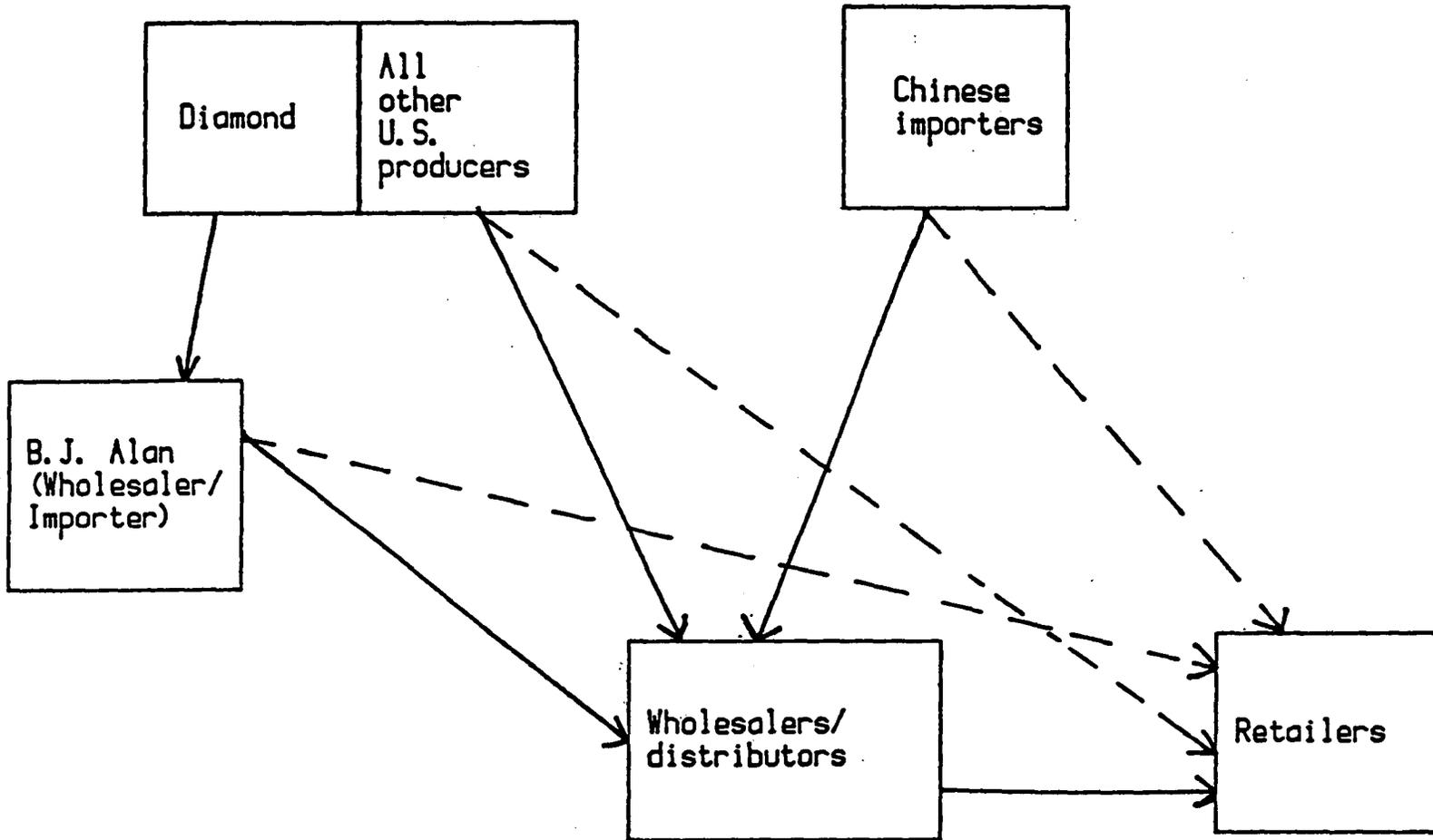
²¹ Petition, p. 9.

²² * * * * *

²³ With the exception of financial data on overall operations, the data presented for the U.S. industry exclude B.J. Alan's import activity.

²⁴ * * *. See also discussion of B.J. Alan on p. 18 of the transcript.

Figure 2.--Sparklers: Channels of distribution



New Jersey Fireworks Manufacturing Co., Elkton, MD. --Data reported in questionnaires indicate that New Jersey Fireworks is the * * * U.S. producer of sparklers, accounting for * * * of 1989 U.S. shipments of the subject product.²⁵ Unlike the petitioners, New Jersey Fireworks is primarily a producer of fireworks other than sparklers, and the firm provided relatively limited data on the subject product. New Jersey Fireworks is the only U.S. producer of colored sparklers (red and green). The firm has produced sparklers since 1946 and has never imported the subject product.²⁶

U.S. importers

The petition identified six importers of sparklers from China. U.S. Customs sources identified many more firms as importers of fireworks. Questionnaires were sent to a total of 53 firms; 24 responses were received, including 3 that indicated that the firm was not an importer of sparklers.

Most importers are wholesale fireworks distributors and are located throughout the United States but concentrated somewhat in the Midwest. A few importers reported nationwide sales, but most concentrate in their own and neighboring States.

Channels of distribution

U.S. producers and importers compete in similar markets for sales (fig. 2). Sparklers are sold by these suppliers to distributors, retailers, and (in limited quantities) directly to consumers in seasonally operated fireworks stands. Distributors resell to smaller retailers, including fireworks-stand operators. A large portion of July 4th sales are on consignment, with unsold product returned to the supplier. U.S. producers sell a somewhat greater proportion of their output to * * * than do importers. Producers and importers reported their 1989 sales by market, as shown in the following tabulation (as a percent of the total):

<u>Market</u>	<u>U.S. producers¹</u>	<u>Importers</u>
Distributors-----	***	67.7
Retailers ² -----	***	<u>32.3</u>
Total-----	100.0	100.0

¹ Includes data reported for B.J. Alan rather than those reported for Diamond. (See discussion in the section of this report entitled "U.S. producers.")

² Includes sales through affiliated stands.

The vast majority of sparklers are sold by suppliers separately from other fireworks, packaged as plastic-wrapped sets of individual boxes, with 6 to 8 sparklers per box and 3 to 12 boxes per set. Sparklers are also sold as part of fireworks assortments, which typically include several boxes of sparklers and a variety of other fireworks. Petitioners and importers reported their

²⁵ The petition estimated that New Jersey Fireworks accounted for approximately 10 percent of the domestic industry (p. 4).

²⁶ Anthony P. Fabrizi, President of New Jersey Fireworks, letter to Kenneth R. Mason, July 20, 1990.

1989 U.S. shipments by method of packaging for sale, as shown in the following tabulation (as a percent of the total):

<u>Method of packaging for sale</u>	<u>U.S. producers¹</u>	<u>Importers</u>
Sold separately from other fireworks---	***	91.2
Sold in assortments-----	***	<u>8.8</u>
Total-----	100.0	100.0

¹ Includes data reported for B.J. Alan rather than those reported for Diamond. (See discussion in the section of this report entitled "U.S. producers.")

Consideration of Material Injury to an Industry in the United States

Information presented in this section of the report is based on the questionnaire responses of all three U.S. producers; however, New Jersey Fireworks did not provide a complete questionnaire response. Data are presented by company in this section of the report.

The periods for which data were requested are 1987, 1988, 1989, January-March 1989, and January-March 1990. Petitioners note that the boom years for the industry were 1976-78, during and immediately following the U.S. bicentennial.²⁷ They allege that the injurious effects of imports from China have been felt since the early 1980s but that such injury has worsened during the period of investigation and thus constitutes present injury.²⁸

U.S. production, capacity, and capacity utilization

All producers provided capacity and production data for the period of investigation. As shown in table 2, U.S. productive capacity for sparklers remained unchanged. Firms reported capacity on the basis of a * * *-hour week, operating * * * weeks a year. Much of U.S. productive capacity has been periodically idle during the period of investigation. For example, during 1987-89, Diamond operated its production equipment about 6 months of each year, * * *.²⁹ Also, for the past 5 years, Elkton has shut down its operations for much of each July and August.³⁰ No adjustments were made to the capacity data reported to account for seasonal idling of operations.

²⁷ Transcript, pp. 44-45.

²⁸ Ibid., pp. 16-17, 25, and 31.

²⁹ Ibid., p. 21 and meeting with company officials on July 5, 1990.

³⁰ Transcript, p. 14.

Table 2
 Sparklers: U.S. capacity, production, and capacity utilization, 1987-89,
 January-March 1989, and January-March 1990

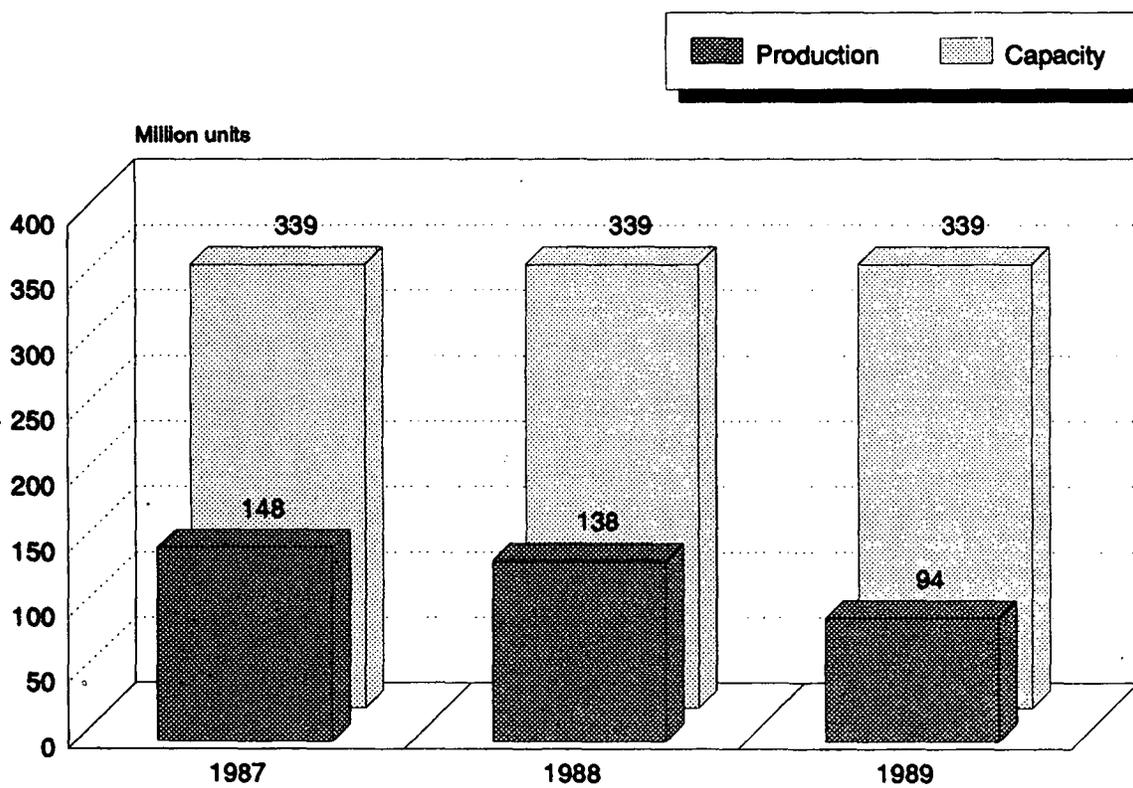
Item	1987	1988	1989	January-March--	
				1989	1990
Capacity (million units):					
Elkton.....	***	***	***	***	***
Diamond.....	***	***	***	***	***
New Jersey Fireworks.....	***	***	***	***	***
Total.....	339	339	339	85	85
Production (million units):					
Elkton.....	***	***	***	***	***
Diamond.....	***	***	***	***	***
New Jersey Fireworks.....	***	***	***	***	***
Total.....	148	138	94	29	***
Capacity utilization (percent): ¹					
Elkton.....	***	***	***	***	***
Diamond.....	***	***	***	***	***
New Jersey Fireworks.....	***	***	***	***	***
Average.....	43.7	40.6	27.6	33.9	***

¹ Computed from the unrounded capacity and production data.

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

Production decreased steadily for the industry, falling by 7.1 percent from 1987 to 1988, by 32.0 percent from 1988 to 1989, and by * * * percent from January-March 1989 to January-March 1990. Capacity utilization dropped correspondingly. These trends are depicted graphically in figure 3.

Figure 3.--Sparklers: U.S. capacity and production, 1987-89



Source: Table 2.

U.S. producers' shipments and inventories

All producers provided data on the volume of U.S. shipments although values and unit values are based only on petitioners' data. These data are presented in table 3. Diamond sells all of its production to B.J. Alan * * *. Because such intracompany transfers may be less reflective of market dynamics than are open-market sales, this section of the report presents B.J. Alan's shipment and inventory data.

U.S. shipments decreased in volume by 8.5 percent from 1987 to 1988 and fell further, by 29.3 percent, in 1989. However, from January-March 1989 to January-March 1990, the volume of shipments rose marginally (* * *).³¹ The value of petitioners' U.S. shipments * * *. Reported first-quarter 1990 shipments were * * * comparable 1989 shipments.³² Unit values * * * during the period of investigation.

U.S. producers' inventories of sparklers build up during the spring and are drawn down by the Fourth of July and, again, by New Year's Eve. * * *.³³ Reported end-of-year inventories increased from 1987 to 1989 and, as a percent of annual shipments, such inventories * * *. March 30, 1990 inventories * * * compared with March 30, 1989 levels * * *.³⁴ Reported inventories are presented in the following tabulation:

<u>Inventories</u>	<u>As of December 31--</u>			<u>As of March 31--</u>	
	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1989</u>	<u>1990</u>
* * *	*	*	*	*	*

In addition, the New Jersey Fireworks questionnaire response indicated * * *.

³¹ Because of the seasonality of shipments, these first-quarter data may not be indicative of annual trends.
³² Ibid.
³³ * * *.
³⁴ Because of the seasonality of shipments, these first-quarter data may not be indicative of annual trends.

Table 3

Sparklers: U.S. producers' U.S. shipments,¹ 1987-89, January-March 1989, and January-March 1990

Item	1987	1988	1989	January-March--	
				1989	1990
Company transfers:					
Quantity (million units):					
Elkton.....	***	***	***	***	***
B.J. Alan.....	***	***	***	***	***
Total.....	***	***	***	***	***
Value (1,000 dollars):					
Elkton.....	***	***	***	***	***
B.J. Alan.....	***	***	***	***	***
Total.....	***	***	***	***	***
Unit value (per 1,000 units):					
Elkton.....	***	***	***	***	***
B.J. Alan.....	***	***	***	***	***
Total.....	***	***	***	***	***
Domestic shipments:					
Quantity (million units):					
Elkton.....	***	***	***	***	***
B.J. Alan.....	***	***	***	***	***
Total.....	***	***	***	***	***
Value (1,000 dollars):					
Elkton.....	***	***	***	***	***
B.J. Alan.....	***	***	***	***	***
Total.....	***	***	***	***	***
Unit value (per 1,000 units):					
Elkton.....	***	***	***	***	***
B.J. Alan.....	***	***	***	***	***
Total.....	***	***	***	***	***
U.S. shipments:					
Quantity (million units):					
Elkton.....	***	***	***	***	***
B.J. Alan.....	***	***	***	***	***
New Jersey Fireworks ²	***	***	***	***	***
Total.....	138	127	90	15	***
Value (1,000 dollars):					
Elkton.....	***	***	***	***	***
B.J. Alan.....	***	***	***	***	***
Total.....	***	***	***	***	***
Unit value (per 1,000 units):					
Elkton.....	***	***	***	***	***
B.J. Alan.....	***	***	***	***	***
Total.....	***	***	***	***	***

¹ U.S. shipments include company transfers and domestic shipments.

² New Jersey Fireworks provided * * *.

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

Employment

Petitioners provided all requested data on employment in the production of sparklers * * *. The work force is not unionized. * * * decreased during the period of investigation while * * * increased (table 4).

Table 4

Sparklers: Average number of production and related workers, hours worked, total compensation paid, hourly total compensation, productivity, and unit labor costs, 1987-89, January-March 1989, and January-March 1990

* * * * *

* * * reported reducing their production and related workers producing sparklers by at least 5 percent in * * * during the period of investigation. The reasons given for the reductions were declining orders and sales. The number of workers reported as permanently (or "indefinitely") laid off each year is presented in the following tabulation:

<u>Company</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
* * *	*	*	*	*

In addition, * * * Diamond reported seasonal shutdowns and associated temporary layoffs affecting * * * production workers.³⁵

Financial experience of U.S. producers

Elkton and Diamond, accounting for the majority of U.S. production of sparklers in 1989, supplied income-and-loss data on overall establishment operations and sparkler operations. B.J. Alan also provided these data. Because B.J. Alan purchases all of Diamond's sparkler production * * *,³⁶ the data presented in this section of the report are those reported for B.J. Alan.³⁷

Overall establishment operations.--Income-and-loss data on overall establishment operations for each company and combined are shown in table 5.

* * * * *

Table 5

Income-and-loss experience of U.S. producers of sparklers on their overall establishment operations, by firms, accounting years 1987-89

* * * * *

³⁵ * * * and transcript, p. 18.

³⁶ * * *

³⁷ * * *

Sparkler operations.--Income-and-loss data on sparkler operations for each company and combined are shown in table 6.

* * * * *

Table 6
Income-and-loss experience of U.S. producers on their operations producing sparklers, by firms, accounting years 1987-89

* * * * *

Capital expenditures.--Reported capital expenditures for the producers of sparklers are shown in the following tabulation (in thousands of dollars):

<u>Item</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
* * * * *	*	*	*

Value of property, plant, and equipment.--Reported end-of-period investment in facilities producing sparklers and the annual return on those investments are shown in table 7.

Table 7
Sparklers: Value of property, plant, and equipment of U.S. producers, by firms, accounting years 1987-89

* * * * *

Research and development expenses.--

* * * * *

Impact of imports on capital and investment.--The Commission requested that producers describe and explain the actual or anticipated negative effects, if any, of imports of sparklers from China on their growth, development and production efforts, investment, and ability to raise capital. Their comments are shown in appendix C.

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 factors³⁸--

(I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

(V) any substantial increase in inventories of the merchandise in the United States,

(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,

(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 736, are also used to produce the merchandise under investigation,

³⁸ 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."

(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.³⁹

Available information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury" and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in the section entitled "Consideration of Material Injury to an Industry in the United States." Available information on U.S. importers' inventories (item V) and foreign producers' operations (items (II) and (VI)) follows. Other threat indicators have not been alleged or are otherwise not applicable.

U.S. importers' inventories

U.S. importers reported substantial inventories of Chinese sparklers at the end of 1987, but such inventories dropped sharply both in quantity and as a share of total shipments by the end of 1989. Although March 31, 1989 inventories were somewhat larger than the previous year's level, they accounted for a much smaller share of first-quarter shipments.⁴⁰ Reported inventories are shown in the following tabulation:

<u>Inventories</u>	<u>As of December 31--</u>			<u>As of March 31--</u>	
	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1989</u>	<u>1990</u>
Quantity (million units).....	89	62	20	60	67
As a percent of total shipments..	89	50	17	860 ¹	236 ¹

¹ Inventories as of March 31 as a percent of January-March shipments.

³⁹ 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."

⁴⁰ Because of the seasonality of shipments, these first-quarter data may not be indicative of annual trends.

The sparkler industry in the People's Republic of China

China has traditionally been a producer and exporter of fireworks. Information regarding the Chinese sparkler industry was requested of respondents and through U.S. State Department channels. However, there appears to be little available data. Witnesses at the public conference testified regarding their personal knowledge of the Chinese industry.⁴¹ According to respondents, there are four major producers of sparklers in China, each of which also produces other fireworks. There may be other smaller sparkler producers--petitioners estimate the number of producers at more than 20. Capacity is reportedly expanding and capacity utilization is reportedly high, although the plants do not or cannot operate year round. During 1985-87, when China introduced economic decentralization, prices of sparklers decreased as a result of inter-Provincial competition for export sales. Respondents report that prices have since risen⁴² and the market has stabilized.⁴³ The home market for sparklers is small, and the United States is the largest export market although other markets are "developed." A Chinese trading company that handles fireworks has recently expanded warehousing facilities in the United States. Petitioners allege, and respondents deny, that China will continue to expand exports to the United States.

In response to a request made through the State Department, the Commission received two communications from the China Chamber of Commerce of Importers and Exporters of Foodstuffs, Native Products and Animal-By-Products (CCCFNA), named by petitioners as an exporter of sparklers.⁴⁴ According to the CCCFNA, China exports "small quantities of sparklers to the U.S.," such exports have "developed stead[i]ly," and they are not expected to increase "to a large extent." Reported exports are presented in the following tabulation:

<u>Chinese exports of sparklers to the United States</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>
Quantity (million units).....	153	170	185
Value (\$1,000).....	993	867	1,318

Further, "[i]t is impossible to enlarge the production of [Chinese] sparklers in [the] future." The CCCFNA also notes that Chinese export prices for sparklers have risen and will continue to increase.

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

Petitioners allege that U.S. imports of sparklers from China are transshipped through Hong Kong and may be incorrectly reported as imports from Hong Kong. Also, importers reported, as imports from Hong Kong, Chinese sparklers that were purchased from Hong Kong brokers.⁴⁵ This report includes

⁴¹ See transcript, pp. 19, 39-40, 75-76, 81-87, and 92.

⁴² See, for example, L.W. Loyd Co., Inc., letter to United States International Trade Commission, July 10, 1990.

⁴³ * * *.

⁴⁴ "Statement on Export of the Chinese Sparklers to U.S. Market" (facsimile) dated July 28, 1990, and second facsimile dated August 2, 1990.

⁴⁵ Where firms reported imports from Hong Kong but identified the foreign manufacturer as a Chinese producer, the product is presented as imports from China. However, * * * firms reported imports from Hong Kong without

data on imports from Hong Kong, presented separately from data on imports from China.

Fireworks

Sparklers are imported under HTS statistical reporting number 3604.10.00.00, which includes all fireworks. Prior to 1989, fireworks were reported under item 755.15 of the former TSUSA. Official U.S. import statistics for fireworks are presented in table 8. Compared with value data obtained from questionnaires, sparklers appear to account for a very small

Table 8

Fireworks: U.S. imports from the People's Republic of China, Hong Kong,¹ and all other countries, 1987-89, January-March 1989, and January-March 1990

Source	1987	1988	1989	January-March--	
				1989	1990
<u>Quantity² (1,000 pounds)</u>					
China.....	50,013	47,155	64,183	11,959	16,982
Hong Kong.....	10,290	7,270	4,837	1,262	1,349
All other countries.....	5,820	5,648	4,614	1,281	916
Total.....	<u>66,124</u>	<u>60,073</u>	<u>73,635</u>	<u>14,502</u>	<u>19,247</u>
<u>Value³ (1,000 dollars)</u>					
China.....	53,670	48,271	61,446	10,633	17,074
Hong Kong.....	11,429	7,731	4,828	1,284	1,401
All other countries.....	15,787	16,529	14,344	4,855	3,428
Total.....	<u>80,885</u>	<u>72,531</u>	<u>80,618</u>	<u>16,772</u>	<u>21,904</u>
<u>Unit value² (per pound)</u>					
China.....	\$1.07	\$1.02	\$0.96	\$0.89	\$1.01
Hong Kong.....	1.11	1.06	1.00	1.02	1.04
All other countries.....	2.71	2.93	3.11	3.79	3.74
Average.....	1.22	1.21	1.09	1.16	1.14

¹ Petitioners allege that fireworks from China are transhipped through Hong Kong.

² Official import statistics for 1989 and the partial-year periods quantify imports in metric units. The quantity and unit-value data presented in this table for these periods were converted to thousands of pounds and dollars per pound, respectively.

³ Landed, duty-paid value.

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

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

⁴⁵ (...continued)

identifying the foreign producer. These are presented as imports from Hong Kong.

portion of the basket category; however, certain trends were similar. China is the major foreign supplier of fireworks to the U.S. market. Such imports declined from 1987 to 1988 and increased in 1989 while unit values decreased steadily. Both the volume and value of fireworks from China rose steeply in the first quarter of 1990 compared with the same period in 1989, and unit values increased.⁴⁶

Sparklers

Data on imports of sparklers are not available from official U.S. import statistics or other secondary sources. Importers' questionnaires were sent to 53 firms identified as importers of at least \$100,000 worth of fireworks from either China or Hong Kong, or of at least \$200,000 worth of fireworks from all other countries, in 1989. Data provided by importers are believed to account for a majority of the subject imports.⁴⁷ These data reflect certain trends observed in official U.S. import data for all fireworks.

As shown in table 9, U.S. imports of sparklers from China fell from 164 million units in 1987 to 112 million in 1988 and to 100 million in 1989, representing annual decreases of 32 and 11 percent, respectively.⁴⁸ The landed, duty-paid value of such imports decreased somewhat less steeply, from \$1.1 million to \$842,000 from 1987 to 1988 (down by 25 percent) and to \$766,000 in 1989 (a decline of 9 percent).⁴⁹ Unit values increased in 1988 to \$7.55 per thousand units, up 9 percent from an average value of \$6.88 per thousand during 1987. Unit values rose again, marginally, in 1989, to \$7.68 per thousand units. Both the volume and the value of U.S. imports from China essentially doubled from January-March 1989 to the corresponding period of 1990. The unit value of imports from China fell to their lowest point, \$6.73 per thousand, in January-March 1990, a drop of 24 percent from the corresponding period of 1989.⁵⁰

⁴⁶ Because of the seasonality of shipments, these first-quarter data may not be indicative of annual trends.

⁴⁷ * * * * *

⁴⁸ * * *

⁴⁹ * * *

⁵⁰ Because of the seasonality of imports, these first-quarter data may not be indicative of annual trends.

Table 9

Sparklers: U.S. imports from the People's Republic of China, Hong Kong,¹ and all other countries, 1987-89, January-March 1989, and January-March 1990

Source	1987	1988	1989	January-March--	
				1989	1990
<u>Quantity (million units)</u>					
China.....	164	112	100	28	65
Hong Kong.....	***	***	***	***	***
All other countries.....	***	***	***	***	***
Total.....	167	115	103	29	66
<u>Value² (thousand dollars)</u>					
China.....	1,129	842	766	247	439
Hong Kong.....	***	***	***	***	***
All other countries.....	***	***	***	***	***
Total.....	1,200	907	809	259	455
<u>Unit value³ (per thousand units)</u>					
China.....	\$6.88	\$7.55	\$7.68	\$8.82	\$6.73
Hong Kong.....	***	***	***	***	***
All other countries.....	***	***	***	***	***
Average.....	7.18	7.91	7.90	9.01	6.88

¹ Petitioners allege that fireworks from China are transshipped through Hong Kong.

² Landed, duty-paid value.

³ Based on companies providing both quantity and value data.

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

Market penetration by the subject imports

Market penetration is calculated from producers' and importers' reported U.S. shipments. Chinese sparklers accounted for the majority of the U.S. market overall in terms of volume and increased their market penetration steadily during the period of investigation (table 10). The U.S. market share declined as the Chinese share increased. In terms of value, the domestic industry gained market share in 1989 compared with 1988 as China lost market share, but import penetration increased in other periods. U.S. volume data include the entire domestic industry. Other data are incomplete.

Table 10

Sparklers: Apparent U.S. consumption and shares of consumption supplied by U.S. shipments¹ of imports from the People's Republic of China, Hong Kong,² all other countries, and U.S. producers,³ 1987-89, January-March 1989, and January-March 1990

Item	1987	1988	1989	January-March--	
				1989	1990
<u>Quantity</u>					
Apparent U.S. consumption (million units).....	258	264	213	22	***
Shares of consumption supplied by--					
U.S. shipments of imports from--					
China (percent).....	46.1	51.5	57.3	31.8	***
Hong Kong (percent).....	***	***	***	***	***
All other countries (percent).....	***	***	***	***	***
Total imports (percent).....	46.5	51.9	57.8	33.6	***
U.S. producers' U.S. shipments (percent).....	53.5	48.1	42.2	66.4	***
<u>Value</u>					
Apparent U.S. consumption (\$1,000)....	***	***	***	***	***
Shares of consumption supplied by--					
U.S. shipments of imports from--					
China (percent).....	***	***	***	***	***
Hong Kong (percent).....	***	***	***	***	***
All other countries (percent).....	***	***	***	***	***
Total imports (percent).....	***	***	***	***	***
U.S. producers' U.S. shipments (percent).....	***	***	***	***	***

¹ Includes company transfers and open-market sales.

² Petitioners allege that sparklers from China are transshipped through Hong Kong.

³ Includes data reported for B.J. Alan Co. rather than those reported for Diamond Sparkler Co. (See discussion in the section of this report entitled "U.S. producers.")

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

Prices

The demand for sparklers is influenced by the level of consumer spending on fireworks and devices for celebrations such as the Fourth of July, New Year's, birthdays, etc. The demand is seasonal, with the vast majority being consumed on the Fourth of July; therefore, sales of sparklers to wholesalers and retailers tend to be highest during April-June of each year. Other factors, such as safety concerns and weather conditions, can also affect demand. For example, certain States prohibit the use of sparklers.

Sparklers are manufactured and sold in the following sizes: No. 8, No. 10, No. 14, No. 20, and No. 36.⁵¹ The price of sparklers generally increases with the length. Sparklers are also sold in a variety of colors, including gold, red, green, and blue.⁵² The majority of sparklers sold in the United States are gold colored. Only one U.S. producer, New Jersey Fireworks, manufactures red and green sparklers; the majority of colored sparklers are imported from China.

Sparklers are sold either alone or as part of an assortment that contains other fireworks.⁵³ Most fireworks assortments are sold on a guaranteed-sale basis. The wholesaler/distributor supplies the retailer with the merchandise and retrieves what is unsold after July 4. The retailer generally keeps a percentage of net sales, usually 50 percent.⁵⁴

Sparklers are generally sold on a gross-carton basis.⁵⁵ Most companies publish price lists; however, virtually all producers and importers reported discounting from their price lists. Although some producers and importers reported that the discount is based on the quantity sold, many reported that they have no formal discounting policy; the discount is negotiated for each particular sale and depends on the competition. Although sales terms vary from firm to firm, many do not require payment until after the Fourth of July, e.g., around the 10th or 15th of the month.

U.S. producers and importers sell sparklers to both wholesalers/distributors and retailers. Sales to retailers are often on a consignment basis, where the purchaser buys sparklers and then returns the unsold portion for a credit. * * * reported that * * * of their sales to retailers are on a consignment basis.⁵⁶ Return rates for * * * (for retail customers) were * * *.⁵⁷

There are differing opinions concerning the quality of the domestic sparklers compared with those imported from China. The two petitioners, Elkton and Diamond, reported that there are no significant quality differences between the domestic and imported sparklers. * * *. Six importers reported that there is no significant difference in the quality of domestic and imported sparklers; 10 importers stated that there was such a difference.⁵⁸ Of these 10, 3 importers stated that the quality of the imported product was superior.⁵⁹ Four importers reported that the quality of the domestic sparkler is better

⁵¹ Sparklers that are imported from China are primarily available in sizes No. 8 and No. 10.

⁵² Gold sparklers tend to be less expensive than similarly sized red, green, or blue ones.

⁵³ The petitioners do not manufacture other fireworks; therefore, they purchase other types of fireworks from domestic and foreign suppliers to package and sell with their sparklers.

⁵⁴ Transcript, p. 12.

⁵⁵ A gross carton contains 144 boxes of sparklers. One gross carton of No. 8 sparklers contains 864 sparklers (6 sparklers per box) and one gross carton of No. 10 sparklers contains 1,152 sparklers (8 sparklers per box). Some importers reported selling sparklers on a per-dozen basis.

⁵⁶ * * *.

⁵⁷ * * *.

⁵⁸ * * * * * * * *

⁵⁹ Reasons given include brighter colors and easier ignition of imported products.

than that of the imported.⁶⁰ The remaining three did not specify which product was of a higher quality.

All of the producers and some of the importers reported that there are no substitutes for sparklers. However, seven importers stated that "morning glories" can be considered a substitute for sparklers. Morning glories have similar sparkler effects but utilize bamboo or wood sticks instead of wire. Morning glories cost at least twice as much as sparklers.

Transportation costs are not an important factor in the sparkler market. Virtually all sparklers are transported by truck, with the costs paid by the producer/importer sometimes and the purchaser other times. Leadtimes for delivery for domestic sparklers average * * *.⁶¹ Average leadtimes reported by importers of sparklers from China varied widely, ranging from 1 to 120 days.⁶²

The Commission requested pricing data for producers' and importers' largest sales of No. 8 and No. 10 gold sparklers to both wholesalers and retailers during the period January 1987 to March 1990. Usable pricing data were received from two U.S. producers--Elkton and Diamond--and eight importers. Diamond sells all of its production of sparklers to B.J. Alan, a related wholesaler/importer (see fig. 2 for market structure);⁶³ therefore, Diamond's sales prices do not represent an "arms-length" transaction.⁶⁴ Diamond reported prices for sales from B.J. Alan to other unrelated wholesalers and retailers;⁶⁵ however, these prices are not combined with those of Elkton since B.J. Alan is a distributor/importer rather than a domestic producer. Thus, weighted-average prices are not presented for domestic sparklers. Prices are, rather, presented separately for Elkton and Diamond. Prices for sparklers imported from China are shown on a weighted-average basis both including import prices reported by B.J. Alan and without those prices. No direct margins of underselling are presented in the tables; however, comparisons between domestic and imported prices are discussed in the text.

Price trends and comparisons--Prices for U.S.-produced sparklers increased irregularly during the period January 1987-March 1990 (tables 11-14).⁶⁶ Prices for sparklers imported from China fluctuated during the period of investigation.⁶⁷ Price comparisons show underselling by the imported product.

Sales to wholesalers/distributors--As shown in table 11, prices reported by Elkton for No. 8 gold sparklers * * *. Elkton's prices in April-June 1989 were * * * than those of the corresponding quarter of 1987.⁶⁸

⁶⁰ Reasons include better packaging, greater length, thicker wire, and more pyrotechnic material with the domestic product.

⁶¹ * * *.

⁶² One-day leadtimes are generally for product that is already in stock.

⁶³ In addition, Diamond and B.J. Alan are related in that they have the same president.

⁶⁴ Diamond did not report its prices for sales to B.J. Alan because B.J. Alan is not an unrelated party.

⁶⁵ In this section of the report, B.J. Alan's prices for Diamond brand sparklers are referred to as Diamond's prices * * *.

⁶⁶ * * * * * * *

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⁶⁸ In discussing overall trends, prices are compared with those in the corresponding quarter of previous years because of the seasonal nature of the sparkler industry. Prices in January-March 1990 were * * * than they were in the corresponding quarter of 1987.

Diamond's reported prices for No. 8 gold sparklers * * * during the period; prices in April-June 1989 were * * * than they were in the corresponding quarter of 1987.⁶⁹ Weighted-average prices for these sparklers reported by all importers (* * *) * * * during the period, with prices approximately * * * in April-June 1989 than in the corresponding quarter of 1987.⁷⁰ Prices for the imported No. 8 golds * * * during the period; prices in April-June 1989 were * * * than in the corresponding quarter of 1987.⁷¹ Prices for the imported product were * * * than those reported by both Elkton and Diamond in * * * for which prices were reported.

Table 11

Sparklers: Domestic f.o.b. sales prices and weighted-average f.o.b. prices for the imported product for sales of No. 8 gold sparklers to wholesalers/distributors, by quarters, January 1987-March 1990

* * * * *

Elkton's prices for No. 10 size gold sparklers * * * during the period; prices in April-June 1989 were * * * than they were in the corresponding quarter of 1987 (table 12).⁷² Prices reported by Diamond for these sparklers * * *, with prices * * * in the second quarter of 1989 than they were in the corresponding quarter of 1987.⁷³ Prices for Chinese No. 10 gold sparklers * * * during the period of investigation; prices in the second quarter of 1989 were * * * than they were in the corresponding quarter of 1987.⁷⁴ Prices for the imported product were * * * than those of domestic products in all quarters where comparisons were possible.

Table 12

Sparklers: Domestic f.o.b. sales prices and weighted-average f.o.b. prices for the imported product for sales of No. 10 gold sparklers to wholesalers/distributors, by quarters, January 1987-March 1990

* * * * *

Sales to retailers--As shown in table 13, prices reported by Elkton for sales of gold No. 8 sparklers to retailers * * *; however, they were * * * in April-June 1989 than they were in the corresponding quarter of 1987. Diamond's prices for these products * * * during the period, with prices in the

⁶⁹ Prices were * * * in January-March 1990 than they were in the corresponding quarter of 1987.

⁷⁰ Prices were * * * in January-March 1990 than they were in the corresponding quarter of 1987.

⁷¹ Prices were * * * in January-March 1990 than they were in the corresponding quarter of 1987.

⁷² Prices were * * * in January-March 1990 than they were in the corresponding quarter of 1987.

⁷³ Prices were * * * in January-March 1990 than they were in the corresponding quarter of 1987.

⁷⁴ Prices were * * * in January-March 1990 than they were in the corresponding quarter of 1987. * * *

second quarter of 1989 approximately * * * than they were in the corresponding quarter of 1987. Prices for No. 8 Chinese gold sparklers, reported by all importers * * * in April-June 1989 than in the corresponding quarter of 1987. Prices for these imported products * * *; however, prices in the second quarter of 1989 were * * * than they were in the corresponding quarter of 1987. Prices for the imported product, * * *, were * * * than those reported by * * * in * * * quarters for which comparisons were possible. In * * * quarters, prices of the imported product * * * were * * * than those of * * *. Prices for the imported product * * * were * * * those of * * * in * * * quarters for which prices were reported. In * * * quarters, prices of the imported product * * * were * * * those of * * *.

Table 13

Sparklers: Domestic f.o.b. sales prices and weighted-average f.o.b. prices for the imported product for sales of No. 8 gold sparklers to retailers, by quarters, January 1987-March 1990

* * * * *

Elkton's prices for No. 10 gold sparklers * * * during the period; prices in April-June 1989 were * * * than they were in the corresponding quarter of 1987 (table 14). Prices reported by Diamond for these products * * *, with prices in the second quarter of 1989 * * * than those in the corresponding quarter of 1987. Prices for Chinese No. 10 sparklers * * * during the period; prices in April-June 1989 were * * * than they were in the corresponding quarter of 1987. Prices for the imported product were * * * those of * * * in * * * quarters for which price comparisons were possible. In * * * quarters for which price comparisons were possible, the imported product was priced * * *; the imported product was priced * * * than * * * in * * * and * * * in * * *.

Table 14

Sparklers: Domestic f.o.b. sales prices and weighted-average f.o.b. prices for the imported product for sales of No. 10 gold sparklers to retailers, by quarters, January 1987-March 1990

* * * * *

Lost sales and lost revenues

* * * * *

Exchange rates

Since the value of the currency of China is determined by the Chinese Government rather than by the free market, meaningful measures of China's exchange rate cannot be presented.

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APPENDIX A
FEDERAL REGISTER NOTICES

injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China of sparklers,¹ provided for in subheading 3604.10.00 of the Harmonized Tariff Schedule of the United States (previously under item 572.30 of the former Tariff Schedules of the United States), that are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by August 16, 1990.

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

EFFECTIVE DATE: July 2, 1990.

FOR FURTHER INFORMATION CONTACT: Rebecca Woodings (202-252-1192), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background. This investigation is being instituted in response to a petition filed on July 2, 1990, by Elkton Sparkler Co., North East, MD and Diamond Sparkler Co., Youngstown, OH.

Participation in the investigation. Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in 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 (19 CFR 201.11(d)), the Secretary will 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 § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in this preliminary investigation to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Conference. The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on July 24, 1990, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Rebecca Woodings (202-252-1192) not later than July 20, 1990, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions. Any person may submit to the Commission on or before July 26, 1990, a written brief containing information and arguments pertinent to the subject matter of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). If briefs contain business proprietary information, a nonbusiness proprietary version is due July 27, 1990. A signed original and fourteen (14) copies of each

{Investigation No. 731-TA-464
(Preliminary)}

Sparklers From the People's Republic of China

AGENCY: United States International Trade Commission.

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

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-464 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material

¹ Sparklers are fireworks, each comprising a cut-to-length wire, one end of which is coated with a chemical mix that emits bright sparks while burning. HTS subheading 3604.10.00 covers all imported fireworks.

submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.8 and 207.7 of the Commission's rules (19 CFR 201.8 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their written brief, and may also file additional written comments on such information no later than July 30, 1990. Such additional comments must be limited to comments on business proprietary information received in or after the written briefs. A nonbusiness proprietary version of such additional comments is due July 31, 1990.

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

By order of the Commission.

Issued: July 6, 1990.

Kenneth R. Mason,
Secretary.

[FR Doc. 90-16161 Filed 7-10-90; 8:45 am]

BILLING CODE 7020-02-M

[A-570-804]

**Initiation of Antidumping Duty
Investigation; Sparklers From the
People's Republic of China**

AGENCY: Import Administration,
International Trade Administration,
Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating an antidumping duty investigation to determine whether imports of sparklers from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of sparklers from the People's Republic of China are materially injuring, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before August 16, 1990. If that determination is affirmative, we will make a preliminary determination on or before December 10, 1990.

EFFECTIVE DATE: July 31, 1990.

FOR FURTHER INFORMATION CONTACT:
Michael Ready or Louis Apple, Office of

Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-2613 or (202) 377-1769.

SUPPLEMENTARY INFORMATION:

The Petition

On July 2, 1990, we received a petition filed in proper form by Elkton Sparkler Company of North East, Maryland, and Diamond Sparkler Company of Youngstown, Ohio. In compliance with the filing requirements of the Department's regulations (19 CFR 353.12 (1989)), petitioners allege that imports of sparklers from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry. Petitioners also allege that critical circumstances exist with respect to imports of sparklers from the PRC.

Petitioners have stated that they have standing to file the petition because they are interested parties, as defined under section 771(9)(C) of the Act, and because they have filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. Any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, who wishes to register support for, or opposition to, this petition, should file written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

United States Price and Foreign Market Value

Petitioners based United States Price (USP) for sparklers on a 1989 price list, for No. 8 and No. 10 sparklers, from a Hong Kong-based wholesaler of PRC-made sparklers. The terms of the price were F.O.B. Hong Kong.

Petitioners based foreign market value (FMV) for sparklers on the factors of production of Diamond Sparkler Company. Where possible, petitioner valued factors in India, a sparkler-producing third country whose economy is market-driven and which petitioners contend is comparable to the PRC.

When petitioner was unable to calculate a factor's value in India, the factor was valued in the United States. Petitioners' methodology resulted in margins of 90.5 percent and 63.3 percent.

The Department determined that petitioners had incorrectly calculated estimated factory overhead in the PRC. The Department therefore corrected the factory overhead component of petitioners' FMV calculation by substituting Indian labor rates for U.S. labor rates and by disallowing an unsupported increase in the overhead figure that petitioner had proposed. The corrected methodology results in estimated dumping margins of 78.73 percent for No. 8 type sparklers and 54.60 percent for No. 10 type sparklers.

Initiation of Investigation

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

We have examined the petition on sparklers from the People's Republic of China and found that the petition meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of sparklers from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by December 10, 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 U.S. tariff schedules were 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 subheadings. The HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive as to the scope of the product coverage.

The products covered by this investigation are sparklers from the People's Republic of China. Sparklers are fireworks, each comprising a cut-to-length wire, one end of which is coated

with a chemical mix that emits bright sparks while burning. Sparklers are currently classifiable under HTS subheading 3604.10.00.

ITC Notification

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing 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.

Preliminary Determination by ITC

The ITC will determine by August 16, 1990 whether there is a reasonable indication that imports of sparklers from the People's Republic of China are materially injuring, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

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

Dated: July 23, 1990.

Eric I. Garfinkel,
Assistant Secretary for Import
Administration.

[FR Doc. 90-17724 Filed 7-30-90; 8:45 am]

BILLING CODE 3510-05-M

APPENDIX B
LIST OF WITNESSES

List of Witnesses

The persons listed below appeared at the United States International Trade Commission's public staff conference held in connection with the subject investigation.

Subject: Sparklers From the People's Republic of China

Inv. No.: 731-TA-464 (Preliminary)

Date and Time: July 24, 1990, 9:30 a.m.

Sessions were held in Courtroom A of the United States International Trade Commission Building, 500 E Street SW, Washington, DC.

In support of the imposition of antidumping duties:

Elkton Sparkler Co., North East, MD
Diamond Sparkler Co., Youngstown, OH

Counsel:

Barnes & Thornburg
Marcela B. Stras
Randolph J. Stayin
Richard H. Streeter

Witnesses:

Charles Shivery, President, Elkton Sparkler Co.
Bruce Zoldan, President, Diamond Sparkler Co.
Jerry Bostocky, Vice President of Sales, B.J. Alan Co.
Mark W. Love, Vice-President, Economic Consulting Services Inc.

In opposition to the imposition of antidumping duties:

American Importers, Inc., Florence, AL
China Pyrotechnics, Inc., Florence, AL
Family Fireworks, Gas City, IN
Imperial Enterprises, Inc., Dayton, OH
Jordane Inc. DBA Acme Fireworks, Valparaiso, IN
L.W. Loyd Co., South Pittsburg, TN
North Central Industries, Muncie, IN
Pyrodyne American Corp. of Washington, Tacoma, WA
Red Rocket Fireworks Co., Ponchatoula, LA
Shiu Fung Fireworks Co., Ltd., Kowloon, Hong Kong

Counsel:

Klayman & Associates, P.C.
Larry Klayman
Frederick Sujat

Witness:

Joel R. Anderson, President, American Importers, Inc.

APPENDIX C

IMPACT OF IMPORTS ON CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual and/or potential negative effects of imports of sparklers from China on their growth, investment, and ability to raise capital and/or existing development and production efforts. Responses are presented below:

* * * * *

UNITED STATES
INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C. 20436

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