

# **CERTAIN IRON-METAL CASTINGS FROM INDIA**

**Determination of Material Injury,  
or Threat of Material Injury,  
in Investigation No. 303-TA-13  
(Final) Under Section 303(b) of  
the Tariff Act of 1930, Together  
With the Information Obtained  
in the Investigation**

**USITC PUBLICATION 1098**

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# UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report.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



UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.

[Investigation No. 303-TA-13 (Final)]

CERTAIN IRON-METAL CASTINGS FROM INDIA

Determination

On the basis of the record 1/ developed in investigation No. 303-TA-13 (Final), the Commission determines (Chairman Alberger dissenting), pursuant to section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), that an industry in the United States is materially injured, or is threatened with material injury, 2/ by reason of imports from India of certain iron-metal castings, 3/ provided for in item 657.09 of the Tariff Schedules of the United States and accorded duty-free treatment, which the Department of Commerce has found to be subsidized by the Government of India.

Background

The Commission instituted this investigation effective May 20, 1980, following a preliminary determination by the Department of Commerce that bounties or grants are being provided by the Government of India with respect to the production or export of certain iron-metal castings imported into the United States. Notice of the institution of the Commission's investigation and of the public hearing to be held in connection therewith was duly given by

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

2/ Vice Chairman Calhoun and Commissioners Moore and Bedell found material injury; Commissioner Stern found material injury or threat of material injury.

3/ The specific articles included within the scope of this investigation are manhole covers and frames, catch-basin grates and frames, and cleanout covers and frames.

posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and in the Commission's New York City Office, located at 6 World Trade Center, and by publishing the notice in the Federal Register on June 18, 1980 (45 F.R. 41244). The hearing was held in San Francisco, Calif., on August 27 and 28, 1980, and all persons who requested the opportunity were permitted to appear in person or by counsel.



STATEMENT OF REASONS FOR THE AFFIRMATIVE DETERMINATION OF  
COMMISSIONERS GEORGE M. MOORE AND CATHERINE BEDELL

Determination

On the basis of the record developed in investigation No. 303-TA-13 (Final), we determine that an industry in the United States is materially injured 1/ by reason of the importation of certain iron-metal castings from India, provided for in item 657.09 of the Tariff Schedules of the United States (TSUS) and accorded duty-free treatment, upon which the Department of Commerce has determined that bounties or grants are provided by the Government of India.

The following findings and conclusions, based on the record in this investigation, support our determination.

The imported article and the domestic industry

The certain iron-metal castings which are the subject of this investigation are manhole covers and frames, catch-basin grates and frames, and cleanout covers and frames. These iron-metal castings are encompassed within a larger class of articles commonly called public works castings, and are used either for drainage or access purposes to public utility, water, and sanitary systems.

In this determination we have found that the U.S. industry being injured consists of the domestic producers of these products located in the Western United States, and that these States constitute a regional market. 2/ This

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1/ No party alleged that imports of such merchandise prevented an industry from being established. Therefore, this issue will not be discussed further in this statement.

2/ The Western marketing area was defined for the purposes of this investigation to include the following States: Washington, Oregon, California, Nevada, Idaho, Montana, Arizona, Utah, Wyoming, Colorado, New Mexico, Hawaii, and Alaska.

regional market is well defined since all known imports and production of the subject public works castings in these States are consumed there, and the demand in that market is not supplied to a substantial degree by producers located in other States, because high costs of overland freight make long-distance shipping of these heavy and bulky items uneconomical. 1/ In addition, close to 30 percent of all imports of these public works castings from India in the period January 1977-March 1980 entered the United States through ports in the Western region, whereas that region was responsible for only 16 percent of total apparent U.S. consumption of these products over the same period. 2/ There are 13 known U.S. producers in the region.

#### The bounties or grants

The U.S. Department of Commerce determined that the Government of India provides Indian manufacturers/exporters of certain public works castings with various rebates of taxes under the Cash Compensatory Support on Export program, as well as other minor benefits. These programs amount to bounties or grants having net benefits ranging from 12.9 to 16.8 percent of the f.o.b. price of the exported product. For most Indian manufacturers/exporters of these products, the net benefit amounts to 13.3 percent of the f.o.b. price.

#### Material injury to Western U.S. producers by reason of subsidized imports

Imports and market share.--Imports of certain public works castings from India in the Western region increased from 8.0 million pounds in 1977, when they accounted for 16 percent of apparent consumption in that region, to 27.7 million pounds in 1979, when they accounted for 37 percent. Imports into the Western region increased again in January-March 1980 compared with those

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1/ Report, pp. A-7 and A-13.

2/ Report, pp. A-12, A-28, and A-30.

in the corresponding period of 1979, and continued to increase their share of apparent consumption to 55 percent. 1/

U.S. production and utilization of facilities.--Production of certain public works castings by Western U.S. producers fell from 40.9 million pounds in 1977 to 36.0 million pounds in 1979, or by 12 percent. It continued to fall in January-March 1980, to 4.2 million pounds from 7.0 million pounds in the corresponding period of 1979, or by 41 percent. Utilization of productive facilities decreased in each year from 80 percent in 1977 to 70 percent in 1979, and fell sharply in January-March 1980 to less than 50 percent of capacity. 2/

Inventories.--Western producers' inventories rose by 17 percent from 4.2 million pounds in 1977 to 4.9 million pounds in 1979, and by 93 percent from 3.0 million pounds in January-March 1980 to 5.8 million pounds in January-March 1979. The ratio of inventories to shipments also increased from 1977 to 1979, and more than tripled in January-March 1980 compared with the ratio in January-March 1979. 3/

Employment, hours worked, and labor productivity.--Employment of production and related workers by Western respondents declined by 8 percent from 383 in 1977 to 352 in 1979, and dropped precipitously to 229 in January-March 1980. Average weekly hours worked per worker fell in each year from 1977 to 1979 and in January-March 1980 compared with hours worked in January-March 1979. The productivity of Western producers, as measured by output per man-hour, rose slightly from 54.8 pounds per hour in 1977 to 55.8

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1/ Report, p. A-30.

2/ Report, p. A-15.

3/ Report, p. A-16.

pounds per hour in 1979 owing to a more rapid decline in man-hours worked than in production. Productivity dropped sharply in January-March 1980 to 37.5 pounds per hour. 1/

Profitability.--Data from U.S. producers located in the Western United States show net sales of these producers declining by 6 percent from \$12.1 million in 1977 to \$11.4 million in 1979, and by 14 percent in January-March 1980 compared with sales in January-March 1979. 2/ These producers experienced net operating losses of \$432,000 in 1978, \$303,000 in 1979, and \$88,000 in January-March 1980, with more than half of the respondents reporting such losses for their firms in January-March 1980. A large Western producer of these products, Comco Foundry of Commerce City, Colo., closed its facility in February 1979, its management claimed, because of competition from low-cost imports. While financial data from Comco influences total Western producers' profitability, a decline is still exhibited without the inclusion of that firm's data. 3/

Prices.--Price data collected from 43 U.S. producers show that the imported product from India, whether offered by producer-importers or importers, undersold that of U.S. producers in each 3-month period for which data were collected from January 1978 to March 1980. For example, the margins of underselling by imports of the 270-pound manhole assembly sold by importers increased from 37.9 percent in January-March 1978 to 40.0 percent in October-December 1979 before declining to 27.5 percent in January-March 1980. Similarly, margins of underselling by imports of the 270-pound manhole assembly sold by producer-importers rose from 11.0 percent in January-March

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1/ Report, pp. A-18 and A-19.

2/ Data for 1977-79 represent operations of 10 firms; data for January-March of 1979 and 1980 represent operations of 8 firms.

3/ Report, pp. A-14 and A-23.

1978 to 27.3 percent in October-December 1979 and then declined to 23.0 percent in January-March 1980. The decline in the margins of underselling in 1980 is principally the result of a drop in the price of the U.S.-produced product, a clear demonstration of price depression. 1/

#### Lost sales

The Commission's staff verified 32 instances in which distributors and end users of certain public works castings purchased imports from India in lieu of the domestic product. Eleven of these purchasers were located in the Western United States. Of these 11, 9 confirmed that they purchased imports from India over the domestic product because of price. 2/

#### Conclusion

On the basis of the foregoing considerations, we have determined that an industry in the United States is being materially injured by reason of subsidized imports from India. This determination is based upon our finding of material injury to that portion of the industry serving the Western region of the United States.

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1/ Report, pp. A-32 and A-33.

2/ Data submitted in response to questionnaires of the U.S. International Trade Commission.

## VIEWS OF VICE CHAIRMAN MICHAEL J. CALHOUN

On the basis of the record developed in investigation No. 303-TA-13 (Final), Certain Iron-Metal Castings from India, I determine pursuant to section 303(a)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), that an industry in the United States is materially injured by reason of the importation of certain iron-metal castings from India, provided for in item 657.09 of the Tariff Schedules of the United States (TSUS) and accorded duty-free treatment, which the Department of Commerce has determined are receiving bounties or grants.

Domestic Industry 1/ 2/

To begin an analysis of the impact on a domestic industry of imports of subsidized merchandise sold in the United States, the Commission must first define the relevant industry. As a general rule, the term "industry," as defined in section 771(4)(A) of the Trade Agreements Act of 1979 is,

[T]he 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.

The term "like product" is defined in section 771(10) 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.

1/ In this case twelve of the fifty domestic producers of public works castings also import. Section 771(4)(D) gives the Commission discretionary authority under appropriate circumstances to exclude such "related parties" from the domestic industry under consideration. Proper exercise of this authority would not affect my conclusions in this case.

2/ With regard to Regional Industry, I concur in the analysis of Chairman Alberger and find that 13 western states do not meet the meaning of market as that term is used under section 771(4)(C).

Therefore, the starting point for an analysis of the relevant domestic industry is the proper identification of the "like product." The Department of Commerce determined that bounties or grants are bestowed upon certain iron-metal castings which enter the United States under item 657.09 of the Tariff Schedules of the United States.

TSUS item 657.09 includes cast-iron articles, not coated or plated with precious metal, not alloyed, and not malleable. It includes a variety of merchandise such as manhole covers and frames, catch basin grates and frames, clean-out covers and frames, water and gas valve boxes, and other cast-iron products for municipal, residential, and utility uses. Also entered under this TSUS item are numerous other articles, such as fence fittings, rail ends, counter weights, and cast-iron carts. But the Commerce Department subsidy finding is with respect to manhole covers and frames, catch basin grates and frames, and cleanout covers and frames. These articles are commonly called municipal or public works castings and are used either for access or for drainage for public utility, water, and sanitary systems. The most important products in this group are manhole covers and frames, which constitute the great bulk both of imports from India and of domestic production,

Domestic foundries that manufacture public works castings are classified as gray iron foundries under the Standard Industrial Classification. In addition to public works castings, gray iron foundries may produce other products such as brake shoes, couplings, pressure and soil pipe, hydrants, railroad car wheels, and various products for automotive uses. Public works castings are reported as part of SIC item 3321 which includes those articles listed above. However, each of these products requires

special manufacturing facilities and companies tend to specialize in only a few lines.

Although it is possible for foundries that specialize in public works castings to make some other gray iron foundry products, it is neither economically nor technically feasible for the majority to do so. For example, most public works foundries, especially the larger, more efficient ones, are designed to handle castings within certain size and weight ranges. Therefore, pouring molds for heavy steel ingots or rolls for rolling mills is an impossibility. Furthermore, gray iron products which are used to convey liquids or gases under pressure may require special grades or alloys of gray iron. They require, as well, centrifugal rather than a flat casting technique, hydrostatic testing, and a complex pattern and core-making ability. In contrast, manhole and catch basin assemblies are relatively simple to make and do not require the precision in specification or quality of metal of many of these other products. Public works castings are sold in the United States to two general categories of customers: independent distributors, which buy castings in volume from a number of sources and services the construction industry; and end-users, usually general contractors or public works departments of state or local governments.

For several reasons, the market structure for public works castings is highly fragmented. First, freight costs are very high on these heavy and bulky items. Thus, the further the castings are shipped, the less price competitive they become. Second, specifications for castings vary from one local political jurisdiction to another. And third, different



geographical regions of the country present different weather and ware conditions for users. For instance, public works castings sold in the Northwest are designed to handle heavy rain-runoffs while those sold in the Southwest are designed to prevent clogging from sand. As a result, public works castings are usually sold within approximately a 200-mile radius of their manufacture. Domestically produced and imported public works castings are shipped by truck with freight costs usually absorbed by the purchaser. Domestically produced castings are shipped on pallets while imported castings are crated in wood.

There are approximately 50 foundries located throughout the United States which are known to produce public works castings. Domestic production of public works castings generally falls into two groups of producers: those foundries which concentrate on the production of public works castings and the generally smaller, more flexible, "jobber" foundries, whose production of public works castings varies with market conditions. An important difference is that the larger foundries are characterized by greater specialization of product line or mechanization in their foundry operations, which allows them to produce public works castings at lower unit costs than the smaller, jobber foundries. This advantage is gained, however, at the loss of flexibility in product line. Producers of public works castings are located throughout the United States.

It is my view that under the rubric of public works castings there are three domestic like products which, for all practical purposes, are identical to the three imported articles, covered under the Tariff Schedules, which are the subject of this investigation. These three like products are manhole covers and frames, catch basin grates and frames, and cleanout covers and frames.

Material Injury and Causation

In reaching a final determination of material injury by reason of subsidized imports, section 771(7) states that, among other things, the Commission shall take into account,

- (i) the volume of imports of the merchandise which is the subject of the investigation,
- (ii) the effect of imports of that merchandise on prices in the United States for like products, and
- (iii) the impact of such merchandise on domestic producers of like products.

In addition, section 771(4)(D), directs the Commission to assess the effect of subsidized imports in relation to the domestic production of a like product,

[I]f available data permit the separate identification of production in terms of such criteria as production process or the producers' profits.

If this is not possible, then,

[T]he effect of the subsidized...imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided.

Although this investigation concerned itself with three distinct types of public works castings, available data do not separate producers' profits for those three castings and assemblies. In addition, other information obtained in this investigation, (i.e., manhours worked, number of employees, domestic shipments, etc.) does not allow the separate identification of these three products. Thus, I shall assess the effect of subsidized imports on the narrowest group or range of products, which is public works castings in general.

Imports of public works castings have increased significantly in both relative and absolute terms. In absolute terms, imports from India have increased

277 percent since 1977 from about 25.0 million pounds to about 94.4 million pounds in 1979. In the period from January to April of 1980, such imports increased 30 percent over the same period in 1979, which is approximately 9.2 million pounds.

Consumption of public works castings in absolute terms has increased 26 percent since 1977, from about 371.5 million pounds to about 469.7 million pounds in 1979. In the period from January to March of 1980, consumption has decreased from about 94.4 million pounds to 93.5 million pounds, a decrease of about 1 percent. The ratio of imports from India to consumption for 1977 through 1979 has increased by 196 percent, from 6.8 percent in 1977 to 20.1 percent in 1979. A comparison for the period January through March of 1979 and 1980 shows those figures at 20.9 percent and 28.9 percent respectively, an increase of 38 percent.

During the same period of 1977 through 1979, U.S. production has increased absolutely from 348.1 million pounds to 379.4 million pounds which is 9 percent in relative terms. However, a comparison for January through March for 1979 and 1980 shows production declining from 91.5 million pounds to 83.4 million pounds which is a decrease of 9 percent.

The Commerce Department has determined that subsidies in amounts ranging from a high of 16.8 percent of f.o.b. price to a low of 12.9 percent are given to Indian manufacturers of certain iron-metal castings. Evidence obtained in this investigation shows that prices of imports of public works castings were consistently below those of the domestically produced articles by more than the range of the subsidy. For those

U.S. producers who only produce the products in question, the difference in prices from those imported products was about 11 cents in 1978 while in 1980 the difference for January through March was about 9 cents. The margin of underselling by importers fluctuated from approximately 39 percent in 1978 to 28 percent in 1980.

For those U.S. producers who produce and import the product in question, the difference in price from the imported product for their domestic product was about 7 cents in 1978 while in 1980, the difference is about 2 cents; and for their imported product 7 cents in 1978 and 5 cents in 1979. The margin of underselling by importers fluctuated from approximately 30 percent in 1978 to 6 percent in 1980 for the domestic product and 29 percent in 1978 to 6 percent in 1980 for the imported product.

Although the trends for production, shipments and capacity utilization for 1977 through 1979 were up, the period January through March of 1980 shows that production has decreased 8.1 million pounds or about 9 percent as compared to the same period in 1979. Shipments have decreased 7.4 million pounds or about 10 percent as compared to the same period in 1979. And capacity utilization has decreased from 75.4 percent to 70.2 percent, a decline of 6 percent.

The ratio of imports from India to production has increased from 22 percent to 32 percent which is an increase of 45 percent and the ratio of imports to consumption has increased from 20.9 percent to 28.9 percent, which is an increase of 38 percent for the period January through March of 1980 as compared to 1979.

The ratio of net operating profit to net sales was 7.7 percent in 1977 decreasing to 5.2 percent in 1979. This is a decrease of 32 percent.

However, examination of the figures for January through March of 1979 versus 1980 shows a drop of the ratio of net operating profits to net sales from 0.6 percent to a 0.3 percent net operating loss, which is nearly a 150 percent decrease. Comparable data for about 140 iron and steel foundries shows net operating profits rising from 4.2 percent in 1977 to 6.0 percent in 1979, which is a 43 percent increase.

Five producers of public works castings cited difficulties in raising capital. In each instance, producers stated that lending organizations refused the loans because of low profit levels.

The average number of production and related workers increased slightly from 1977 to 1979. However, the number dropped by 8 percent in January through March of 1980 as compared to the same period in 1979.

Regarding the requirement that the Commission determine whether there is material injury "by reason of imports," the legislative history of the Trade Agreements Act of 1979 states that,

[C]urrent law does not, nor will section 705 contemplate that the effects from the subsidized imports be weighed against the effects associated with other factors (e.g., the volume and prices of subsidized imports, contraction in demand or changes in patterns of consumption,...) which may be contributing to overall injury to an industry.

It further states,

[N]or is the issue whether subsidized 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 those industries facing difficulties from a variety of sources, precisely those industries that are most vulnerable of subsidized...imports.

That the public works castings industry is suffering material injury is apparent from the above discussion on profits, shipments, market shares, etc. Its condition is exacerbated by the serious decline in housing starts.

Total private and public housing starts for the period January through March of 1979 and 1980 have gone from 153 thousand units to 86 thousand units which is a decrease of approximately 43.8 percent. The decrease in housing starts from 1978 to 1979 was 13.6 percent. It is obvious that such a dramatic decline in the housing industry will have a parallel effect on the public works castings industry.

All of these factors contribute significantly to the clearly depressed state of the industry and especially to its marginal profitability. Thus, the presence of low priced, subsidized imports at a penetration level of 28.9 percent, while not perhaps as significant as these other factors, must be considered, nevertheless, as a cause of material injury. The critical nexus between material injury and subsidized imports lies largely in the adverse impact such a high penetration level of imports has on the ability of the marginally profitable domestic public works castings producers to adjust prices or sales to achieve a viable profit level.

The relatively low responsiveness of demand for public works castings, and the relatively high price elasticity of substitution prevent producers of castings from lowering their prices so as to capture sales from lower priced subsidized Indian imports and, thereby, increasing their profit levels. Nor can they increase their prices to pass through increased costs because it would cause a loss in their market share to lower priced subsidized Indian imports causing a further decline in already too low profit levels. Thus, imports must be a cause of material injury to this already vulnerable industry.

Imposing a countervailing duty on Indian imports in this circumstance would increase the domestic producers' rate of utilization and, thus, lower their average fixed costs. It would also improve profit margins to a more viable level, current economic factors notwithstanding.

Further evidence of the nexus between material injury and subsidized imports can be seen by comparing certain data for January-March 1980 with the same period in 1979. During this period, apparent U.S. consumption fell slightly (by about 1 percent) from 94.4 million pounds to 93.5 million pounds, reflecting a general decline in construction activity. U.S. producers' shipments, however, fell by more than 10 percent, from 72.4 million pounds to 65.0 million pounds, and their share of the U.S. market fell from 79 percent to 71 percent. The direct cause of this deteriorating position must be imports from India, which increased their market share from 21 percent to 29 percent as they rose from 19.7 million pounds to 27.0 million pounds, an increase of 37 percent. The effect of this shift in market share was dramatic on U.S. producers. Their inventories rose sharply, from 98 million pounds to 113 million pounds, the highest level recorded during the period examined. Employment fell by 8 percent to 1,989, the lowest level recorded during the period examined, and reporting firms experienced a net operating loss on operations for the first time during the period. This occurred despite the fact that the price of the principal raw material used by producers, scrap iron, actually declined by about 7 percent as measured by the Bureau of Labor Statistics' producer price index.

#### Conclusion

Based upon the evidence obtained in this investigation, I determine that an industry in the United States is materially injured by reason of imports of the merchandise with respect to which the Commerce Department has made an affirmative determination.

## STATEMENT OF REASONS OF COMMISSIONER PAULA STERN

Introduction

The record developed in the investigation of the impact on the domestic industry of certain iron metal castings imported from India, subsidized by the Government of India, provided an adequate basis for making an affirmative finding, 1/ though the investigation was in many respects novel. First, a major segment of the domestic industry imports large quantities of the subject goods. Second, although the product is fungible, a four-tiered pricing structure governs the United States market. Third, the Indians have captured a huge market share and account for almost all imports of a product that is difficult to transport. And finally, the condition of the domestic industry was not immediately apparent from the economic indicators which the Commission traditionally considers in such cases; however, detailed analysis particularly of volatile data on profit and loss in conjunction with import penetration statistics and pricing information, demonstrated clear material injury to the domestic producers resulting from the subsidized Indian imports.

The imported article and the domestic industry

The iron-metal castings which are the subject of this investigation are manhole covers and frames, catch basin grates and frames, and cleanout covers and frames. These iron-metal castings are encompassed within a larger class of

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1/ Since this investigation involves merchandise from India, which is not a "country under the Agreement" within the meaning of section 701(b) of the Tariff Act of 1930 (Act) as amended (19 U.S.C. 1671(b)), it has been conducted under the provisions of section 303 of the Act (19 U.S.C. 1303). Section 303(a)(2) directs that, in the case of merchandise which is free of duty, countervailing duties may be imposed only if there is an affirmative determination of injury under the provisions of Title VII of the Act. Therefore, the Commission conducted its investigation in this case in accordance with the provisions of sections 701 through 705 of the Act. Legislative history and Commission precedent with respect to investigations conducted since the passage of the Trade Agreements Act of 1979, which amended the Act, thus have direct bearing.



articles commonly called public works castings, and are used either for drainage or access purposes to public utility, water, and sanitary systems.

In this determination I have found that the U.S. industry against which the impact of the imports is to be measured consists of all domestic producers of the subject castings. Having made an affirmative determination on the basis of the national industry, I did not reach the question of whether, for the purposes of the law, a regional industry existed and merited separate attention.

The respondents in this case observed that the domestic facilities of foundry-importers could be excluded, 1/ presumably under the provisions of section 771(4)(B):

RELATED PARTIES.--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)

The law is clear that such an exclusion is discretionary and therefore should be made on a case-by-case basis. Foundry-importers accounted for 11 of 43 domestic producers who responded to the Commission's questionnaires and approximately 36 percent of U.S. capacity in 1979. They are responsible for an estimated 32 percent of all imports of the subject products. 2/

The domestic producers who also import made a convincing case that they only do so to stay in the market in the face of price competition from other importers. 3/ The diverse array of foundry-importers who supported the

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1/ Hearing transcript of 211 and 212.

2/ Compiled from data submitted in response to questionnaires of the United States International Trade Commission.

3/ Report at A-6.

petitioner had one common thread -- a desire to be able to supply a greater part of the market from their local facilities. No foundry-importer supported the respondents. The circumstances indicate that the primary interests of the foundry-importers lie in domestic production. Their exclusion from the domestic industry is inappropriate because they have become importers only under the duress of the subsidized Indian competition and perceive their fundamental interests to remain in domestic production. 1/

#### The bounties or grants

The U.S. Department of Commerce determined that the Government of India provides Indian manufactures/exporters of certain public works castings with various rebates of taxes under the Cash Compensatory Support on Export Program, as well as other minor benefits. These programs amount to bounties or grants having net benefits ranging from 12.9 to 16.8 percent of the f.o.b. price of the exported product. For most Indian manufacturers/exporters of these products, the net benefit amounts to 13.3 percent of the f.o.b. price.

#### Condition of the domestic industry

Data were available on a product-line basis for the narrow group of goods like the subject imports 2/. The trends in the data relating to producers' shipments, capacity utilization, inventories and employment are fairly uniform throughout the period covered by the investigation. Shipments by domestic

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1/ Additional aspects of this issue are discussed below when pricing is considered. In Unlasted Leather Footwear Uppers from India (Inv. No. 701-TA-1 (Final), March 1980), exclusion of domestic producer-importers from the domestic industry was also deemed inappropriate, the basis was different, but the principle of a discretionary case-by-case approach was affirmed.

2/ Sec. 771(4)(D) directs that the "effect of the subsidized ... imports shall be assessed by the examination of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided."

foundries increased 7.5 percent by quantity from 1977 through 1979, before falling off ten percent in the first quarter of 1980 compared to the same period one year earlier. Production rose nine percent during the three-year period before dropping nine percent in the first quarter of 1980. Likewise, capacity utilization rose ten percent in 1977-1979 and then decreased by seven percent in January-March 1980. Overall capacity utilization reached a peak of 75.8 percent in 1979, below the 80 percent level cited by importers at the hearing as being an adequate level. 1/ However, capacity utilization cannot tell us much because capacity is measured in terms of pounds of iron poured; if a foundry chooses to produce light-weight castings, its utilization statistics could fall without any true decline in the level of usage of its factors of production. In fact such a change can be profitable depending on the relationship of the market price of the lighter castings to their costs of production.

There is some doubt as to the degree of relevance of inventory trends in the present case. The petitioner and one other representative of the domestic industry indicated at the Commission's hearing that increasing inventories may be a sign of industry health under certain conditions. 2/ Inventories fell marginally by three percent from 1977 to 1979, but increased 15 percent in the first quarter of 1980 when compared to January-March 1979. In that most recent quarter for which data are available the inventories-to-shipments ratio grew 28 percent, completely reversing a decline which had been posted over the three-year period.

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1/ Hearing transcript at 227.

2/ Hearing transcript at 114 and 117.

Employment grew a marginal 1.4 percent during the three-year period before noticeably declining almost eight percent in the first quarter of 1980, compared to the like period of the preceding year. Average weekly hours per worker declined slightly throughout the period of investigation. Wage increases appear to have closely tracked those for all manufacturing employees over the same period.

The overall picture of the industry worsens considerably when its financial performance is considered. Although net sales of U.S. producers increased each year from 1977 to 1979, net operating profit declined irregularly by 13 percent from 1977 to 1979, and U.S. producers reported a net operating loss of \$63,000 in the first three months of 1980. The number of firms reporting such losses increased in each period from 1977 to January-March 1980. Well over one-half of those firms which responded to Commission questionnaires reported net operating losses for the first quarter of 1980. As a ratio of net profit (loss) to net sales, the industry rate of 7.7 percent in 1977 fell to 3.9 percent in 1978, partially recovered to 5.2 percent in 1979 before dropping to a negative 0.3 percent in January-March 1980. Although the performance over the three-year period is not disastrous, the interval was an exceptional boom period in the construction industry, the prime customer for the castings in question. In this countervailing duty case, "material" injury must be attributable to the subsidized imports for an affirmative determination. The lackluster condition of the domestic industry during a boom period and its recent rapid decline indicate that a closer look at the impact of the Indian imports is clearly in order.

Impact of the Indian imports

The staggering growth in the import penetration by the Indian public works castings is one of the distinctive features of this case. Subject Indian imports increased 277 percent by quantity from 1977 to 1979. Imports continued to increase substantially in the period January-April 1980, increasing 30 percent by quantity compared to the corresponding period of 1979. These data show substantial increases in imports despite the economic recession prevailing in the United States during the first six months of 1980. Even more telling, the imports' share of apparent U.S. consumption rose substantially over the period, from seven percent in 1977 to over twenty percent in 1979, and continued to increase rapidly in the first three months of 1980, again despite the recession. Penetration in the first quarter of 1980 reached 29 percent, 38 percent higher than the figure for the same quarter of the year previous. Though these items are costly to transport, India accounts for over 90 percent of all imports of the goods in question.

Of 35 allegations of lost sales checked by the Commission staff, 32 purchasers confirmed they had purchased castings imported from India. Of these 32 purchasers, 20 stated they made such purchases because of the lower price of the Indian castings. Lost sales due to price considerations are expected in this industry, which manufactures lower unit profit items of rather simple construction, and in which imports are relatively fungible with U.S. made-products. 1/

An analysis of pricing in the U.S. market is absolutely critical to an understanding of the domestic industry and the impact made by the Indian

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1/ Report A-3, footnote 2; hearing transcript at 184.

imports. The cause of the serious and continued deterioration of industry profits already noted lies in the inability of domestic producers to raise prices in the face of rising production costs, principally rising raw materials costs. The industry actually reduced its overhead costs relative to its net sales in the 1977-1979 period 1/, but increasing costs of goods sold forced down net operating profits to unacceptable levels. A major factor in this suppression is competition from imports from India, not only from importers of these products, but also from domestic producer-importers, whose high-markups on imports apparently allow these foundries on both imports and their domestic products to undersell the domestic castings produced by those foundries which do not import. 2/

My analysis shows that subject imports caused price suppression as a result of the subsidies despite the fact that margins of underselling were larger than the levels of subsidy.

Pricing data collected on two types of manhole assemblies representative of products offered by all three types of sellers in the marketplace -- foundries which do not import, foundry-importers, and importers -- show significant margins of underselling of the domestic producers' product by both the imported product and the domestic product of the foundry-importer. In general, the margins of underselling increased in the latter half of 1979, and then declined noticeably in January-March 1980.

Once in the United States, the simple castings which are the subject of this investigation are apparently fungible. Despite this fact, the data

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1/ Report at A-25.

2/ Report at A-32.

collected by staff show that a four-tiered price structure exists in this industry, and that the structure is stable. <sup>1/</sup> The lowest priced item was the imported item sold by importers which undersold the next tier by a significant but changing margin. The second and third tiers were occupied by the imported and domestic products respectively, both sold by foundry-importers. The imported product undersold the domestic castings of the same foundry-importers by consistently small yet persistent margins. At the top of the price spectrum was the domestic product of foundries which do not import, a group that has declined in number as Indian market penetration has mushroomed. Their product was consistently undersold by large margins by that of domestic competitors who also imported.

The price structure, stable over the entire period of investigation, has a rationale. Most imports are sold by foundry-importers who have extensive marketing experience and an established clientele. Customarily a large order will be sent to India because of the price advantage. However, smaller additional orders are often necessary as a job progresses. Foundry-importers can satisfy these from local inventories, and when possible resort to short domestic runs that do not suffer the long waiting periods required for overseas orders. For each of these services, in turn, foundry-importers can and do extract premiums over the price of castings available directly from importers. Finally, domestic producers are in the least advantageous price situation. They benefit neither from the low Indian labor costs nor the subsidy provided by the Government of India. Furthermore, they do not derive any profits from the distribution of imports. Such profits help sustain the domestic operations of foundry-importers.

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<sup>1/</sup> See table 16 in report at A-33 and table 17 at A-34.

The imposition of a countervailing duty could have a beneficial effect despite the large margin of underselling if it would raise the entire price structure. But an affirmative determination which is the prerequisite for such a duty must be based on a finding of actual material injury or threat thereof attributable to the subject imports. The flagging performance of this industry has resulted in current profit levels that for the first quarter of 1980 are in the red. Clearly, the recent severe downturn in residential construction in the United States is a major cause of the declining prospects of this industry. 1/ However, the material injury resulting from subsidized imports is subject to countervailing action by international and domestic standards, regardless of the ranking of the subsidized imports as a cause of the industry's difficulties. The Senate Finance Committee has cautioned that the issue is not:

... whether subsidized 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; such industries are often the most vulnerable to subsidized imports. 2/

Respondents maintained at the Commission's hearing and in post-hearing brief that the subsidy provided Indian castings is too minimal in light of actual margins of underselling. 3/ At the current Indian floor price for these castings, a 13.3 percent countervailing duty would add 1.5 cents per pound to

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1/ A further source of trouble in this industry has been the implementation of non-productive investments to comply with environmental regulations. Some smaller foundries have closed because of the cost of compliance.

2/ Committee on Finance, Trade Agreements Act of 1979, S. Rept. No. 261, 96th Cong., 1st sess. at 57.

3/ Post-hearing brief of respondents at 8 and 19.



the imported casting, which would decrease the current margins of underselling to 18 to 22 percent on the representative 270 lb.-casting upon which the Commission collected pricing data. Such a margin of underselling without the subsidy in place would still normally guarantee a strong performance by the imports. However, given the four-tier structure of the market under consideration and the rationale for the various price differentials, it is clear that any increase in the price of the lowest level -- the Indian imports -- can only have one effect, that of making production of the domestic castings relatively more desirable and profitable. If a price increase is fully passed along, it should feed its way up the four levels because the rationale for the various differentials would remain intact. To the extent the duty would not be passed along to ultimate customers, the foundry-importers' choice of imports would be made only at increasingly larger runs because of the reduced profitability of imports. In either case the result on production and profits should be the same -- beneficial.

In all likelihood, the effect of any countervailing duty would be further enhanced by the increasing costs of manufacturing and importing the product from India, especially increasing production and freight costs. Indian manufacturers have notified U.S. importers of increases in the Indian floor price for castings of 1/2 to 1¢ per pound (approximately 4 to 9 percent) effective October 1, 1980, and an additional 1/2¢ increase after January 1, 1981. Testimony by one of the respondent's witnesses in the preliminary phase of the case listed a series of costs associated with transporting these heavy and bulky items which are increasing rapidly. 1/ Transport costs were estimated by this witness to have increased from 30 percent to 60 percent of

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1/ Transcript of the Conference, pp. 67-68.

the f.o.b. cost from 1978 to 1979. In addition, bunker oil surcharges were said to have increased 100 percent from 1977 to 1979. 1/ Inland freight costs and surcharges were also mentioned as affecting the costs of imported castings from India in the United States. 2/ If these costs are added, the margin of underselling is compressed and the significance of the subsidy becomes clearer.

In this context, it must be borne in mind that profits on any balance sheet are a rather volatile residual -- the difference between sales and costs. In the case of this industry, that residual has fallen to nil. Had the imports in question not suppressed prices across the upper three tiers, sales receipts would have risen without any concomitant rise in costs of the domestic goods sold. The profit residual would have been significantly higher and this industry would be in a materially better position to weather the current recession.

I am not aware of any previous Commission cases which have similar circumstances. In Welded Stainless Steel Pipe and Tube from Japan (Inv. No. AA1921-180, July 1978), all Commissioners then sitting observed that injury could not have been by reason of less than fair value (LTFV) imports because the LTFV margin was only 3.1 percent compared to margins of underselling of 17-25 percent. In comparing the economic logic of Pipe and Tube with that of the present case, it should be noted that the ratio of the LTFV margin (analogous to the subsidy in the present case), of the Japanese product to the margin of underselling was only about 15 percent (as opposed to 33-50 percent here), the import penetration was under 8 percent, and the price structure of the domestic market had no similarity to that exhibited in the present case.

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1/ Ibid., at 68.

2/ Ibid., at 92.

In Certain Zoris from The Republic of China (Taiwan) (Inv. No. 303-TA-1, September 1976) the Commission found negatively and mentioned the small size of the subsidy (5 percent) in relation to the margin of underselling. But the declining market share of subject imports was also a factor. Price structure of the domestic market was considered but it was based on quality rather than service differences. In Unlasted Leather Footwear Uppers from India (Inv. No. 701-TA-1(F), March 1980), the Commission made a unanimous negative determination based in part on the small size of the subsidy (1.01 percent). However, the miniscule Indian import market share of less than 0.5 percent of U.S. consumption was also critical. No margin of underselling could be calculated because no commercial trade in the imported product could be found. In Certain Public Works Castings, the size of the subsidy, the larger ratio of the subsidy to a narrowing margin of underselling, the huge import penetration, and the unusual price structure of the U.S. market clearly distinguished this case from previous ones.

#### The immediate future

The percentage of Indian castings as a share of inventories held by both producers and importers increased from 7 percent in 1977 to 18 percent in 1979, and to over 20 percent in January-March 1980. These Indian castings held in inventory pose a threat of material injury to U.S. producers as importers seek to maintain cash flow to finance future imports.

Responses to the Commission's questionnaires as well as testimony at the Commission's hearing revealed a number of U.S. producers which had abandoned or delayed expansion or modernization plans due to the continued threat of price competition from imports from India. 1/

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1/ Report, at A-26.

My affirmative finding is therefore further strengthened by the certainty that the Indian margin of underselling will not significantly exceed any countervailing duty and by the real and imminent threat of further injury exemplified in the most recent large rise in import penetration and import inventories during a period of recession in the domestic industry.

## VIEWS OF CHAIRMAN BILL ALBERGER

On the basis of the record in investigation No. 303-TA-13 (Final), I determine that an industry in the United States is not materially injured, is not threatened with material injury, and that the establishment of an industry is not materially retarded 1/ by reason of the importation from India of certain iron-metal castings which the Department of Commerce has determined are receiving bounties or grants.

The domestic industry

At the public hearing held on this investigation, the attorney for petitioner stated that ". . . the scope of the industry and the scope of this problem of public works castings imports from India is national." 2/ However, petitioners allege in the alternative ". . . that there is, at the very least, material injury to a regional industry in the West, . . ." 3/

Section 771(4)(C) of the Tariff Act of 1930 provides that:

In appropriate circumstances, the United States, for a particular product market, may be divided into 2 or more markets and the producers within each market may be treated as if they were a separate industry . . .

The majority of the Commission has previously indicated 4/ that it believes the application of section 771(4)(C) to be discretionary - to be invoked only in "appropriate circumstances." Further, it appears that the Commission has broad discretion in determining what constitutes appropriate circumstances, as this matter is not addressed in either the legislative history or the Statement of Administrative Action.

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1/ The establishment of an industry producing public works castings in the United States is not at issue in this investigation since there are numerous domestic producers. It will not be discussed further in these views.

2/ Transcript at p. 10.

3/ Ibid.

4/ Certain Steel Wire Nails from the Republic of Korea, Views of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, and Commissioner Paula Stern, USITC Pub. No. 1088, Aug. 1980, p. 9.

In the preliminary phase of this investigation, I concluded that the consideration of a West Coast regional industry was not appropriate. At this final stage I continue to find that appropriate circumstances do not exist for the consideration of a West Coast 1/ regional industry in this investigation.

While there are some similarities in foundry size, marketing practices, and impact of imports on the producers in the 13 western states, the 13 producers do not constitute a single geographic marketing area. Rather, there appear to be several separate geographic markets within the area. This situation results because the bulk of the castings produced, the consequent expense of transportation, specification requirements, and weather and wear problems relating to the geographic area where use is contemplated make it impractical for the foundries to consider sales outside a 200 mile radius of their facility. 2/ Most of these 13 foundries do not, therefore, compete with one another. While there are 13 foundries located within the identified region who technically sell all of their production in the market, several of these foundries have the market to themselves within their own 200 mile marketing areas. Often the only competition is supplied by imports. To consider each foundry separately or each of the smaller marketing areas separately in evaluating regional industry would artificially narrow the region to a base so small that an accurate assessment of the effect of imports could not be accomplished. Also, as a practical matter, inadequate data exists to narrow the geographic scope of the proposed region. The Commission is constrained by petitioners allegations

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1/ The Commission staff has identified a 13 state West Coast region comprised of Washington, Oregon, California, Nevada, Idaho, Montana, Arizona, Utah, Wyoming, Colorado, New Mexico, Hawaii, and Alaska for purposes of data collection.

2/ Staff Report (Report) at p. A-7.

on regions and initial staff judgments as to the appropriate geographic area for data gathering. Therefore, I have made my determination on the basis of a national public works castings industry.

Injury to the domestic industry

The public works castings industry has remained fairly successful in light of increasing imports, a faltering economy, and stringent governmental regulations. Imports of castings from India have continued to increase and penetrate the U.S. market since 1977. Throughout this period, until early 1980, domestic shipments, production, capacity utilization, and employment have continued to increase. In the face of increasing imports, the domestic industry, as a whole, remained profitable through 1979. Net sales continue to increase, even into the first quarter of 1980, and the ratio of net operating profit to net sales, while decreasing in 1978, rebounded in 1979 to a level which closely approximates that of other domestic steel and metalworking operations. 1/ Two foundries closed during the 1977-79 period while other foundries reported strong performances. Interestingly, the financial situation reported by those domestic producers which import from India was not nearly as strong as that of the non-importing foundries. The ratio of net operating profit to net sales for importing foundries decreased dramatically from 1977 to 1978 and remained low through 1979. The ratio of net operating profit to net sales for the non-importing producers also declined from 1977 to 1978, but by a considerably smaller amount, and then rebounded in 1979.

The predominant factor reported for the switch from domestically produced castings to those imported from India was price. Although the

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1/ Report at A-25.

price of domestic castings has increased from 1978 to 1979, imported castings consistently undersold the U.S. product by significant margins during that period. The margin of underselling by the importers product was more than twice the amount of the subsidy through 1979. While the price of U.S. castings decreased somewhat in Jan.-March 1980, the price of importers' castings continued to rise, thus narrowing the margin of underselling. Curiously, at the very time that the margins of underselling narrowed, domestic producers began showing signs of injury.

The declines in production, shipments, capacity utilization and employment experienced by the domestic castings industry in the first quarter of 1980 reflect a downturn in the nation's economy resulting in a large decline in construction and housing starts in the United States. This slowdown, in turn, created a situation of reduced demand for public works castings nationwide. During this time, U.S. producer's inventories began to increase as did importers' inventories. Financial losses were reported for the first quarter of 1980 by domestic foundries. Past history has shown, however, that the domestic producers of castings can compete and succeed in spite of increasing, low-cost imports from India. I, therefore, find that an industry in the United States is not materially injured or threatened with material injury by reason of imports of certain iron-metal castings from India.

#### Findings of Fact

Section 771(7)(B) of the Tariff Act of 1930 requires the Commission to consider (1) the volume of the subject imports, (2) their effect on the domestic price of the like product, and (3) their impact on the domestic producers of the like product. In section 771(7)(C), the act further specifies a series of economic factors that the Commission must include in these considerations. My findings of fact on each of these factors follows:



A. Volume of imports

1. Imports of certain public works castings from India increased 277 percent by quantity and 334 percent by value from 1977 to 1979 (Report at p. A-10)

2. Imports from India increased 30 percent by quantity and 42 percent by value in January-April 1980, as compared with the corresponding period of 1979 (Report at p. A-10)

B. Effects of subsidized imports on U.S. prices

3. The average lowest net selling prices for the two representative manhole assemblies compared were uniformly lower for imports from India than those of the comparable U.S. produced product. The margins of underselling were largest for the imported product offered by so-called "true" importers, averaging 39.5 percent in 1978 and 40.4 percent in 1979 for the 270 pound casting; and 38.8 percent in 1978, increasing to 40.8 percent in 1979, for the heavier casting. (Report at pp. A-33-34)

4. Prices of imports offered by those domestic producers which also import undersold U.S. produced castings throughout 1978 and 1979. Margins of underselling on the lighter casting averaged 15.5 percent in 1978, increasing to 24.7 percent in 1979; underselling margins also increased on the heavier casting, from 21.0 percent in 1978 to 26.4 percent in 1979. (Report at pp. A-33-34)

5. The margins of underselling for imports offered by importers decreased from approximately 40 percent in the last quarter of 1979 to approximately 28 percent in Jan.-March 1980. The margins of underselling for imports offered by producer-importers also decreased from approximately 27 percent in the last quarter of 1979 to about 23 to 26 percent depending upon the size of casting. (Report at pp. A-33-34)

6. The price of the 270 lb. casting manufactured by domestic producers which do not import increased from 26.4 cents per pound in January-March 1978 to 33.0 per pound in October-December 1979, or by 25 percent. Prices offered by these same producers increased by 28 percent for the 775 pound casting over the same period. (Report at pp. A-33-34)

7. Prices offered by producer-importers on their U.S. produced castings were consistently lower than comparable castings offered by domestic competitors which do not import. (Report at p. A-32)

C. Impact on the affected industry

8. U.S. producers' domestic shipments increased by 8 percent by quantity from 1977 to 1979, before declining by 10 percent in January-March 1980, as compared to the corresponding period in 1979. (Report at p. A-12)

9. Production of certain public works castings rose by 9 percent from 1977 to 1979, before falling by 9 percent in the first 3 months of 1980. Utilization of producers' capacity increased 10 percent from 1977 to 1979, before falling by 7 percent in January-March 1980. (Report at p. A-15)

10. Inventories of domestic producers fell by 3 percent from 1977 to 1979, but rose 15 percent in January-March 1980, as compared to the corresponding period of 1979. (Report at p. A-16)

11. The share of imported castings from India held in inventory by both producer-importers and importers of total inventory increased by 141 percent from 1977 to 1979, and rose by 46 percent in January-March 1980. (Report at p. A-17)

12. Employment of production and related workers remained about the same from 1977 to 1979, but fell by 8 percent in January-March 1980 as compared to January-March 1979. (Report at p. A-18)

13. Labor productivity, as measured by output per man-hour, increased 8 percent from 1977 to 1979, and again, by 3 percent, in January-March 1980 as compared with January-March 1979. (Report at p. A-19)

14. Wage rates for 3 categories of public works castings production and related workers closely tracked rates for production and related workers for all manufacturing concerns, according to the Bureau of Labor Statistics. (Report at p. A-20)

15. Net sales of U.S. producers of certain public works castings increased by 28 percent from 1977 to 1979, and again, by 2.5 percent, in January-March 1980. Net operating profit fell by 45.2 percent from 1977 to 1978, increased 58.8 percent from 1978 to 1979, and U.S. producers reported a net operating loss of \$63,000 in January-March 1980. (Report at p. A-22)

16. The number of firms reporting net operating losses increased in each year from 1977 to 1979, and again in January-March 1980. In this **latter period, over one-half of respondents reported net operating losses.** (Report at p. A-22)

17. Imports from India's share of domestic consumption of certain public works castings increased from 6.8 percent in 1977 to 20.1 percent in 1979. This share increased again in January-March 1980, rising to 28.9 percent of total apparent U.S. consumption. (Report at p. A-28)

18. Fifteen domestic producers submitted specific information as to sales lost to imports from India. Of 35 allegations checked by the Commission staff, 32 purchasers confirmed they had purchased imported castings from India in lieu of the domestic product. Twenty of these purchasers cited the lower price of the imported castings as the most important factor affecting their purchasing decisions. (Report at p. A-35)

D. Other factors affecting the domestic industry

19. The public works castings industry is affected by the present economic downturn, and specifically, by the slowdown in the residential construction sector. (Report at p. A-35)

20. Increased energy costs and costs associated with government anti-pollution and health and safety regulations are also affecting the domestic industry. (Report at pp. A-38-39)

21. Costs of raw materials, specifically scrap iron, are rising rapidly. (Report at p. A-39)

Conclusions of Law

1. Appropriate circumstances do not exist in this investigation for the consideration of a West Coast regional industry. Therefore, I have made my determination on the basis of a national industry producing certain public works castings.

2. The domestic industry producing certain iron-metal castings, commonly called public works castings, is not being materially injured, and is not threatened with material injury, by reason of the imports of those castings from India, upon which bounties or grants have been found by the U.S. Department of Commerce.

## INFORMATION OBTAINED IN THE INVESTIGATION

## Introduction

On February 19, 1980, the U.S. International Trade Commission and the U.S. Department of Commerce received a petition from Pinkerton Foundry, Inc., Lodi, Calif., alleging that a bounty or grant is being paid with respect to certain iron-metal castings imported from India, entered under item 657.09 of the Tariff Schedules of the United States (TSUS) and accorded duty-free treatment. Accordingly, the Commission instituted a preliminary countervailing duty investigation under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), as amended by section 103(b) of the Trade Agreements Act of 1979, to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the importation of such merchandise into the United States. On April 3, 1980, the Commission unanimously determined that there is a reasonable indication that an industry in the United States is materially injured by reason of the importation from India of manhole covers and frames, catch basin grates and frames, and cleanout covers and frames. 1/

On May 20, 1980, the U.S. Department of Commerce preliminarily determined that benefits are granted by the Government of India to manufacturers, producers, or exporters of certain iron-metal castings which constitute bounties or grants within the meaning of section 303. 2/ Accordingly, effective May 20, 1980, the Commission instituted investigation No. 303-TA-13 (Final), under section 303, to determine whether an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry is materially retarded by reason of the importation of such merchandise into the United States. By statute, the Commission must render its final determination of injury within 120 days of the day on which Commerce makes its affirmative preliminary determination, or within 45 days of the day on which the administering authority makes its affirmative final determination, whichever is later. The Department of Commerce made its final determination that the Government of India grants benefits to manufacturers, producers, or exporters of certain iron-metal castings on August 14, 1980. 3/ Thus, the Commission's final determination of injury is due no later than September 29, 1980.

In connection with the investigation, a public hearing was held in San Francisco, Calif., on August 27, 1980. Notice of the institution of the investigation and of the public hearing was given by posting copies of the

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1/ A copy of the Commission's preliminary injury determination is presented in app. A.

2/ A copy of the Commerce Department's preliminary countervailing duty determination is presented in app. B.

3/ A copy of the Commerce Department's final countervailing duty determination is presented in app. C. The Department's notice describes the iron-metal castings covered by this determination as "manhole covers and frames, cleanout covers and frames and catch basin grates and frames" provided for in TSUS item 657.09.

notice at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's New York City Office, and by publishing the notice in the Federal Register of June 18, 1980 (45 F.R. 41244). 1/ The Commission is scheduled to vote on the investigation on September 18, 1980.

## The Product

### Description and uses

The specific articles which are the subject of this investigation are manhole covers and frames, catch basin grates and frames, and cleanout covers and frames, provided for in item 657.09 of the TSUS. For convenience, these articles are referred to collectively as certain iron-metal castings or public works castings. These articles are usually shipped in sets consisting of the cover and a frame, and are used either for drainage or access purposes to public utility, water, and sanitary systems. The most important of these products are manhole covers and frames, which constitute the great bulk of imports from India and domestic production.

### Manufacturing process

Public works castings are produced by the same general method of iron casting used in the manufacture of a myriad of products, ranging from human heart valves to steel rolling mill frames weighing several hundred tons. First, pig or scrap iron 2/ is melted in a cupola, a vertically cylindrical vessel for melting metal. 3/ After the slag is removed, the molten metal is poured into large iron tubs called flasks, in which one or more wood or metal patterns have been placed. These patterns have been covered with sand mixed with bentonite, a fine clay which eliminates absorbency, and packed under pressure. After the patterns are removed, creating a cavity in the sand, the molten metal is poured into the mold. When the metal has solidified, the casting is shaken out of the flask and particle blasted to remove rough edges and overpourings. Finally, the castings may be machined to customer specifications, and dip painted.

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1/ A copy of the Commission's notice of investigation and hearing is presented in app. D. A list of witnesses appearing at the Commission's hearing is presented in app. E.

2/ The basic raw material used by U.S. producers is scrap iron, whereas the Indian producers generally use pig iron. There is believed to be no appreciable quality difference in the two finished products.

3/ Some producers of public works castings, as well as foundries producing other products, are changing from melting iron by cupola to melting by various types of electric furnaces, largely in order to comply with Federal, State, and local pollution standards. Generally, larger foundries prefer cupola melting, as it is more efficient where large quantities of iron need to be melted, whereas smaller foundries often find electric melting to be more appropriate to their limited needs.

### U.S. Tariff Treatment

The public works castings which are the subject of this investigation are classified under item 657.09 of the TSUS. This item encompasses cast-iron articles, not coated or plated with precious metal, not alloyed, and not malleable. This classification includes a variety of merchandise e.g., manhole covers and frames, catch basin grates and frames, cleanout covers and frames, water and gas valve boxes, and other cast-iron products for municipal, residential, and utility uses. <sup>1/</sup> Also entered under this TSUS item are numerous other articles, such as fence fittings, rail ends, counter weights, and cast-iron carts. The column 1 (most-favored-nation) rate of duty for this item is free. The column 2 rate (applicable to imports from certain Communist-dominated countries) is 10 percent ad valorem. The column 1 (free) rate of duty has been in effect since January 1, 1972. The Geneva (1979) Protocol to the General Agreement on Tariffs and Trade does not affect the rates of duty applicable to these items.

On August 31, 1979, the Cast Metals Federation, an industry trade group, petitioned the Committee for Statistical Annotation of the Tariff Schedules for a change in the TSUSA to provide a separate statistical category for manhole covers and frames. This request is pending.

### Nature and Extent of Bounties or Grants

The U.S. Department of Commerce determined that Indian manufacturers and exporters of certain iron-metal castings received four types of export incentives from the Government of India which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930. These programs were determined to have given the manufacturers listed below combined benefits amounting to the following percentages of the f.o.b. (India) value of the exported castings:

<u>Firm</u>	<u>Subsidy</u> <u>(percent of f.o.b. price)</u>
Uma Iron & Steel-----	16.8
R. B. Agarwalla & Co.-----	14.9
Basant Udyog -----	13.8
Kejriwal Iron & Steel Works-----	13.1
Kajaria Exports-----	12.9
All other companies-----	13.3

### Nature of subsidies

Cash Compensatory Support on Exports.--Commerce found the Indian Government to have provided cash grants to exporters of iron-metal castings equal to 12.5 percent of the f.o.b. value of the merchandise exported.

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<sup>1/</sup> This merchandise is commonly called municipal or public works castings.

Preferential export financing.--Commerce found the Indian Government to have underwritten lower interest loans for packing credits for Indian exporters of iron-metal castings. The packing credit loans involve a subsidy of 0.4 percent of the f.o.b. value (India) of the exported merchandise.

Income tax deductions for export market development.--The Export Markets Development Allowance provides for a tax deduction of 133 percent of certain specific expenses. Because the kind of expenses allowed under the special deduction would be deductible in full if incurred in a nonexport business, the net benefit to manufacturers of iron-metal castings is limited to 33 percent of the allowed amount applied to the corporate tax rate. On that basis, Commerce determined exporters of the subject castings to receive a subsidy in the following amounts:

<u>Firm</u>	<u>Subsidy</u> <u>(percent of f.o.b. price)</u>
Uma Iron & Steel-----	3.6
R. B. Agarwalla & Co.-----	2.0
Basant Udyog -----	.9
Kejriwal Iron & Steel Works-----	.2
Kajaria Exports-----	0
All others-----	.4

Market development assistance.--Special grants for export market study teams were provided for the benefit of two Indian exporters of iron-metal castings, Uma Iron & Steel and Kajaria Exports, which were determined to be subsidies. The grant to Uma amounted to 0.3 percent of its f.o.b. export sales value. The benefit to Kajaria was de minimis (0.0001 percent).

#### Share of exports to the United States subject to the subsidy determination

The iron-metal castings which are subject to the subsidy determination consist of manhole covers and frames, cleanout covers and frames, and catch basin grates and frames which enter the United States under TSUS item 657.09. In 1979, these imports from India amounted to 94.4 million pounds, valued at \$11.4 million, and accounted for an estimated 92 percent of the total U.S. imports of such castings by quantity in that year.

#### Recent Treasury Department Proceedings Concerning Iron-Metal Castings

On May 10, 1979, the U.S. Customs Service of the U.S. Department of Treasury published a notice in the Federal Register (44 F.R. 27385) regarding specific country of origin marking requirements for imported manhole covers and frames. Customs ruled that effective on or after August 8, 1979, imported manhole covers and frames must be permanently and legibly marked with the country of origin by die stamping, molding, or etching. Customs took this action following complaints from domestic producers that origin-marking requirements were not being uniformly applied, and that many imported castings



entered U.S. ports with no markings or with the country of origin merely painted on them. Some distributors were found to be painting out the country of origin marking. Such country of origin markings are significant, in that some public works contracts are subject to "Buy American" provisions.

### The Domestic Industry

According to the Cast Metals Federation, the metals-casting sector of the U.S. economy is composed of approximately 4,200 individual foundries employing some 375,000 people. Of these, approximately 50 foundries are known to produce public works castings.

The public works casting industry is composed of two groups of producers: those foundries which concentrate on the production of public works castings and the generally smaller, more flexible, "jobber" foundries, whose production of public works castings varies with market conditions. Producing facilities are located throughout the country, with 13 known producers located in the Western United States. <sup>1/</sup> The following tabulation classifies producers which responded to Commission questionnaires by region and by quantity of public works castings produced in 1979:

Region	Public works castings produced in 1979			
	Under 1 million pounds	1 to 5 million pounds	5 to 10 million pounds	Over 10 million pounds
Eastern United States----	3	2	2	2
Midwest United States----	1	3	0	3
Southern United States---	2	6	2	4
Western United States----	4	7	2	0

All of the large foundries producing public works castings maintain separate facilities and workers for their production, and all but \* \* \* produce public works castings exclusively. The large foundries are characterized by greater specialization of product line and mechanization in their foundry operations, which allow them to produce public works castings at lower unit cost than the smaller, jobber foundries. This advantage is gained, however, at a loss of flexibility in product line, which increases these foundries' vulnerability to fluctuations in demand and import competition.

Partially to allay this inflexibility, many public-works-casting foundries in the past few years have begun to supplement their domestic production with imports, primarily from India. In a prehearing brief in the present case, counsel for the Indian Export Promotion Council asserted that

<sup>1/</sup> For purposes of this investigation, the Western United States includes the following States: Washington, Oregon, California, Nevada, Idaho, Montana, Arizona, Utah, Wyoming, Colorado, New Mexico, Hawaii, and Alaska, exclusively.

the general practice of those foundries has been to import the standardized, lower profit items in order to be able to concentrate production on the more specialized higher profit castings in their domestic facilities. 1/ By using the low cost imports as "loss leaders" importing foundries gain customers which then purchase their foundries' entire line of castings.

Domestic producers which also import public works castings were queried by the Commission as to their reasons for doing so. The two most important reasons respondents cited were the low price of Indian castings, and for defensive purposes, i.e., they institute import policies because their competition has done so.

Domestic producers which also import castings are more numerous in the Southern and Western coastal areas than in the Midwest. Pinkerton Foundry, Lodi, Calif., petitioner in the present case, is one of two public works casting foundries on the west coast that does not import castings.

#### The Scope of the Industry

At the Commission's conference in the preliminary phase of the present investigation, counsel for the Indian Export Promotion Council asserted that the industry under investigation should be defined as those firms producing all gray-iron castings. He argued that separate data are not available for public works castings only and that many foundries make diverse types of castings and thus do not allocate costs on a product-line basis. 2/

The foundries that manufacture public works castings are classified as gray-iron foundries under Standard Industrial Classification (SIC) No. 3321. In addition to public works castings, gray-iron foundries produce a wide variety of products, including brake shoes, couplings, pressure and soil pipe, hydrants, railroad car wheels, and various products for automotive uses. The Census of Manufacturers does not report separate data on public works castings, instead reporting them as part of SIC item 33219.49, gray-iron castings for construction and utility uses. In addition to the articles which are the subject of the present investigation, this category includes items such as meter and valve boxes for both private residential and public utility use, fire hydrants, and underground pipes for private residential use. Each of these products requires special manufacturing facilities, and companies tend to specialize in only a few product lines.

As mentioned, public-works-castings producers tend to specialize in these products. Of 43 producers that responded to Commission questionnaires, 22 reported that public works castings accounted for more than 75 percent of their total gray-iron foundry production in 1979, and for 15 of those foundries, public works castings constituted 100 percent of production. For the largest eight foundries, whose production comprised 80 percent of all respondents' production in 1979, the concentration in public works castings is even more pronounced, as shown in the following tabulation:

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1/ Prehearing brief of respondent, p. 15.

2/ Transcript of the conference, p. 46.

Producer	Public works castings as a percent of total gray-iron foundry production							
	Under 25		25-50		51-75		76-100	
	percent		percent		percent		percent	
	1977	1979	1977	1979	1977	1979	1977	1979
All respondents-----	6	8	7	5	6	8	24	22
Largest 8 respondents----	-	-	1	1	1	1	6	6

Although it is possible for public-works-castings foundries to make some other gray-iron foundry products, such as meter and valve boxes and counterweights, it is not economically feasible for the majority to do so. Most public works casting foundries, especially the larger, more efficient foundries, are designed to handle castings within certain size and weight ranges. Therefore, pouring molds for heavy steel ingots or rolls for rolling mills is an impossibility. Other gray-iron products like pressure pipe, hydrants, and other items used to convey liquids or gasses under pressure, may require special grades or alloys of gray iron, centrifugal rather than flat-casting techniques, hydrostatic testing, and complex pattern and coremaking ability. Manhole and catch basin assemblies, on the other hand, are relatively simple to make and do not require the precision in specifications or quality of metal of many of these other products. Those foundries that produce significant quantities of gray-iron products other than public works castings do so in separate facilities, or on separate equipment within the same plant.

#### The U.S. Market and Channels of Distribution

Public works castings are sold in the United States to two general categories of customers: independent distributors, which buy castings in volume from a number of sources and service the construction industry; and end users, usually general contractors or public works departments of state or local governments.

For several reasons, the market structure for public works castings is highly fragmented. First, freight costs are very high on these heavy and bulky items, and thus the further the castings are shipped, the less price competitive they become; second, specifications for castings vary from one local political jurisdiction to another; third, different geographical regions of the country present different weather and wear problems for users. For example, public works castings in the Northwest are designed to handle heavy rain runoff, whereas those sold in the Southwest are designed to prevent clogging from sand. As a result, castings are usually marketed within a 200-mile radius of their manufacture.

One large U.S. firm, which is an exception to the rule of supplying only a regional market is Neenah Foundry Co., of Neenah, Wis., which manufactures public works castings in its Wisconsin facility and markets them nationwide.

The reasons given by Neenah representatives as to their ability to sell nationwide are that Neenah makes certain patterns and products other foundries do not make, and that some architects and construction designers specify Neenah products. Neenah is one of five firms located outside the Western marketing area that reported shipments to that area on Commission's questionnaires.

Domestically produced and imported public works castings are shipped by truck, with freight costs usually absorbed by the purchaser. Domestic castings are generally shipped on pallets, whereas imports from India are crated in mango wood.

#### U.S. Importers

Three types of firms serve as importers of Indian public works castings to the U.S. market: (1) Working foundries, such as Dewey Brothers of Goldsboro, N.C., and Phoenix Iron Works of Oakland, Calif., which supplement domestic production of public works castings with imports; (2) former foundries, such as South Bay Foundry of National City, Calif., which have phased out domestic production and now import castings; and (3) firms which have never produced castings but import them for sale to distributors, end users, or domestic foundries.

An important trend with respect to Indian castings, which is especially true on the west coast, has been for working foundries to import castings directly for resale. As noted in the section on the domestic industry, producers cited lower prices and defensive purposes as the chief reasons they imported castings from India in lieu of producing them in their own facilities. Direct imports to working foundries accounted for approximately 30 percent of all imports of public works castings for the period January 1977 to March 1980.

#### Consideration of Material Injury or the Threat Thereof

##### U.S. imports

Data on imports of public works castings are not reported separately in the official statistics of the U.S. Department of Commerce. Such imports are included in the data reported for all articles entered under TSUS item 657.09, which, in addition to the articles that are the subject of this investigation, includes such diverse items as valve and watermeter boxes, fence fittings, and cast-iron kitchen and garden ornaments. The quantity and value of U.S. imports reported under this TSUS item are shown in table 1.

In order to estimate imports of public works castings, the staff examined approximately 1,100 commercial invoices of import entries under TSUS item 657.09 entering the United States at the ports of New York, Houston, Los Angeles, San Francisco, San Diego, and Portland, Maine, for the period January 1977-April 1980. These invoices accounted for approximately 18 percent of all entries under TSUS item 657.09 in the period examined. By comparing the share of public works castings in the sample by country of exportation to the

Table 1.--Cast-iron articles classified in TSUS item 657.09: U.S. imports for consumption, by principal sources, 1977-79, January-April 1979, and January-April 1980.

Source	1977	1978	1979	January-April--	
				1979	1980
Quantity (1,000 pounds)					
India-----	28,237	68,632	105,350	34,185	43,683
Mexico-----	5,158	10,665	12,181	4,353	3,303
Canada-----	4,630	8,465	7,427	2,793	2,289
Taiwan-----	993	3,670	13,285	4,775	2,302
All other-----	3,503	7,557	4,779	2,480	461
Total-----	42,521	98,989	143,022	48,586	52,038
Value (1,000 dollars)					
India-----	3,009	7,534	12,986	3,948	5,771
Mexico-----	1,121	2,188	2,945	1,029	818
Canada-----	2,001	6,311	4,758	2,865	893
Taiwan-----	291	965	3,286	1,081	714
All other-----	1,710	3,311	2,732	1,239	382
Total-----	8,132	20,309	26,707	10,162	8,578
Unit value (cents per pound)					
India-----	10.7	11.0	12.3	11.5	13.2
Mexico-----	21.7	20.5	24.2	23.6	24.8
Canada-----	43.2	74.6	64.1	102.6	39.0
Taiwan-----	29.3	26.3	24.7	22.6	31.0
All other-----	48.8	43.8	57.2	50.0	82.9
Total-----	19.1	20.5	18.7	20.9	16.5

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

quantity of imports of all cast-iron articles reported in the official statistics, the data in table 2 were developed.

Estimated imports of public works castings increased 258 percent in terms of quantity, and 303 percent in terms of value, from 1977 to 1979. Imports continued to increase in January-April 1980, rising 26 percent in terms of quantity, and 34 percent in terms of value over the corresponding period in 1979.

Table 2.--Public works castings: <sup>1/</sup> Estimated U.S. imports for consumption, by principal sources, 1977-79, January-April 1979, and January-April 1980

Source	1977	1978	1979	January-April--	
				1979	1980
	Quantity (1,000 pounds)				
India-----	25,046	61,082	94,393	30,630	39,860
Mexico-----	2,785	6,932	7,309	2,612	2,064
Canada-----	741	1,016	668	251	188
Taiwan-----	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>
All other-----	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>
Total-----	28,572	69,030	102,370	33,493	42,112
Imports from India as a percent of total-----	87.7	88.5	92.2	91.5	94.7
	Value (1,000 dollars)				
India-----	2,630	6,719	11,422	3,522	5,018
Mexico-----	468	1,213	1,454	507	419
Canada-----	133	191	132	49	39
Taiwan-----	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>
All other-----	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>
Total-----	3,231	8,123	13,008	4,078	5,476
Imports from India as a percent of total-----	81.4	82.7	87.8	86.4	91.6
	Unit value (cents per pound)				
India-----	10.5	11.0	12.1	11.5	12.6
Mexico-----	16.8	17.5	19.9	19.4	20.3
Canada-----	18.0	18.8	19.8	19.5	20.7
Taiwan-----	-	-	-	-	-
All other-----	-	-	-	-	-
Total-----	11.3	11.8	12.7	12.2	13.0

<sup>1/</sup> May include some valve and watermeter boxes.

<sup>2/</sup> Less than 1 percent of total.

Source: Derived from an 18-percent sample of commercial invoices of U.S. imports of nonmalleable cast-iron articles for the period January 1977-April 1980.

India was the predominant source of imports of these products, accounting for 91 percent of the total quantity of imports from January 1977 to April 1980. These imports of public works castings from India increased from 25.0 million pounds in 1977 to 94.4 million pounds in 1979, or by 277 percent, whereas the value of imports from India increased by 334 percent.

Examination of the commercial invoices also yielded data on the composition of imports entering the United States from India under TSUS item 657.09, as shown in table 3.

Table 3.--Nonmalleable cast-iron articles: The quantity of imports from India entered under TSUS item 657.09, by types, 1977-79, January-April 1979, and January-April 1980

(In thousands of pounds)						
Item	1977	1978	1979	January-April--		
				1979	1980	
Public works castings-----	25,046	61,082	94,393	30,630	39,860	
Valve and meter boxes-----	1,129	3,260	5,394	1,750	2,250	
Other articles-----	2,062	4,290	5,563	1,805	1,573	
Total-----	28,237	68,632	105,350	34,185	43,683	
Public works castings as :	:	:	:	:	:	
a percent of total-----	88.7	89.0	89.6	89.6	91.3	

Source: Derived from an 18-percent sample of commercial invoices of U.S. imports of nonmalleable cast-iron articles for the period January 1977-April 1980.

Table 3 shows that the vast majority of imports from India entering the United States under TSUS item 657.09 are public works castings. Valve and meter boxes, which are light castings for construction and utility use, constituted only 5 percent of imports during January 1977-April 1980.

Finally, customs invoices and official publications were also examined to estimate the amount of public works castings entering the United States through Western customs districts. Because of the inordinate expense of shipping these bulky and heavy items long distances, it is believed that virtually all those public works castings entering the United States through Western ports are consumed in the Western U.S. market.

Table 4 shows imports of public works castings from India entering Western ports to have increased by 246 percent from 1977 to 1979, which, although a substantial increase, lags somewhat behind the increase of 277 percent for such imports nationwide in the same period. Western imports decreased by 3 percent in January-April 1980, compared with the same period in 1979, whereas imports from India nationwide continued to increase in January-April 1980 compared with the same period in 1979.

Table 4.--Public works castings: Estimated U.S. imports from India entering Western ports, 1977-79, January-April 1979, and January-April 1980

Item	1977	1978	1979	January-April--	
				1979	1980
Western U.S. imports from India					
1,000 pounds--	8,022	15,815	27,716	12,740	12,422
Total imports from India----	25,046	61,082	94,393	30,630	39,860
Ratio of Western imports to total imports from India					
percent--	32.0	25.9	29.4	41.6	31.2

Source: Derived from an 18-percent sample of commercial invoices of U.S. imports of nonmalleable cast-iron articles for the period January 1977-April 1980.

#### U.S. producers' domestic shipments

The Commission received usable data on the quantity and value of U.S., producers' shipments from 43 domestic producers of public works castings (table 5), representing approximately 85 percent of the domestic industry producing these products.

U.S. producers' domestic shipments increased 7.5 percent in terms of quantity and 27.9 percent in terms of value from 1977 to 1979. The period January-March 1980, however, saw the quantity of shipments fall by 10.2 percent, and the value of shipments remain essentially the same as that in the corresponding period in 1979.

Table 5.--Public works castings: U.S. producers' domestic shipments of products produced in U.S. establishments, 1977-79, January-March 1979, and January-March 1980.

Period	Quantity	Value	Unit value
	1,000 pounds	1,000 dollars	Cents per pound
1977-----	343,162	82,192	24.0
1978-----	363,862	92,640	25.5
1979-----	368,747	105,096	28.5
January-March--			
1979-----	72,392	21,732	30.0
1980-----	65,026	21,712	33.4

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



U.S. producers' shipments in the Western United States <sup>1/</sup> displayed a somewhat different trend, increasing by 11 percent, from 1977 to 1978, but then falling back in 1979 to slightly more than the 1977 level. Shipments in the Western United States fell sharply in January-March 1980, decreasing 36.7 percent from the corresponding period in 1979, as shown in the following tabulation:

	<u>Western U.S.</u> <u>shipments</u> (1,000 pounds)	<u>Total U.S.</u> <u>shipments</u> (1,000 pounds)	<u>Ratio of Western</u> <u>shipments to total</u> (Percent)
1977-----	41,369	343,162	12.1
1978-----	45,926	363,862	12.6
1979-----	42,639	368,747	11.6
January-March--			
1979-----	8,754	72,392	12.1
1980-----	5,546	65,026	8.5

#### U.S. exports

Only four respondents to the Commission's questionnaires reported exports of public works castings during January 1977-March 1980. These exports amounted to less than 1 percent of U.S. producers' shipments in 1979, the high year for such exports. At the public conference in the preliminary phase of the instant case, spokesmen for the domestic industry stated that they believed exports of these products were negligible as high transport costs coupled with relatively high unit values of U.S. castings severely limit development of an export market. <sup>2/</sup> U.S. exports of public works castings are given in the following tabulation:

	<u>Quantity</u> (1,000 pounds)
1977-----	215
1978-----	332
1979-----	1,363
January-March--	
1979-----	228
1980-----	807

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<sup>1/</sup> Of the 43 producers which responded to Commission questionnaires, 13 are located in the Western marketing area and 5 others reported sales in that area. Shipments to the Western marketing area by producers located outside that region amounted to \* \* \* percent of total Western U.S. shipments in 1979, \* \* \* accounted for \* \* \* percent of these Western shipments from foundries located outside the Western marketing area. The Western marketing area was defined for the purposes of this investigation to include the following States: Washington, Oregon, California, Nevada, Idaho, Montana, Arizona, Utah, Wyoming, Colorado, New Mexico, Hawaii, and Alaska.

<sup>2/</sup> Transcript of the Conference, pp. 29-30.

Even though exports of public works castings remain negligible relative to U.S. producers' shipments, they did show an upswing in 1979. This increase is attributable to \* \* \*.

#### U.S. production, capacity, and capacity utilization

As part of its consideration of injury to a domestic industry, the Commission asked U.S. producers of public works castings to report their annual production and capacity to produce these articles in their domestic facilities. Capacity was defined as the maximum sustainable production of one 8-hour shift a day, 260 days a year. Forty-three foundries provided the Commission with usable data on production and capacity to produce public works castings.

Factors inherent in the foundry industry may qualify conclusions regarding injury based on capacity utilization data. As described in the section of the report entitled "Manufacturing Process," public works castings are manufactured by the same general method of melting metal and pouring into molds used to produce a wide variety of products. Because capacity in the industry is calculated partially by the capacity of the firm's cupola to melt iron, those producers which manufacture a variety of products using one cupola had to allocate capacity based on a product mix which varies according to market conditions. Capacity allocations were especially difficult for jobber foundries, which make a variety of products and manufacture castings to customer orders only. In a real sense, therefore, "capacity" in these foundries for any particular product can expand or contract rather easily given demand for that product.

Data presenting production and capacity of U.S. producers of public works castings are given in table 6. Production of public works castings by all respondents increased by 9.0 percent from 1977 to 1979, before falling by 8.9 percent in January-March 1980, compared with the corresponding period in 1979. The capacity of the industry however, increased from 1977 to 1978, and then declined in 1979 and again in January-March 1980. The reason for the decline in capacity in the face of production increases in 1979 is the closing of two public works casting foundries in January-March 1979, Comco Foundry, Commerce City, Colo., and Puritan Foundry, Roxbury, Mass.

The data show an increase in capacity utilization from 1977 to 1979, and a noticeable decline in January-March 1980 compared with the corresponding period in 1979. In contrast to the entire industry, the capacity utilization of Western respondents fell in each year from 1977 to 1979, and dropped to 47 percent in January-March 1980, representing a 27 percent decline from the corresponding period of the previous year, and much less than the 70 percent reported for all respondents in that period.

Table 6.--Public works castings: U.S. production, capacity, and capacity utilization for Western and all respondents, 1977-79, January-March 1979 and January-March 1980

Item and year	Production 1,000 pounds	Capacity 1,000 pounds	Capacity utilization Percent
Western respondents:			
1977-----	40,903	51,023	80.2
1978-----	42,609	57,406	74.2
1979-----	36,003	51,707	69.6
January-March--			
1979-----	7,029	11,047	63.6
1980-----	4,161	8,919	46.7
All respondents:			
1977-----	348,060	505,788	68.8
1978-----	362,076	518,352	70.0
1979-----	379,393	500,458	75.8
January-March--			
1979-----	91,486	121,393	75.4
1980-----	83,375	118,731	70.2

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

### Inventories

The Commission received usable inventory data from 43 domestic producers of public works castings. As shown in table 7, data on inventories and shipments compiled from these respondents reveal a slight decrease in inventories and the ratio of inventories to shipments from 1977 to 1979, but a noticeable increase in these data for the period January-March 1980, compared with the corresponding period in 1979.

The ratio of inventories to shipments for Western respondents increased slightly from 1977 to 1979. Both inventories and the ratio of inventories to shipments rose sharply for Western respondents in January-March 1980, increasing by 93 percent and 205 percent, respectively, compared with the corresponding period of 1979. This increase in inventories of 93 percent compares unfavorably with the 15-percent increase in all respondents' inventories for the same period.

In addition to collecting data on inventories held by domestic producers, both producers and importers of public works castings were asked to report separate data on imports from India held in inventory. Such imports held in inventory by U.S. producer-importers as well as other importers, by region, are given in table 8.

Table 7.--Public works castings: U.S. producers' end-of-period inventories and shipments for Western and all respondents, 1977-79, January-March 1979, and January-March 1980

Item and period	Producers' inventories 1,000 pounds	Producers' shipments 1,000 pounds	Ratio of inventories to shipments Percent
Western respondents:			
1977-----	<u>1/</u> 4,168	41,369	10.1
1978-----	<u>1/</u> 4,038	45,926	8.8
1979-----	<u>1/</u> 4,870	42,639	11.4
January-March--			
1979-----	3,003	8,754	<u>2/</u> 8.6
1980-----	5,804	5,546	<u>2/</u> 26.2
All respondents:			
1977-----	<u>1/</u> 92,465	343,162	<u>3/</u> 27.0
1978-----	<u>1/</u> 82,977	363,862	<u>3/</u> 22.8
1979-----	<u>1/</u> 89,559	368,747	<u>3/</u> 24.3
January-March--			
1979-----	98,115	72,392	<u>2/</u> 33.9
1980-----	112,686	65,026	<u>2/</u> 43.3

1/ Includes both domestic and imported public works castings.

2/ Ratio of inventories to shipments is based on annualized shipments data to facilitate comparisons.

3/ The higher ratios of inventories to shipments for all respondents in contrast to Western respondents is primarily attributable to 1 producer, located in the Eastern United States, which maintains very high inventories as part of its management philosophy. The inventories of this firm accounted for \* \* \* percent of total inventories for the industry in 1977-79.

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

Table 8.--Public works castings: U.S. producers' and importers' end-of-period inventories, 1977-79, January-March 1979, and January-March 1980

Item	1977	1978	1979	January-March--	
				1979	1980
Western respondents:					
U.S. producers' domestically produced inventory					
1,000 pounds--	4,049	3,604	2,730	2,093	2,586
U.S. producers' inventory of Indian castings--1,000 pounds--	***	***	***	***	***
Importers' inventory of Indian castings-----1,000 pounds--	***	***	***	***	***
Total inventory-----do-----	***	***	***	***	***
Total inventory of Indian castings-----do-----	***	***	***	***	***
Indian castings as a share of total inventories-----percent--	2.9	15.0	61.3	42.3	80.2
All respondents:					
U.S. producers' domestically produced inventory					
1,000 pounds--	85,643	73,550	77,105	85,489	97,129
U.S. producers' inventory of Indian castings					
1,000 pounds--	6,822	9,427	12,454	12,626	15,557
Importers' inventory of Indian castings-----1,000 pounds--	0	517	4,239	1,133	9,129
Total inventory-----do-----	92,465	83,494	93,798	99,248	121,815
Total inventory of Indian castings-----do-----	6,822	9,944	16,693	13,759	24,686
Indian castings as a share of total inventories-----percent--	7.4	11.9	17.8	13.9	20.3

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

Imports of public works castings from India held in inventory increased each year from 1977 to 1979, both absolutely and relative to total inventories. Inventories of Indian products continued to increase in January-March 1980, as both importers and U.S. producers holding Indian castings experienced difficulty selling products in the face of the downturn in the economy. The amount of Indian castings held in the Western marketing area increased substantially, rising to 80 percent of total inventories held in that area on March 31, 1980.

Employment, productivity, and wage rates

Employment data collected from 42 producers of public works castings are presented in table 9.

Table 9.--Average number of production and related workers producing public works castings and man-hours worked by such workers for Western and all respondents, 1977-79, January-March 1979, and January-March 1980

Item	1977	1978	1979	January-March--	
				1979	1980
Western respondents:					
Average number of production and related workers-----	383	401	352	304	229
Man-hours worked by production and related workers-----	746,000	790,000	645,000	161,000	111,000
Average weekly hours per worker-----	40.0	39.4	36.6	42.4	38.8
All respondents:					
Average number of production and related workers-----	2,181	2,203	2,211	2,159	1,989
Man-hours worked by production and related workers-----	4,470,000	4,494,000	4,502,000	1,137,000	1,003,000
Average weekly hours per worker-----	41.0	40.8	40.7	42.1	40.3

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

The average number of production and related workers for all respondents increased slightly from 1977 to 1979, but dropped by 8 percent in January-March 1980, when compared with the corresponding period in 1979. Average weekly hours per worker remained about the same during 1977-79, but decreased somewhat in January-March 1980, when compared with January-March 1979.

Employment data for Western producers compare unfavorably with those of public works casting foundries nationwide. The average number of production and related workers increased from 1977 to 1978, but then fell in 1979 by 12 percent from the high employment year of 1978 and by 8 percent from the number employed in 1977. Employment of production and related workers continued to fall in the first 3 months of 1980, declining by 25 percent when compared with the corresponding period in 1979. The noticeable decline in production and

related workers is primarily attributable to the closing of Comco Foundry in February 1979.

Labor productivity data for both Western producers and all producers are presented in table 10. These data show productivity, as measured by output per man-hour, uniformly lower for Western respondents than for all respondents. Furthermore, productivity remained static for Western respondents from 1977 to 1979 and dropped significantly in January-March 1980. Data for all respondents showed an increase in output of 8 percent per man-hour from 1977 to 1979, and another increase in January-March 1980, when compared with January-March 1979. Analysis of productivity data for individual firms confirmed that those foundries with a greater degree of mechanization and those foundries concentrating on the production of public works castings enjoyed higher productivity, whereas productivity in jobber foundries tended to be lower.

Table 10.--Public works castings: Production, man-hours worked by production and related workers, and output per man-hour, 1977-79, January-March 1979, and January-March 1980.

Item and period	Production	Man-hours	Output per man-hour
	<u>1,000 pounds</u>	<u>1,000 hours</u>	<u>Pounds per hour</u>
Western respondents:			
1977-----	40,903	746	54.8
1978-----	42,609	790	53.9
1979-----	36,003	645	55.8
January-March--			
1979-----	7,029	161	43.7
1980-----	4,161	111	37.5
All respondents:			
1977-----	348,060	4,470	77.9
1978-----	362,076	4,494	80.6
1979-----	379,393	4,502	84.3
January-March--			
1979-----	91,486	1,137	80.5
1980-----	83,375	1,003	83.1

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

Finally, the Commission collected data on wage rates of three types of production and related workers. These data are summarized in the following tabulation (per hour):

	<u>1977</u>	<u>1978</u>	<u>1979</u>
Cupola tender:			
Western respondents-----	\$5.69	\$6.17	\$6.74
All respondents-----	4.60	5.04	5.54
Molder:			
Western respondents-----	6.52	7.08	7.64
All respondents-----	5.18	5.67	6.18
Grinder:			
Western respondents-----	5.33	5.85	6.34
All respondents-----	4.26	4.66	5.09

Hourly wages reported by Western respondents were higher than those for all respondents for all three categories of production and related workers and for all periods for which data were collected. The rate of increase in hourly wages from 1977 to 1979 was slightly greater for all respondents, however, than for Western respondents. Average wage increases for all three categories of workers from 1977 to 1979 were 19.7 percent for all respondents versus 18.1 percent for Western respondents. In general, wage rates for all three types of production and related workers were lowest in the Southern and highest in the Western United States.

Wage increases for production and related workers in the public-works-casting industry closely tracked wage increases for all private production/nonsupervisory workers, as well as for those workers in the manufacturing sector of the U.S. economy, during 1977-79, as shown in the following indexed tabulation (1977=100):

Item	1977	1978	1979
Cupola tender:			
Western respondents-----	100	108	118
All respondents-----	100	110	120
Molder:			
Western respondents-----	100	109	117
All respondents-----	100	109	119
Grinder:			
Western respondents-----	100	110	119
All respondents-----	100	109	119
Private production/nonsuper-			
visory workers: <u>1/</u>			
Total, all private			
employment-----	100	108	117
All manufacturing-----	100	109	118

1/ Compiled from official statistics of the Bureau of Labor Statistics.



Profit-and-loss experience of U.S. producers

The Commission received complete profit-and-loss data from 30 firms, representing an estimated 80 percent of total industry sales in 1979. Of these 30 firms, 10 are located in the Western United States, and 10 directly import public works castings from India in addition to producing these items in their U.S. facilities.

Table 11 shows net sales of all respondents rising from \$80 million in 1977 to \$102 million in 1979, or by 28 percent. Net operating profits, however, declined by 45 percent from 1977 to 1978, before recovering somewhat in 1979. The ratio of net operating profit to net sales fell sharply, from 7.7 percent in 1977 to 3.9 percent in 1978, but rebounded to 5.2 percent in 1979. The recovery of the industry in 1979 following the decline in 1978 is due to the strong performance of a relatively small number of respondents, as evidenced by the fact that the number of firms experiencing net operating losses rose in each year throughout the period 1977 to 1979. One large producer, \* \* \*, accounted for more than \* \* \* percent of respondents' increase in net operating profit from 1978 to 1979.

A comparison of the January-March 1980 period with the same period in 1979 shows a decline during the most recent period. Net sales are up marginally in 1980, but a net operating loss of \$63,000 was reported for all respondents in the first quarter of 1980, compared with a \$116,000 net operating profit for the first quarter of 1979. One respondent, Comco Foundry, had terminated operations in early 1979; of the 26 remaining firms, 15 reported net operating losses for the first 3 months of 1980.

Net sales of 10 Western U.S. producers are compared with sales of producers in other sections of the United States in table 12.

The financial experience of Western U.S. producers contrasts unfavorably with producers in other sections of the United States. Net sales of Western producers declined from 1977 to 1979, and declined further in January-March 1980, when compared with the same period in 1979. The decline in net sales of Western producers in 1979 is primarily attributable to the closing of Comco Foundry.

With the exception of 1977, when Western U.S. producers realized combined net operating profits of \$539,000, these respondents registered net operating losses for each period reported, including January-March 1980. Again, inclusion of data from Comco Foundry is the primary reason for these losses, although the number of firms suffering net operating losses increased from two in 1977 to four in 1978 and 1979 and five in January-March 1980.

Table 11.--Profit-and-loss experience of 30 U.S. producers of public works castings, 1977-79, January-March 1979, and January-March 1980. 1/

Item	1977	1978	1979	January-March--	
				1979	1980
Net sales-----1,000 dollars--:	79,576	87,422	101,991	20,530	21,038
Cost of goods sold-----do----:	59,769	69,535	79,623	16,901	17,207
Gross profit-----do----:	19,807	17,883	22,370	3,629	3,827
General, selling, and administrative expense 1,000 dollars--:	13,676	14,522	17,037	3,513	3,892
Net operating profit or (loss)-----do----:	<u>2/</u> 6,128	<u>2/</u> 3,359	5,333	116	<u>2/</u> (63)
Ratio of net operating profit or (loss) to net sales percent--:	7.7	3.9	5.2	0.6	(0.3)
Number of firms reporting net operating losses-----:	5	9	12	11	15

1/ January-March 1979 and January-March 1980 data compiled from 27 respondents.

2/ Because of rounding, figures may not add to the totals shown.

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

Table 12.--Profit-and-loss experience of 10 Western U.S. producers and all other producers, 1977-79, January-March 1979, and January-March 1980 <sup>1/</sup>

Item	1977	1978	1979	January-March--	
				1979	1980
Western U.S. producers:					
Net sales-----1,000 dollars--:	12,099	12,324	11,389	1,811	1,563
Cost of goods sold-----do-----:	9,464	10,666	9,651	1,516	1,290
Gross profit-----do-----:	<u>2/ 2,637</u>	1,656	1,738	296	273
General, selling, and administrative expense 1,000 dollars--:	2,099	2,087	2,042	377	361
Net operating profit or (loss)-----do-----:	539	(432)	(303)	(82)	(88)
Ratio of net operating profit or (loss) to net sales-----percent--:	4.5	(3.5)	(2.7)	(4.5)	(5.6)
Number of firms reporting net operating losses-----:	2	4	4	4	5
All other producers:					
Net sales-----1,000 dollars--:	67,477	75,098	90,602	18,719	19,475
Cost of goods sold-----do-----:	50,305	58,869	69,972	15,385	15,917
Gross profit-----do-----:	17,170	16,227	20,632	3,333	3,554
General, selling, and administrative expense 1,000 dollars--:	11,577	12,435	14,995	3,136	3,531
Net operating profit---do-----:	5,589	3,791	5,636	198	25
Ratio of net operating profit to net sales percent--:	8.3	5.1	6.2	1.1	0.1
Number of firms reporting net operating losses-----:	3	5	8	7	10

<sup>1/</sup> January-March 1979 and January-March 1980 data compiled from 8 Western and 19 non-Western respondents.

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

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

The profit-and-loss experience on the domestic operations of 10 producers of public works castings which also import such castings is compared with that of producers which do not import in table 13.

Table 13.--Profit-and-loss experience of 10 U.S. producer-importers and 20 nonimporting producers of public works castings, 1977-79, January-March 1979, and January-March 1980. 1/

Item	1977	1978	1979	January-March--	
				1979	1980
<b>Producer-importers:</b>					
Net sales-----1,000 dollars--:	32,252	33,176	38,973	8,961	9,100
Cost of goods sold-----do-----:	25,067	27,665	32,076	7,301	7,549
Gross profit-----do-----:	<u>1/ 7,184</u>	5,508	6,897	1,661	1,552
General, selling, and administrative expense 1,000 dollars--:	4,976	5,174	6,494	1,460	1,707
Net operating profit or (loss)-----1,000 dollars--:	2,209	335	405	201	(153)
Ratio of net operating profit or (loss) to net sales-----percent--:	6.9	1.0	1.0	2.3	(1.7)
Number of firms reporting net operating losses-----:	0	3	6	4	6
<b>All other producers:</b>					
Net sales-----1,000 dollars--:	47,324	54,246	63,018	11,569	11,938
Cost of goods sold-----do-----:	34,702	41,870	47,547	9,600	9,658
Gross profit-----do-----:	12,623	12,375	15,473	1,968	2,275
General, selling, and administrative expense 1,000 dollars--:	8,700	9,348	10,543	2,053	2,185
Net operating profit or (loss)-----1,000 dollars--:	3,919	3,024	4,928	(85)	90
Ratio of net operating profit or (loss) to net sales-----percent--:	8.3	5.6	7.8	(0.7)	0.8
Number of firms reporting net operating losses-----:	5	6	6	7	9

1/ January-March 1979 and January-March 1980 data compiled from 8 U.S. producer-importers and 19 nonimporting producers.

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

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

The financial experience of those producers which also import contrasts unfavorably with those which do not import. Net operating profit on the domestic operations of producer-importers declined sharply from 1977 to 1978, and remained at a low level in 1979. Financial data for January-March 1980 show that these firms experienced a combined net operating loss of \$153,000.

The ratio of net operating profit to net sales also fell, from 7 percent in 1977 to 1 percent in 1979.

In order to more fully understand the financial experience of the public-works casting industry, profit-and-loss data of U.S. producers of public works castings were compared with those of approximately 140 iron and steel foundries. <sup>1/</sup> All of these foundries, including those producing public works castings, are classified under SIC Nos. 3321-25. This comparison is presented in the following tabulation:

Item	1977		1978		1979	
	Public :141 iron : works :and steel: foundries:foundries:	Public :137 iron : works :and steel: foundries:foundries:	Public :144 iron : works :and steel: foundries:foundries:	Public :137 iron : works :and steel: foundries:foundries:	Public :144 iron : works :and steel: foundries:foundries:	Public :144 iron : works :and steel: foundries:foundries:
Net sales	:	:	:	:	:	:
percent--	100	100	100	100	100	100
Cost of goods	:	:	:	:	:	:
sold-----do----	75.1	79.7	79.5	78.4	78.1	77.7
Gross profit	:	:	:	:	:	:
do----	24.9	20.3	20.5	21.6	22.0	22.3
General, selling, and administra- tive expense	:	:	:	:	:	:
percent--	17.2	16.1	16.6	15.2	16.7	16.4
Net operating	:	:	:	:	:	:
profit--percent--	7.7	4.2	3.9	6.4	5.2	6.0

Public-works-casting foundries' financial experience generally tracked that of all iron and steel foundries throughout most of the period 1977 to 1979. In 1977, the cost of goods sold was less relative to net sales for public works foundries, and therefore the foundries enjoyed their best year vis-a'-vis all iron and steel foundries; however, both cost of goods sold and overhead expenses increased to more than that of all iron and steel foundries in 1978 and 1979. The result was that net operating profit as a percent of net sales lagged behind all iron and steel foundries in both 1978 and 1979.

Cost of goods sold and general, selling, and administrative expenses of Western U.S. public-works-casting producers contrasted unfavorably with those of all iron and steel foundries, as shown in the following tabulation:

<sup>1/</sup> See Robert Morris Associates, Annual Statement Studies; Philadelphia: Robert Morris Associates, 1979.

Item	1977		1978		1979	
	Western public works foundries	141 iron and steel foundries	Western public works foundries	137 iron and steel foundries	Western public works foundries	144 iron and steel foundries
Net sales						
percent--	100.0	100.0	100.0	100.0	100.0	100.0
Cost of goods sold-----do-----	78.2	79.7	86.6	78.4	84.7	77.7
Gross profit do-----	21.8	20.3	13.4	21.6	15.3	22.3
General, selling, and administra- tive expense						
percent--	17.4	16.1	16.9	15.2	17.9	16.4
Net operating profit or (loss)						
percent--	4.5	4.2	(3.5)	6.4	(2.7)	6.0

Cost of goods sold as a share of net sales was markedly higher for public-works-castings producers in the Western United States than for all iron and steel foundries nationwide in 1978 and 1979. Although western public works casting producers had some success in holding down general, selling, and administrative costs, their high cost of goods sold relative to net sales resulted in net operating losses in both 1978 and 1979.

Investment.--Seventeen U.S. producers of public works castings stated on Commission questionnaires that they have delayed and/or abandoned expansion or modernization plans because of import competition. Two of these producers cited governmental regulations as also influencing their decisions to delay or abandon expansion or modernization programs. Four of these producers stated that they have discontinued or greatly reduced their production of public works castings because of imports.

Ability to raise capital.--Five U.S. producers of public works castings cited difficulties in raising capital for business operations. In each instance, producers stated that the lending institutions refused them loan funds owing to low profit levels of the firm. The five firms stated that the chief cause of low profitability was competition from imported castings. The inability of one firm to obtain capital caused it to cease business operations in February 1979.

Consideration of the Causal Relationship Between Subsidized Imports From  
India and Alleged Injury

Market penetration of imports

Imports from all sources increased their share of apparent U.S. consumption from 7.7 percent in 1977 to 21.8 in 1979, or by 183 percent. The share of total imports in U.S. apparent consumption continued to rise in January-March 1980, to 31.3 percent, representing an increase of 33 percent compared with the corresponding period in 1979. Data on market penetration of total imports, and imports from India, are given in table 14.

The share of imports from India in apparent U.S. consumption closely tracks that of total imports, as India accounted for more than 90 percent of total imports in the period January 1977 to March 1980. Imports from India nearly tripled their share of apparent U.S. consumption from 1977 to 1979, and climbed to 28.9 percent of consumption in January-March 1980, an increase of 38 percent over the comparable period in 1979 (fig. 1).

As seen in table 15, imports of public works castings into Western customs districts accounted for a markedly larger share of apparent consumption in that region of the United States than in the country as a whole.

The share of imports from all sources in apparent consumption in the Western United States rose throughout the period, increasing from 20 percent in 1977 to 44 percent in 1979, or by of 117 percent. Imports' share in consumption continued to rise in January-March 1980, reaching 64 percent of consumption in that period.

The share of imports from India in apparent consumption in the Western United States also increased throughout the period, rising from 16 percent in 1977 to 37 percent in 1979, or by of 135 percent. Imports from India increased to more than 50 percent of consumption in the Western States in January-March 1980 (fig. 2).

Prices

Both U.S.-producers and importers sell public works castings on the basis of negotiated prices, usually on a f.o.b. manufacturing facility or importers' yard basis. Transport costs on these items are significant and can add approximately 3 percent to the f.o.b. price. Discounts are customarily given for large orders, or for those orders specifying an entire line of castings rather than single items. As a general rule, prices quoted to independent distributors are slightly lower than those to end users.

Table 14.--Public works castings: U.S. producers' shipments, imports, exports, and apparent consumption, 1977-79, January-March 1979, and January-March 1980.

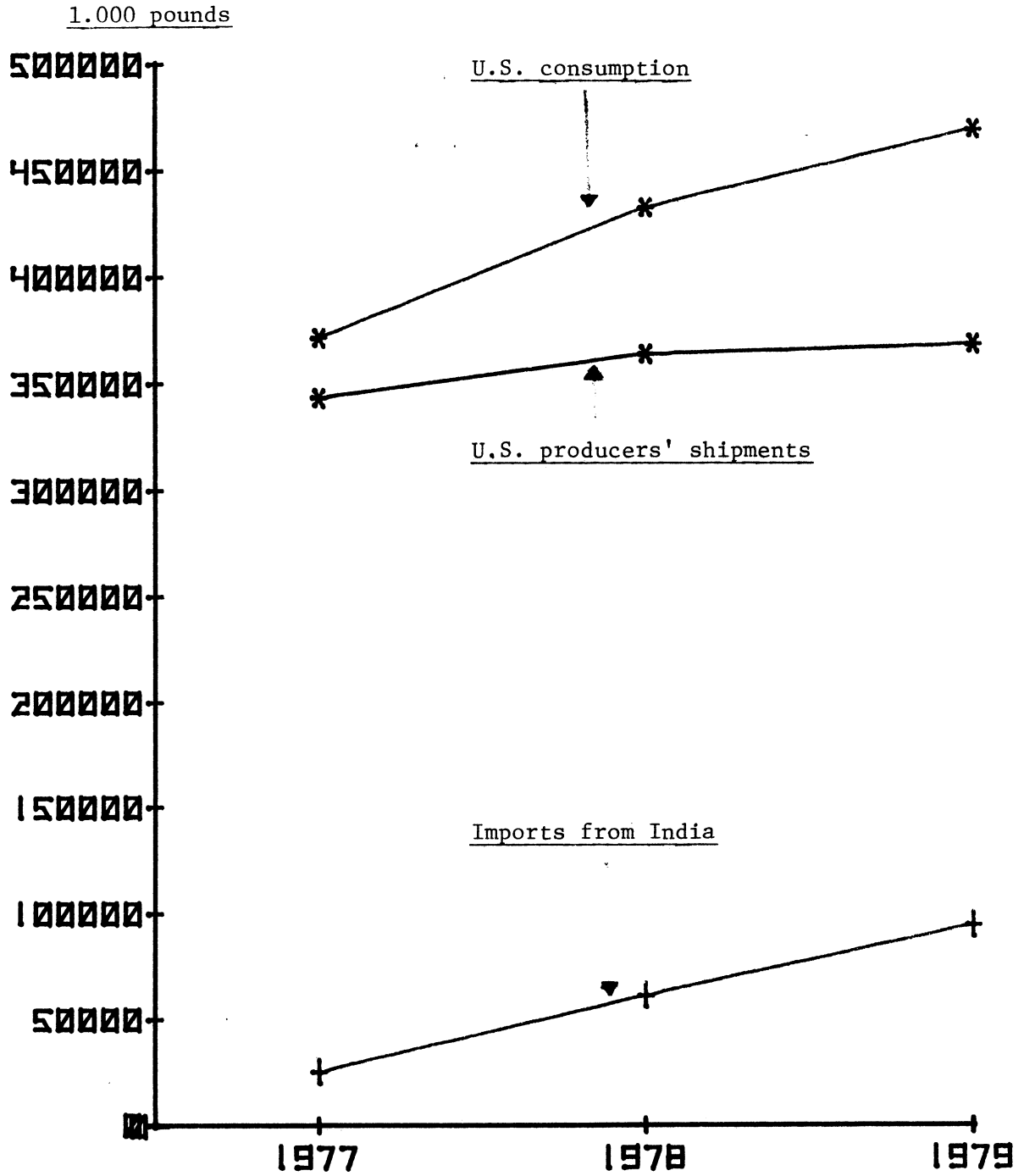
Period	U.S. producers' shipments	Imports	Exports	Apparent consumption	Imports from India	Ratio of imports		Percent
						to apparent consumption	from India to apparent consumption	
		-----1,000 pounds-----						
1977-----	343,162	28,572	215	371,519	25,046	7.7	6.8	
1978-----	363,862	69,030	332	432,560	61,082	16.0	14.1	
1979-----	368,747	102,370	1,363	469,754	94,393	21.8	20.1	
January-March--								
1979-----	72,392	1/ 22,206	228	94,370	1/ 19,725	23.5	20.9	
1980-----	65,026	1/ 29,268	807	93,487	1/ 27,025	31.3	28.9	

1/ Derived from January-April 1979 and January-April 1980 data.

Source: Derived from official statistics of the U.S. Department of Commerce and data submitted in response to questionnaires of the U.S. International Trade Commission.



Figure 1.--Public works castings: U.S. producers' shipments, imports from India, and apparent consumption, 1977-79



Source: Based on data in table 14.

Table 15.--Public works castings: U.S. producers' shipments, imports, exports, and apparent consumption in the Western United States, 1977-79, January-March 1979, and January-March 1980

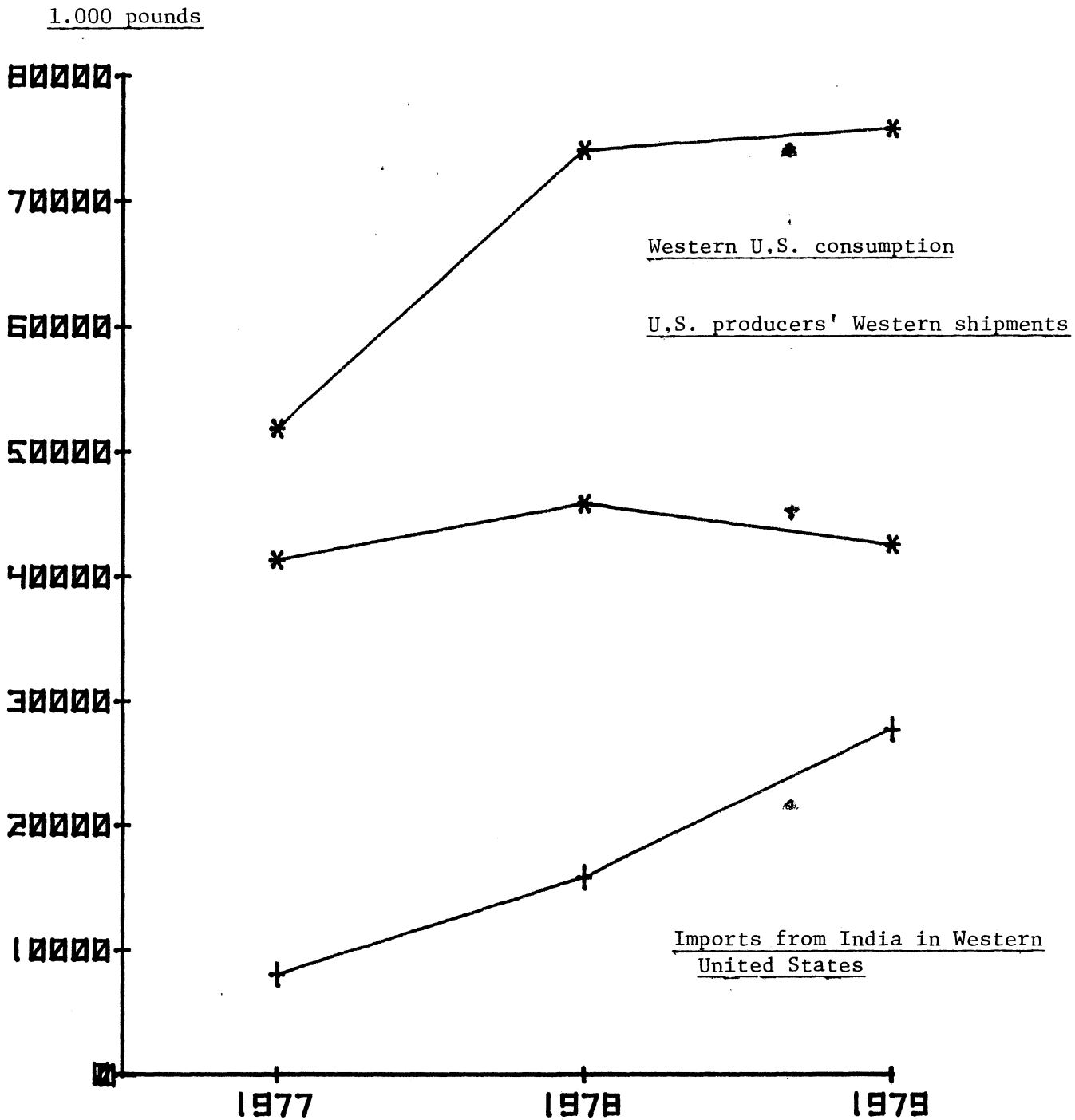
Period	U.S. producers' Western shipments	Estimated Western imports	Exports	Apparent consumption	Western imports from India	Ratio of imports to apparent consumption	Ratio of imports from India to apparent consumption
1977-----	41,369	10,492	1/	51,861	8,022	20.2	15.5
1978-----	45,926	28,223	1/	74,149	15,815	38.1	21.3
1979-----	42,639	33,271	1/	75,910	27,716	43.8	36.5
January-March--							
1979-----	8,754	2/ 9,763	1/	18,517	2/ 8,205	52.7	44.3
1980-----	5,546	2/ 9,709	1/	15,255	2/ 8,422	63.7	55.2

1/ Negligible.

2/ Derived from January-April 1979 and January-April 1980 data.

Source: Derived from official statistics of the U.S. Department of Commerce and data submitted in response to questionnaires of the U.S. International Trade Commission.

Figure 2.--Public works castings: U.S. producers' shipments, imports from India, and apparent consumption in the Western United States, 1977-79.



Source: Based on data in table 15.

Lowest net selling prices of two selected manhole covers and frames were analyzed by the Commission 1/. The prices of castings imported from India were compared with the weighted average lowest net selling prices of domestic producers which import such castings and those which do not import them.

The first item compared was a standard manhole assembly weighing approximately 270 pounds, which is known to be produced throughout the United States and imported from India. This type of manhole assembly is especially prevalent in northern and southern California. Price data for U.S. producers which do not import, U.S. producer-importers, and U.S. importers of this type casting are given in table 16.

Table 16 shows castings of both U.S. producer-importers and U.S. importers underselling those of U.S.-producers in each 3-month period from January-March 1978 to January-March 1980. The price trends are fairly uniform, with the margins of underselling for both producer-importers' domestic and Indian products generally increasing through October-December 1979, and then declining noticeably in January-March 1980. The Indian manhole assembly offered by U.S. importers undersold both U.S.-producers and U.S. producer-importers by significant margins throughout the period January-March 1978-January-March 1980; but this margin declined markedly in January-March 1980. The declining price trend in late 1979 and early 1980 reflects the slowdown in demand resulting from the decline in construction activity.

The second item compared was a manhole assembly weighing approximately 775 pounds, which is also produced throughout the United States and imported from India. This type of manhole is specified by the Bell Systems throughout the United States for use as access manholes to telephone cables. Pricing data are summarized in table 17.

Pricing trends of domestic producers, domestic producers which also import, and U.S. importers were similar to those reported for the first type of manhole. Margins of underselling existed throughout the period January-March 1978-January-March 1980, with the greatest differences in prices prevalent in July-December 1979. The margins of underselling for two of the three types of products compared with U.S. producer (only) products decreased in January-March 1980. Again, margins of underselling in relation to producer (only) products were lowest for producer-importers' domestic products, and highest for importers' products.

An interesting fact revealed by the two tables is that U.S. producers which also import quoted consistently lower prices to customers on their domestically produced castings than did those U.S. producers which did not import, even though costs of producing the same model casting in domestic facilities must be assumed to be approximately equal for both types of producers. Apparently, higher markups producer-importers enjoy on Indian castings allow U.S. producer-importers to take less profit on the same model casting which is made in their domestic facilities. Then too, the disparity evidenced in prices between U.S. producer-importers' U.S.-produced and

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1/ These products are considered representative of the public works castings line by both producers and importers. Both the domestic and imported product selected are directly competitive in each instance.

Table 16.--Manhole assembly: 1/ Weighted average lowest net selling prices of U.S. producers, U.S. producer-importers for their domestic product and their product imported from India, U.S. importers for their product imported from India, and the average margin of underselling, by quarters, 1978 and 1979, and January-March 1980

Period	U.S. producer-im-		U.S. importer's		U.S. producer-im-		U.S. importer's		U.S. producer-im-		U.S. importer's		U.S. producer-im-		U.S. importer's		Margin of under- selling by importers' product
	price	Domestic product	price	Domestic product	price	Domestic product	price	Domestic product	price	Domestic product	price	Domestic product	price	Domestic product	price	Domestic product	
	-----Cents per pound-----																
	-----Percent-----																
1978:																	
January-March	26.4	23.7	23.5	16.4	10.2	11.0	37.9										
April-June	28.1	24.0	23.7	16.8	14.6	15.7	40.2										
July-September	28.6	24.2	23.7	17.2	15.4	17.1	39.9										
October-December	28.9	24.2	23.7	17.3	16.3	18.0	40.1										
1979:																	
January-March	31.3	25.4	24.3	18.7	18.8	22.4	40.3										
April-June	32.8	25.3	24.5	19.1	22.9	25.3	41.8										
July-September	32.1	25.2	24.5	19.5	21.5	23.7	39.3										
October-December	33.0	24.6	24.0	19.8	25.5	27.3	40.0										
1980:																	
January-March	30.9	23.9	23.8	22.4	22.7	23.0	27.5										

1/ Of cast iron, machined horizontal and vertical surfaces, 270 lbs., (plus or minus 5 percent), 31-1/2" at base, 24" clear opening, 25 1/4" x 1 1/8" cover size, 4 1/2" deep frame.

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

Table 17.--Manhole assembly: 1/ Weighted average lowest net selling prices of U.S. producers, U.S. producer-importers for their domestic products and their product imported from India, U.S. importers for their product imported from India, and the average margin of underselling, by quarters, 1978 and 1979, and January-March 1980

Period	U.S. producer-im		U.S. importer's		U.S. producer-im		U.S. importer's		U.S. producer-im		U.S. importer's		U.S. producer-im		U.S. importer's																																																																																									
	price	Domestic product	price	Domestic product	price	Domestic product	price	Domestic product	price	Domestic product	price	Domestic product	price	Domestic product	price	Domestic product																																																																																								
	Cents per pound																																																																																																							
	Percent																																																																																																							
1978:																	January-March	26.5	26.6	22.5	17.5	-	15.1	34.5	April-June	29.4	27.6	23.2	17.5	6.1	21.1	40.5	July-September	30.1	27.2	23.2	18.2	9.6	22.9	39.5	October-December	30.9	27.6	23.2	18.4	10.7	24.9	40.5	1979:								January-March	32.0	28.3	24.6	19.3	11.5	23.1	39.7	April-June	33.6	27.0	24.6	19.6	19.6	26.8	41.7	July-September	33.6	26.6	24.1	19.6	20.8	28.3	41.7	October-December	33.8	26.1	24.6	20.2	22.8	27.2	40.2	1980:								January-March	32.0	24.6	23.7	23.1	23.1	25.9	27.8
January-March	26.5	26.6	22.5	17.5	-	15.1	34.5	April-June	29.4	27.6	23.2	17.5	6.1	21.1	40.5	July-September	30.1	27.2	23.2	18.2	9.6	22.9	39.5	October-December	30.9	27.6	23.2	18.4	10.7	24.9	40.5	1979:								January-March	32.0	28.3	24.6	19.3	11.5	23.1	39.7	April-June	33.6	27.0	24.6	19.6	19.6	26.8	41.7	July-September	33.6	26.6	24.1	19.6	20.8	28.3	41.7	October-December	33.8	26.1	24.6	20.2	22.8	27.2	40.2	1980:								January-March	32.0	24.6	23.7	23.1	23.1	25.9	27.8																	
April-June	29.4	27.6	23.2	17.5	6.1	21.1	40.5	July-September	30.1	27.2	23.2	18.2	9.6	22.9	39.5	October-December	30.9	27.6	23.2	18.4	10.7	24.9	40.5	1979:								January-March	32.0	28.3	24.6	19.3	11.5	23.1	39.7	April-June	33.6	27.0	24.6	19.6	19.6	26.8	41.7	July-September	33.6	26.6	24.1	19.6	20.8	28.3	41.7	October-December	33.8	26.1	24.6	20.2	22.8	27.2	40.2	1980:								January-March	32.0	24.6	23.7	23.1	23.1	25.9	27.8																									
July-September	30.1	27.2	23.2	18.2	9.6	22.9	39.5	October-December	30.9	27.6	23.2	18.4	10.7	24.9	40.5	1979:								January-March	32.0	28.3	24.6	19.3	11.5	23.1	39.7	April-June	33.6	27.0	24.6	19.6	19.6	26.8	41.7	July-September	33.6	26.6	24.1	19.6	20.8	28.3	41.7	October-December	33.8	26.1	24.6	20.2	22.8	27.2	40.2	1980:								January-March	32.0	24.6	23.7	23.1	23.1	25.9	27.8																																	
October-December	30.9	27.6	23.2	18.4	10.7	24.9	40.5	1979:								January-March	32.0	28.3	24.6	19.3	11.5	23.1	39.7	April-June	33.6	27.0	24.6	19.6	19.6	26.8	41.7	July-September	33.6	26.6	24.1	19.6	20.8	28.3	41.7	October-December	33.8	26.1	24.6	20.2	22.8	27.2	40.2	1980:								January-March	32.0	24.6	23.7	23.1	23.1	25.9	27.8																																									
1979:								January-March	32.0	28.3	24.6	19.3	11.5	23.1	39.7	April-June	33.6	27.0	24.6	19.6	19.6	26.8	41.7	July-September	33.6	26.6	24.1	19.6	20.8	28.3	41.7	October-December	33.8	26.1	24.6	20.2	22.8	27.2	40.2	1980:								January-March	32.0	24.6	23.7	23.1	23.1	25.9	27.8																																																	
January-March	32.0	28.3	24.6	19.3	11.5	23.1	39.7	April-June	33.6	27.0	24.6	19.6	19.6	26.8	41.7	July-September	33.6	26.6	24.1	19.6	20.8	28.3	41.7	October-December	33.8	26.1	24.6	20.2	22.8	27.2	40.2	1980:								January-March	32.0	24.6	23.7	23.1	23.1	25.9	27.8																																																									
April-June	33.6	27.0	24.6	19.6	19.6	26.8	41.7	July-September	33.6	26.6	24.1	19.6	20.8	28.3	41.7	October-December	33.8	26.1	24.6	20.2	22.8	27.2	40.2	1980:								January-March	32.0	24.6	23.7	23.1	23.1	25.9	27.8																																																																	
July-September	33.6	26.6	24.1	19.6	20.8	28.3	41.7	October-December	33.8	26.1	24.6	20.2	22.8	27.2	40.2	1980:								January-March	32.0	24.6	23.7	23.1	23.1	25.9	27.8																																																																									
October-December	33.8	26.1	24.6	20.2	22.8	27.2	40.2	1980:								January-March	32.0	24.6	23.7	23.1	23.1	25.9	27.8																																																																																	
1980:								January-March	32.0	24.6	23.7	23.1	23.1	25.9	27.8																																																																																									
January-March	32.0	24.6	23.7	23.1	23.1	25.9	27.8																																																																																																	

1/ Of cast iron, machined horizontal and vertical surfaces, 775 lbs., (plus or minus 5 percent), 49" at base, 30" clear opening, 32" x 1 3/8" cover size, 10" deep frame.

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

Indian-made castings of the same type, especially in the high volume Bell system casting, supports the contention that imports are used by domestic foundries to enable them to more readily market their full line of castings.

#### Lost sales

Fifteen domestic producers of public works castings furnished the Commission with usable information on lost or reduced sales to customers owing to imports from India. Of 35 allegations of lost sales checked by the Commission's staff, 32 purchasers confirmed that they purchased castings imported from India. Of these 32 purchasers, 20 stated they made such purchases because of the lower price of the Indian castings. Other reasons cited by purchasers were the lack of availability of domestic castings, and poor service of domestic suppliers.

At the Commission's conference in the preliminary phase of the present case, representatives of the Indian Engineering Export Promotion Council produced copies of two letters sent by petitioner to two customers advising them that if they purchased imported castings, a 100-percent "surcharge" would be added on castings purchased by them from the petitioner. The Commission staff verified the authenticity of these letters.

#### Possible causes of material injury, or the threat thereof, other than subsidized imports from India

The public works casting industry is affected by the present economic downturn in general, and the slowdown in the construction sector in particular. In addition, the public works casting industry seems to be experiencing difficulties because of increasing costs of energy and raw materials, and the cost of complying with environmental regulations of Federal, State, and local Governments. The increasing costs of input requirements are normally passed through to final consumers in the form of higher prices, but, because of the present slackening in demand for public works castings resulting from the slowdown in the construction sector and the alleged pressure of imports on prices, the industry appears to be having difficulty in passing these cost increases on to consumers.

According to U.S. producers' responses to the Commission's questionnaires, other factors that account for part of the difficulty the industry is experiencing are the high cost and shortage of skilled labor, the high cost and shortage of capital, and the increasing cost of labor fringe benefits. The importance of these factors, however, varies among different producers.

The present slowdown in the construction sector.--The demand for public works castings is highly dependent on construction activity. Data presented in the following tabulation show that in 1978, total new private and public housing starts increased by 1.7 percent over 1977, while in 1979, total new housing starts declined by 13.6 percent from the 1978 level. A greater decline of around 44 percent in the number of housing starts occurred in January-March 1980 compared with January-March 1979. Total new housing starts as well as the percentage changes are shown in the following tabulation:<sup>35</sup>

Housing starts	1977	1978	1979	January-March--	
				1979	1980
Total, private and public-----1,000 units--	1,989.8	2,023.3	1,749.1	153.3	86.1
Change from previous period-----percent--	-	1.7	(13.6)	-	(43.8)

Source: Survey of Current Business, 1978, 1979, and May 1980.

Notwithstanding the alleged impact of the increase in imports on domestic shipments, such shipments of public works castings in 1979 and 1980 reflected to some extent the impact of the decline in the construction sector. Data in table 18 show that total shipments of domestic respondents increased by 6.0 percent in 1978, by the smaller amount of 1.3 percent in 1979, and declined by about 10 percent in January-March 1980 compared with January-March 1979. Western producers' shipments declined by 7.2 percent in 1979 from the 1978 level, and by 36.6 percent in January-March 1980, compared with January-March 1979. The disproportionate decline in Western producers' shipments may reflect the alleged stronger pressures of imports in the Western area relative to other parts of the country.

Table 18.--Public works castings: U.S. producers' domestic shipments, 1977-79, January-March 1979, and January-March 1980

Item	1977	1978	1979	January-March--	
				1979	1980
All respondents:					
Quantity---1,000 pounds--	343,162	363,862	368,747	72,392	65,026
Change from previous period-----percent--	-	6.0	1.3	-	(10.2)
Western:					
Quantity---1,000 pounds--	41,369	45,926	42,639	8,754	5,546
Change from previous period-----percent--	-	11.0	(7.2)	-	(36.6)

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

Other factors.--In the Commission's questionnaires, U.S. producers of public works castings were asked to assign a score to each of the factors they thought were responsible for the difficulties they experienced from 1977 to 1980. The score assigned to each factor reflects the degree of importance of each of these factors to each producer. The difficulties included were loss



of market share, decreased demand, idle capacity, and lower profitability. The factors listed were imports from India, cost of energy, cost of compliance with Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA) environmental regulations, cost of raw materials, cost of labor, cost of capital, imports from other sources, capital shortages, labor shortages, raw material shortages, energy shortages, labor strikes, and others.

Assessments of these factors were received from 24 U.S. producers. The factors were ranked by degree of importance based on the highest score and are presented in table 19. Respondents indicated that the most important factors are imports from India, the cost of energy, the cost of compliance with EPA and OSHA requirements, the cost of raw materials, the cost of labor, the cost of capital, and imports from other sources. These factors received a total score of 70 or above. By degree of importance, imports from India, the cost of energy, and the cost of compliance with EPA and OSHA requirements were ranked as very important by the majority of respondents. The cost of raw materials and the cost of labor were ranked as fairly important by the majority of respondents.

Table 19.--Public works castings: Ranking of factors which caused difficulties for domestic producers, by degree of importance

Factor	Rank	Total score	Percent of each rank in total score		
			Very important	Fairly important	Not important
Imports from India-----	1	98	75	8	17
Cost of energy-----	1	98	59	29	12
EPA & OSHA cost-----	3	97	54	38	8
Cost of raw materials-----	4	87	37	55	8
Cost of labor-----	5	81	33	58	8
Cost of capital-----	6	75	29	46	25
Imports from other sources-----	7	70	29	33	38
Capital shortage-----	8	56	21	25	54
Labor shortage-----	9	54	12	46	42
Raw materials shortage-----	10	43	8	25	67
Energy shortage-----	11	37	4	21	75
Labor strikes-----	12	25	0	8	92
Others (workers compensation insurance)-----	13	4	0	4	0

Source: Compiled from data submitted by 24 respondents in response to questionnaires of the U.S. International Trade Commission.

The leading factor, imports from India, is discussed elsewhere in the report. The following discussion concerns the next three factors in order of importance: the cost of energy, the cost of complying with EPA and OSHA requirements, and the cost of raw material (scrap iron).

Cost of energy.--Information on energy costs collected by Commission questionnaires is presented in table 20. During 1977-79, energy costs of all respondents increased on an annual basis by 4.1 percent. <sup>1/</sup> Western respondents experienced an average annual increase in energy costs of 5.6 percent.

Table 20.--Public works castings: U.S. producers' energy cost, 1977-79, January-March 1979, and January-March 1980

Item	1977	1978	1979	January-March--	
				1979	1980
All respondents:					
Cost-----per pound--:	\$1.08	\$1.14	\$1.17	\$1.23	\$1.53
Change from previous period----percent--:	-	5.6	2.6	-	24.4
Western respondents:					
Cost-----per pound--:	\$0.35	\$0.34	\$0.39	\$0.36	\$0.63
Change from previous period----percent--:	-	(2.9)	14.7	-	75.0

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

Regulatory impact.--Federal, State, and local government regulations of clean air and water and occupational safety requirements have affected most industries over the last decade. The impact of these regulations has been especially heavy on industries extracting and processing raw materials, particularly foundries.

Expenditures for pollution abatement equipment reported by all producers of public works castings responding to the Commission's questionnaire increased at an annual rate of around 7 percent--from a level of \$2.21 million in 1977, to \$2.25 million in 1978, and to \$2.50 million in 1979. Such costs totaled \$620,400 in January-March 1980 compared with \$591,600 in January-March 1979 (table 21). Even though the industry depends on residential housing developments for much of its market, higher pollution standards associated with urban development force foundries which exist in or around these developments to incur additional expenses to comply with EPA regulations, relocate, or cease to function. In periods of economic expansion, these expenditures could be funded more easily than during economically depressed times when such costs are especially burdensome because of shortages of capital and low levels of profitability. Long depreciation schedules add to the cost burden.

<sup>1/</sup> Energy cost amounted to between 6 and 7 percent of cost of goods sold from 1977 to 1979.

Table 21.--Public works castings: Domestic producers' cost of complying with EPA and OSHA requirements, 1977-79, January-March 1979, and January-March 1980

Item	1977	1978	1979	January-March--	
				1979	1980
All respondents:					
Value--1,000 dollars--:	2,210.3	2,255.6	2,502.1	591.6	620.4
Change from previous period-----percent--:	-	2.1	10.9	-	4.9
Western respondents: <sup>1/</sup>					
Value--1,000 dollars--:	***	***	***	***	***
Change from previous period-----percent--:	***	***	***	***	***

<sup>1/</sup> Data were provided by only 1 respondent.

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

Raw material costs.--The rising cost of raw materials is an additional source of difficulty for the public-works-castings industry. This is especially true of the most important raw material--iron scrap.

Table 22 shows average producer price indexes for No. 1 cupola scrap iron by quarters and selected cities. According to the petitioner, this type of scrap is the one most often used in the public-works-castings industry. The table shows that the scrap price index peaked in January-March 1979 at 164, compared with a low of 95 in October-December 1977. After its 1979 high, the price index faltered in the ensuing two quarters, then rose each quarter to a level of 152 in January-March 1980. Figure 3 presents producer price indexes for No. 1 cupola scrap iron, together with a four-quarter moving average of the index. Figure 4 presents a four-quarter moving average of the price indexes for No. 1 cupola scrap iron, by cities. The four-quarter moving average was applied to these price indexes to smooth seasonal variations. The graph shows that prices for No. 1 cupola scrap iron are highest in Philadelphia and Los Angeles.

Table 22.--No. 1 cupola scrap iron: Producer price indexes, by selected cities and by quarters, 1977-79 and January-March 1980

(April-June 1977=100)

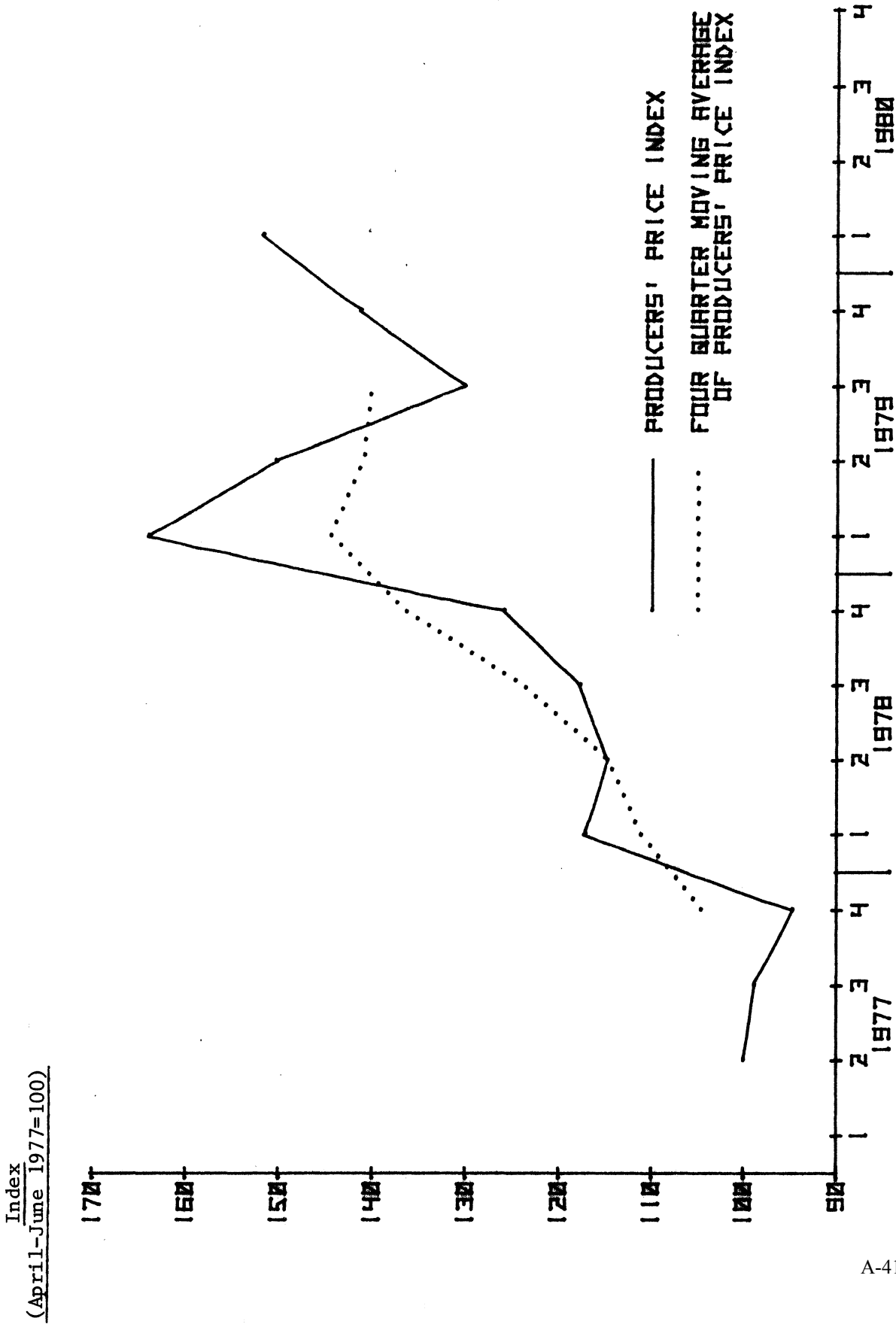
Region	1977 1/			1978			1979			1980		
	Apr.- June	July- Sept.	Oct.- Dec.	Apr.- June	July- Sept.	Oct.- Dec.	Apr.- June	July- Sept.	Oct.- Dec.	Apr.- June	July- Sept.	Oct.- Dec.
Average 2/-----	100.0	98.9	94.8	117.2	114.8	117.8	125.9	164.1	150.5	130.3	141.4	151.9
Pittsburgh-----	100.0	95.8	91.5	117.6	114.1	112.7	128.9	184.5	162.0	128.2	133.8	146.5
Philadelphia-----	100.0	98.4	93.4	127.4	101.6	118.0	137.7	185.2	167.2	144.3	182.0	169.7
Detroit-----	100.0	96.0	100.6	107.4	114.3	121.1	98.3	118.9	105.7	94.3	90.3	129.7
Birmingham-----	100.0	101.9	91.4	110.5	117.3	110.5	116.7	135.2	137.7	127.8	140.1	141.4
Houston-----	100.0	101.2	96.9	115.5	118.0	120.5	128.0	161.5	155.3	152.2	150.3	150.3
Los Angeles-----	100.0	113.0	105.5	119.9	147.3	145.9	152.1	158.9	161.0	154.1	163.0	199.3

1/ January-March 1977 not available.

2/ The Bureau of Labor Statistics index, based on 1967 price, was recalculated from a base year of 1977 to match regional price indexes.

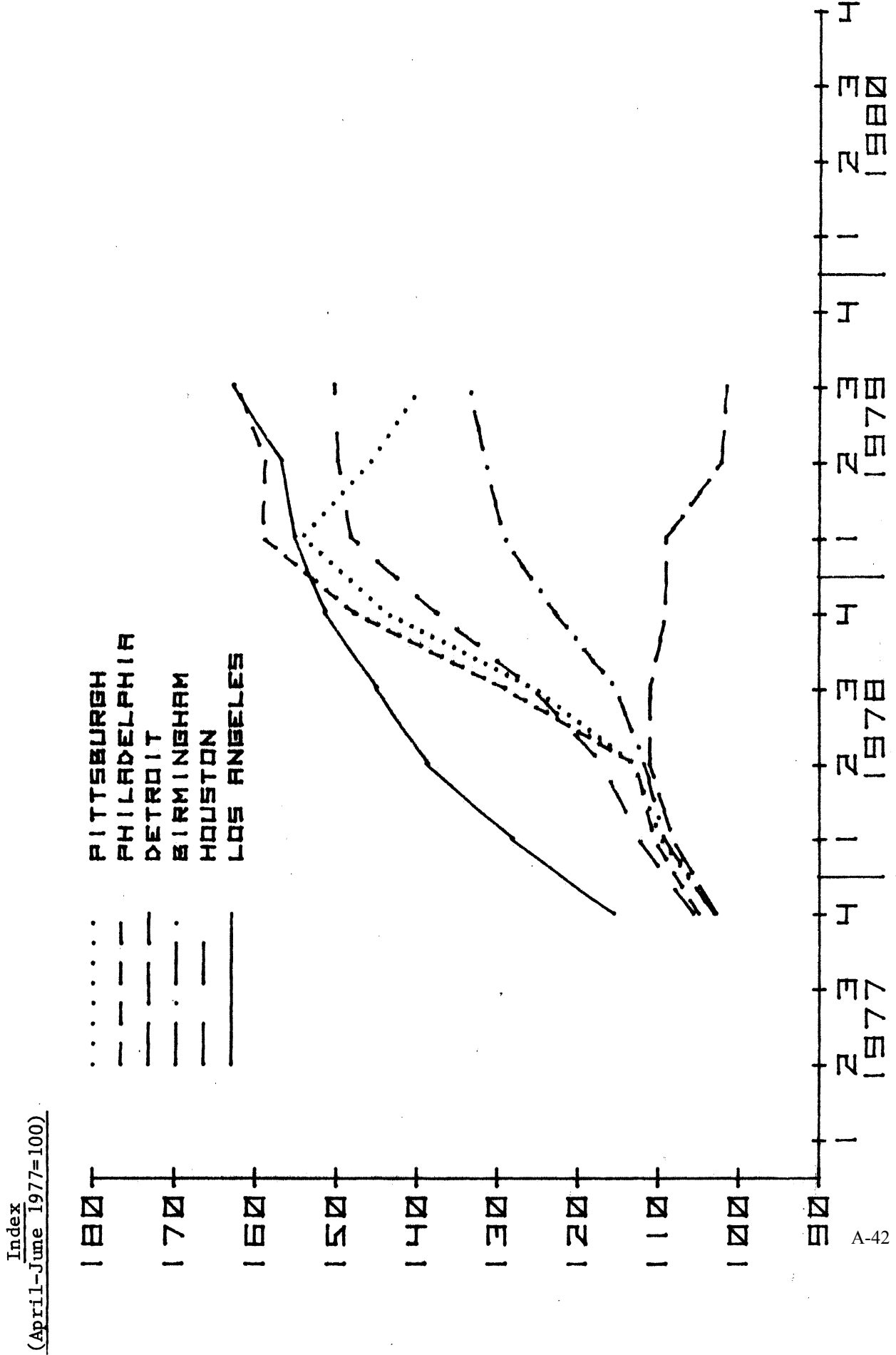
Source: Compiled from official statistics of the Bureau of Labor Statistics.

Figure 3.--No. 1 cupola scrap iron: Producer price indexes, by quarters, April-June 1977-January-March 1980



Source: Based on data in table 22.

Figure 4.--No. 1 cupola scrap iron: Four quarter moving average of producer price indexes, by quarters and selected cities, April-June 1977-January-March 1980



Source: Based on data in table 22.

APPENDIX A

PRELIMINARY INJURY DETERMINATION OF THE COMMISSION

that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the importation of such merchandise into the United States. The statute directs that the Commission make its determination within 45 days of its receipt of the petition, or in this case by April 3, 1980.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's New York office, and by publishing the notice in the Federal Register of February 27, 1980 (45 FR 12933). A public conference was held in Washington, D.C., on March 17, 1980.

This determination is made pursuant to the provisions of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) and the provisions of section 703(a) of the Trade Agreements Act of 1979. Section 303 states that there shall be levied and paid, in addition to any duties otherwise imposed, a duty equal to the net amount of such bounty or grant. Subsection (a)(2) of that section states that countervailing duties may be imposed on duty-free merchandise only if there is an affirmative determination by the Commission of injury in accordance with the provisions of the Trade Agreements Act of 1979, except that such determination shall not be required unless a determination of injury is required by the international obligations of the United States. In this case, both the United States and India are parties to the General Agreement on Tariffs and Trade (GATT). Article VI of GATT requires that an injury test be applied before countervailing duties can be imposed. Therefore, an injury test is required in the present case, and must be applied in accordance with the provisions of Title VII of the Trade Agreements Act of 1979, particularly section 703(a) thereof, as incorporated into the Tariff Act of 1930 by section 103 of the Trade Agreements Act of 1979.

In arriving at this preliminary determination, the Commission has given due consideration to the information provided by the administering authority, to all written submissions from interested parties, information adduced at the conference and obtained by the Commission's staff from questionnaires, documented personal interviews, and other sources, all of which have been placed on the

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**[Investigation No. 303-TA-13 (Preliminary)]**

**Certain Public Works Castings From India**

**Determination**

On the basis of the record in investigation No. 303-TA-13 (Preliminary), the Commission unanimously determines that there is a reasonable indication that an industry in the United States is materially injured by reason of the importation from India of manhole covers and frames, catch basin grates and frames, and clean out covers and frames, provided for in item 657.09 of the Tariff Schedules of the United States (TSUS) and accorded duty-free treatment, which are allegedly being subsidized by the Government of India.

**Background**

On February 19, 1980, the United States International Trade Commission and the Department of Commerce each received a petition from Pinkerton Foundry, Inc., Lodi, California, alleging that a bounty or grant is being paid with respect to certain public works castings. Accordingly, the United States International Trade Commission instituted a preliminary countervailing duty investigation under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), as amended by section 103(b) of the Trade Agreements Act of 1979, to determine whether there is a reasonable indication



administrative record of this preliminary investigation.

**Views of Commissioners Paula Stern, George Moore, and Michael Calhoun**

In this investigation the Commission is required, pursuant to section 303 and title VII of the Tariff Act of 1930, to determine whether there is reasonable indication that an industry in the United States is materially injured or is threatened with material injury or the establishment of an industry in the United States is materially retarded by reason of imports from India of certain public works castings, as provided for in item 657.09 of the TSUS, allegedly subsidized by the Government of India.

Under the provisions of section 703 of the Tariff Act of 1930, the Commission must base its determination on the information available to it at the time. Accordingly, we have determined in this case that there is a reasonable indication of material injury to the domestic industry by reason of such imports.<sup>1</sup>

It is clear, however, that in the event the Commission is required to make a final determination, its evaluation of conditions of trade and developments in the industry will require more complete data. Questionnaires were sent by the Commission to ten of the fifty producers in the industry, believed to constitute a significant portion of the industry. Included in the Commission survey were several producers on the west coast, where the petitioner's facilities are located.<sup>2</sup> A full sampling of the industry to provide information which would be fully representative of the domestic industry would contribute to the Commission's evaluation in three important areas:

(1) data establishing production, profit, employment, capacity and other trends, revealing the impact of imports on the industry as a whole;

(2) information on the direction and size of total industry sales and shipments, and their relation to the question of regional industry; and

(3) information establishing whether the majority of producers keep separate profit records for certain public works castings and what significance this factor holds for the question of definition of the regional industry.

**The domestic industry**

Information gathered during this preliminary investigation indicates that approximately 50 firms producing public

works castings constitute the relevant domestic industry.<sup>3</sup> The production of public works castings requires specialized machinery and labor and technology inputs, distinguishing this industry from those which produce other types of "gray" iron castings.<sup>4</sup> A major portion of this industry's production is apparently accounted for by "certain public works castings"—manhole covers and frames; catch basin covers and frames, and cleanout covers and frames.<sup>5</sup> The bulk of the domestic industry's production is therefore directly competitive with those imports from India which are the subject of this investigation.<sup>6</sup>

Information available to the Commission at this time does not provide the basis for defining the industry on a regional basis. Section 771 of the Tariff Act of 1930 stipulates that regional producers may be treated as a separate industry—

(1) if these producers sell all or almost all of their production in that market; and

(2) if United States producers located outside that market do not satisfy to any substantial degree the demand in that market. In addition, special considerations may be given to an area in which there is a concentration of subsidized imports.

Although certain market factors, such as high freight costs and the importance of satisfying different local production specifications encourage sales on a regional basis, some producers market their products nationwide. Furthermore, sales of imports from India do not appear to be concentrated in the west coast market, as alleged by the petitioner Pinkerton Foundry, Inc., of Lodi, Calif., or in any other regional market. Only 26 percent of the value of total entries of public works castings entered at the west coast customs districts in 1978, the remainder divided between east and gulf coast. We have, therefore, based our determination on an industry which is national in scope.<sup>7</sup>

**Reasonable indication of material injury**

In this preliminary investigation, the Commission was required to make its determination on the basis of limited data. However, these data limitations did not rule out a number of facts which the record yielded and which constitute the basis for our determination that this investigation must continue.

Estimated imports of certain public works castings from India, which directly compete with the bulk of the domestic industry's production, have risen both absolutely and as a share of domestic consumption. From 1977 to 1979, these imports increased by 273 percent on a quantity basis, while shipments of responding domestic producers rose only 6 percent. As a share of apparent consumption, imports from India increased from 2 percent in 1977 to 7 percent in 1979. Imports from India also increased their share of the total import market, accounting for 80 percent of total imports in 1979, up from 77 percent in 1977.<sup>8</sup>

The Commission's preliminary comparisons of prices for specific products indicate that imports from India have considerably undersold domestic products. Imports of a specified manhole assembly from India undersold the weighted average lowest net selling prices of domestic products by an average of 35 to 44 percent. Margins of underselling for a specified catch basin assembly range from 31 to 39 percent.<sup>9</sup> Commission inquiries confirmed that in five instances, domestic producers lost sales to lower-priced imports from India.<sup>10</sup>

Profit-and-loss data submitted to the Commission show a significant decline in the profitability of the domestic industry. Net operating profits of those firms responding to Commission questionnaires fell from \$5.1 million in 1977 to \$3.2 million in 1979. Net profits as a share of net sales for these firms fell from 8.8 percent to 4.3 percent during the same time period.<sup>11</sup>

Total capacity fell in 1979, as a major producer suspended all production in February of that year. As a result, capacity utilization, which had declined by 3 percentage points in 1978 over 1977 for the responding firms, then rose by 5 percentage points in 1979.<sup>12</sup>

**Conclusion**

The record contains information showing a reasonable indication of injury to the domestic industry—particularly significant margins of underselling, confirmation of lost sales, and sliding profitability. A final decision by the Commission on the existence of material injury must depend on information which is representative of the entire industry.

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<sup>1</sup>Threat of material injury and material retardation are not at issue in this case.

<sup>2</sup>Report to the Commission in Investigation No. 303-TA-13 (Preliminary), (hereinafter "Report"), p. A-1.

<sup>3</sup>Report, pp. A-4.

<sup>4</sup>Transcript of the conference, pp. 33-34.

<sup>5</sup>Responses to Commission questionnaires.

<sup>6</sup>Report, p. A-5.

<sup>7</sup>Report, pp. A-4 and 4-6.

<sup>8</sup>Report, pp. A-5, A-14, and A-21.

<sup>9</sup>Report, pp. A-14 and A-17.

<sup>10</sup>Report, pp. A-17.

<sup>11</sup>Report, pp. A-12.

<sup>12</sup>Report, pp. A-9.

### Statement of Reasons of Chairman Catherine Bedell

On the basis of the best information available in investigation No. 303-TA-13 (Preliminary), I determine that there is a reasonable indication that an industry in the United States is materially injured by reason of the importation from India of certain public works castings, provided for in item 657.09 of the Tariff Schedules of the United States, upon which subsidies are allegedly provided by the Government of India.

The following findings and conclusions, based on the record in this investigation, support my determination.

#### The Domestic Industry

Petitioner and respondents advanced differing concepts as to the scope of the relevant domestic industry alleged to have been injured by imports from India. Petitioner claims injury to domestic producers manufacturing certain public works castings, i.e., manhole covers, rings, and frames; catch-basin grates and frames; and cleanout covers and frames.<sup>13</sup> Data developed during the course of the investigation show that production of these public works castings accounted for 73 percent of the total public works castings produced by the firms which responded to the Commission's producers' questionnaire. Further, these questionnaire respondents experienced difficulty in separating these public works castings from other public works castings for purposes of providing production, profit-and-loss, and other types of data, all public works castings are made of cast iron. In addition, the subject public works castings are produced in the same facilities as other public works castings, utilizing the same machinery and workers.

The Indian exporters would define the relevant industry as that producing all gray-iron castings.<sup>14</sup> In addition to total public works castings, such an industry would also encompass producers of pressure pipes and fittings, ductile iron castings for automotive, construction, utility, and other uses, cast-iron molds for heavy steel ingots, cast-iron soil pipes and fittings, rolls for rolling mills, and other gray-iron castings for automotive and other uses. For each of these products, special facilities, labor, and technologies are required; hence, foundries tend to specialize in one product group. Questionnaire data

received by the Commission show that all public works castings constitute 91 percent of questionnaire respondents' total foundry operations. At the Commission's conference in the present case, witnesses were in general agreement that foundries producing public works castings could not switch to the production of other types of gray-iron castings without significant capital expenditures for retooling, equipment, and retraining of workers.<sup>15</sup> Finally, it should be noted that the bulk of imports from India of gray-iron castings consisted of manhole assemblies.<sup>16</sup>

Therefore, since products referred to as public works castings are closely related, and the preliminary data involve such closely related industry operations, I consider the relevant U.S. industry to be that consisting of the productive facilities devoted to the production of all public works castings.

In addition, the petitioner alleges that subsidized imports from India have caused material injury to Western U.S. producers of public works castings. Since I determine that there is a reasonable indication of material injury to the domestic industry as a whole, I do not reach the issue of whether it would be appropriate in this case to treat the Western U.S. producers as if they were a separate industry.

#### Reasonable Indication of material injury

The Tariff Act of 1930 (sec. 703(a)) directs that the Commission "shall make a determination, based upon the best information available to it at the time of the determination \* \* \* The act further specifies in section 771(7)(A), (B), and (C) that the Commission shall consider, among other factors, (i) the volume of imports of the merchandise which is the subject of this investigation, (ii) the effect of imports of that merchandise on prices in the United States for like products, and (iii) the impact of imports of such merchandise on domestic producers of like products. In light of these directives, I base my decision on the preliminary findings of fact and conclusions of law discussed below.

The estimated quantity of U.S. imports of certain public works castings rose from 35.4 million pounds in 1977 to 127.3 million pounds in 1979, or by 260 percent.<sup>17</sup> On a value basis, imports rose 289 percent over the same period.<sup>18</sup> Indian producers/exporters are by far the largest foreign suppliers of certain

public works castings to the U.S. market. Imports from India increased from 27.2 million pounds, or 77 percent of total imports, in 1977 to 101.4 million pounds, or 80 percent of total imports, in 1979.<sup>19</sup>

The ratio of imports from India to apparent U.S. consumption rose from 2.0 percent in 1977 to 6.7 percent in 1979.<sup>20</sup>

According to price data submitted by U.S. producers and importers of certain public works castings, specified manhole assemblies supplied by U.S. importers undersold U.S.-produced manhole assemblies by 42 percent in 1978 and 38 percent in 1979;<sup>21</sup> specified catch-basin assemblies offered by U.S. importers undersold the U.S. producers' product by 38 percent in 1978 and 34 percent in 1979.<sup>22</sup>

A recent trend in the public works castings industry has been for many U.S. foundries to import and market public works castings, especially those from India. Lowest net selling prices of castings imported from India by U.S. producers, as well as those castings produced in such producers' domestic facilities, undersold those products produced by U.S. foundries which do not import castings.<sup>23</sup> This suggests that the high profit margins reaped from the sale of the cheaper imported castings allow domestic producer-importers to charge less for their domestically produced castings.

U.S. producers' shipments of certain public works castings increased from 191 million pounds in 1977 to 203 million pounds in 1979, or by 6 percent.<sup>24</sup> During the same period, imports of such products from India increased by 273 percent.<sup>25</sup>

Although net sales of all respondents to the producers' questionnaire rose 29 percent from 1977 to 1979, net operating profit fell by 37 percent during the same period.<sup>26</sup> The ratio of net operating profit to net sales decreased 51 percent during the period.<sup>27</sup>

One firm provided specific lost sales information to the Commission alleging that six firms purchased castings imported from India. Five of the six purchasers when contacted by the Commission, confirmed that they had purchased castings imported from India in lieu of the domestic product, and all five stated that they had done so

<sup>13</sup> *Id.*

<sup>14</sup> Report, table 11, p. A-15

<sup>15</sup> Report, table 12, p. A-16

<sup>16</sup> Report, table 13, p. A-18

<sup>17</sup> Report, tables 12 and 1, pp. A-16-A-18

<sup>18</sup> Report, table 3, p. A-6

<sup>19</sup> Report, table 1, p. A-5

<sup>20</sup> Report, table 9, p. A-12

<sup>21</sup> *Id.*

<sup>13</sup> Postconference submission of Pinkerton Foundry, Inc., p. 1.

<sup>14</sup> Postconference submission on behalf of the Engineering Export Promotion Council of India, pp. 1-2.

<sup>15</sup> Transcript of the conference, pp. 33-34.

<sup>16</sup> See the accompanying report (hereinafter referred to as "Report"), p. A-5.

<sup>17</sup> Report, table 1, p. A-6

<sup>18</sup> *Id.*

on the basis of the lower prices of the Indian castings.<sup>25</sup>

#### Conclusion

On the basis of the information available to the Commission at this time, I believe that there is a reasonable indication of material injury to the domestic industry and, therefore, that this proceeding should continue to completion.

#### Views of Vice Chairman Alberger

In order for the Commission to find in the affirmative in investigation No. 303-TA-13 (Preliminary), it is necessary to determine that there is a reasonable indication that an industry in the United States is materially injured, threatened with material injury, or the establishment of an industry in the United States is materially retarded,<sup>29</sup> by reason of imports of certain public works castings (provided for in item 657.09 of the Tariff Schedules of the United States) which are allegedly being subsidized by the Government of India.

In this investigation, Commission staff sought and received data by questionnaires from ten producers believed to be among the largest in the United States. Aggregate shipment data from these ten companies adds to only 15 percent of total shipment data compiled by the Department of Commerce for the entire industry. If these ten firms do represent only 15 percent of shipments then the other 40 firms have 85 percent, and *must* necessarily be, on the average, larger than the ten surveyed.

The Commission must make determinations on "the best information available."<sup>30</sup> It is disturbing to be operating with such apparently limited data on the industry. However, it is not the fault of the petitioner—no burden of coming forward should apply here.<sup>31</sup> We must be certain, if this case returns for a final injury determination,<sup>32</sup> that we gather more complete data on the domestic industry.

The petitioner, Pinkerton Foundry, Inc., requested that this investigation be determined on the basis of material injury to a regional (West Coast)

market.<sup>33</sup> Section 771(4)(C) of the Tariff Act of 1930 sets forth the requirements for consideration of a regional industry. In pertinent part, that section provides that, in appropriate circumstances, producers in a given market may be treated as if they were a separate industry if—

(i) The producers within such market sell all or almost all of their production of the like product in question in the market, and

(ii) The demand in that market is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States,

and further that—

• • • material injury • • • may be found to exist with respect to an industry even if the domestic industry as a whole, • • • is not injured, if there is a concentration of subsidized or dumped imports into such an isolated market and if the producers of all, or almost all, of the production within that market are being materially injured • • • by reason of the subsidized or dumped imports.

Most U.S. foundries limit their shipments to a radius of approximately 200 miles primarily because of high freight costs and regional specifications for certain castings. There are, however, some foundries in the U.S. which do distribute their products nationwide.<sup>34</sup> In addition, imports of public works castings are not concentrated in any given area. The subject articles enter the United States at ports located in the East, West, and Gulf Coast regions with those entering the West Coast amounting to 26 percent of the value of total entries in 1978. That suggests that a disproportionately small percentage of the imports are marketed in the West. Therefore, a determination with respect to a regional industry seems inappropriate in this preliminary investigation, and thus, I have considered all of the domestic facilities producing public works castings as the relevant industry.

The record in this investigation reveals that there is production of certain public works castings in the United States like, or similar to, those articles which are imported from India and are the subject of this investigation. However, responses to the Commission's questionnaires show that, in many cases, separate data is not kept on the specific categories of public works castings imported from India. Information supplied generally relates to *all* public works casting operations. The specific categories of public works castings subject to the subsidy

allegations are produced in the same facilities as other public works castings, utilizing the same machinery and workers. Section 771(4)(D) provides that if sufficient data is not available on which to assess the effect of imports on the domestic production of a like product—

• • • the effect of the subsidized imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided.

Therefore, I have considered all public works castings to be the appropriate product group upon which to base my determination.

I support the recommendation of the Director of Operations and adopt findings 4 through 10, inclusive, of the "Supporting Statement by the Director, Office of Operations . . ." which is a part of the record and attached for reference. In addition to those findings of fact, I include the following as relevant factors which were taken into consideration in making my determination:

1. Shipments of public works castings by questionnaire respondents (respondents) increased 6 percent in quantity and 26 percent in value between 1977 and 1979. Net sales also increased during this period by 29 percent. (Report at A-6, A-11)

2. A recent trend in the public works castings industry has been for many domestic foundries to import and market such castings in the United States. Lower price was listed as the most important factor in the decision to import followed closely by the desire to develop an alternate source of supply. The importation of the cheaper, relatively standard castings allows domestic facilities to concentrate on the production of the more specialized, higher-profit items. (Report at A-17)

3. Capacity utilization of foundries producing public works castings increased for all respondents from 83.5 percent in 1977 to 85.1 percent in 1979. (Report at Table 6, p. A-9)

4. The ratio of inventories to domestic shipments of respondents declined by 31 percent during the 1977-79 period. (Report at A-10)

5. The number of production workers in the domestic public works castings operations of respondents fluctuated only slightly during the 1977-79 period, increasing from 1,188 employees in 1977 to 1,197 in 1978, and then declining to 1,179 workers in 1979. (Report at A-9)

6. No information was obtained on return on investment, cash flow, wages,

<sup>25</sup> Report, p. A-17

<sup>26</sup> Since about 50 U.S. firms actively produce the product in question, material regardation of an industry in the United States is not an issue in this investigation and will not be discussed further.

<sup>27</sup> See, *Report of the Committee on Ways and Means* . . . H. Rept. No. 96-317 (96th Cong., 1st sess.), 1979, p. 52 and *Report of the Committee on Finance* . . . S. Rept. No. 96-249 (96th Cong., 1st sess.), 1979, pp. 48-49.

<sup>28</sup> See "Separate Views of Commissioners Alberger, Stern and Calhoun" (a majority of the Commission), in *Certain Chains From Japan*, USITC Rept. No. 1039, p. 3 and my views in *Countertop Microwave Ovens From Japan*, USITC Rept. No. 1033, p. 7.

<sup>29</sup> 19 U.S.C. 1671d.

<sup>30</sup> See, Additional Statement of Petitioner James W. Pinkerton, Jr., filed March 20, 1980.

<sup>31</sup> Report to the Commission, p. A-4 (hereinafter "Report").

the ability to raise capital or investment.<sup>33</sup>

Although positive trends exist in some indicators, on the whole, sufficient information exists to indicate that there is a reasonable indication of injury to the domestic industry by reason of subsidized imports from India.

#### Conclusions of Law

A. The appropriate industry against which the impact of imports of certain public works castings alleged to be subsidized by the Government of India must be assessed is the entire public works castings industry.

B. Consideration of a West Coast regional industry is not appropriate thus, the impact on the national industry must be assessed.

C. There is a reasonable indication that the public works castings industry in the United States is being injured by reason of subsidized imports of such articles from India.

#### Supporting Statement by the Director, Office of Operations, for an Affirmative Determination on Certain Public Works Castings From India (Inv. No. 303-TA-13 (Preliminary))

1. Approximately 50 firms produce public works castings, including the "certain" (manhole covers, rings, and frames; catch basin frames and grates; and sewer cleanout frames and covers) public works castings which are the subject of this investigation, in the United States.

2. Data obtained from major producers of public works castings indicate that production of such items accounted for 91 percent of their total foundry production in 1979. Production of "certain" public works castings accounted for 73 percent of respondents' total public works castings production. Data obtained by the Commission in its questionnaire pertain in some instances to producers' certain public works castings operations, in other instances to their entire public works castings operations. Therefore, inasmuch as the preliminary data collected relate to industry operations at two different but closely related levels of coverage, I recommend a determination based on a U.S. industry consisting of the productive facilities devoted to the production of all public works castings, including the types of castings subject to this investigation.

<sup>33</sup> Section 771(7)(E)(ii) states that the "presence or absence of any factor which the Commission is required to evaluate under subparagraph (C) . . . shall not necessarily give decisive guidance with respect to the determination by the Commission of material injury." (19 U.S.C. 1677)

3. Although the complainant has asserted that the investigation should be decided on a regional (west coast) market basis, sales of the subject imports are not greatly concentrated in any particular region. The subject imports entered at west coast customs districts accounted for 28 percent of total U.S. entries in 1978. Furthermore, some U.S. foundries have been found to market domestically produced public works castings on a nation-wide basis. Therefore, I recommend a determination based on a national, rather than regional industry.

4. Imports from India of the subject castings rose from 27 million pounds in 1977 to 101 million pounds in 1979, an increase of 274 percent. The unit value of imports of certain public works castings from India is approximately one-half that of the other major exporters of these products to the United States.

5. As a percentage of apparent U.S. consumption, imports from India increased from 2 percent in 1977 to 7 percent in 1979.

6. Net operating profit of respondents declined from \$5.1 million in 1977 to \$3.2 million in 1979; the ratio of net operating profit to net sales fell from 8.8 percent to 4.3 percent over the same period.

7. A major U.S. producer of certain public works castings, Comco Foundry, Commerce City, Colorado, claims it was forced to close its foundry due to import competition from India.

8. Imports of a specified manhole assembly from India offered by U.S. importers undersold the weighted average lowest net selling prices of those U.S. producers which do not import by an average of 36 percent in 1979; imports of the product offered by U.S. producers which do import undersold those which do not by 34 percent in the same year.

9. Imports of a specified catch basin assembly from India offered by U.S. importers undersold the weighted average lowest net selling price of those U.S. producers which do not import by an average 34 percent in 1979; imports of the product offered by U.S. producers which do import undersold U.S. producers-only products by 32 percent in 1979.

10. Inquiries by the Commission's staff of purchasers of certain public works castings from India revealed that five of the six firms contacted purchased the subject imports in lieu of the domestic product because of the lower price of the imports.

11. *Conclusion.*—On the basis of the above, I recommend an affirmative determination as to whether there is a reasonable indication of injury with

respect to certain manhole covers from India which are alleged to receive bounties or grants from the Government of India.

12. The question of material retardation of the establishment of an industry in the United States is not an issue in this investigation since approximately 50 firms produce public works castings, including the types of castings which are the subject of this investigation.

By order of the Commission.

Kenneth R. Mason,

Secretary.

April 4, 1980.

[FR Doc. 80-11518 Filed 4-15-80; 8:45 am]

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APPENDIX B

PRELIMINARY SUBSIDY DETERMINATION OF THE COMMERCE DEPARTMENT

**ACTION:** Preliminary Countervailing Duty Determination.

**SUMMARY:** This notice is to advise the public that it has been preliminarily determined that benefits are granted by the Government of India to manufacturers, producers, or exporters of certain iron-metal castings which constitute a subsidy within the meaning of the countervailing duty law. A final determination will be made not later than July 29, 1980.

**EFFECTIVE DATE:** May 23, 1980.

**FOR FURTHER INFORMATION CONTACT:** Steven Morrison, Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230. New telephone number (202) 377-3965.

**SUPPLEMENTARY INFORMATION:** A petition was received in satisfactory form on February 19, 1980, from James W. Pinkerton, Jr. of Pinkerton Foundry, Inc., Lodi, California, alleging that subsidies are provided by the Government of India on the production and exportation of certain iron-metal castings from India. Such subsidies are alleged to constitute a bounty or grant within the meaning of section 303 of the Tariff Act of 1930, as amended, (93 Stat. 190, 19 U.S.C. 1303) (hereinafter referred to as the Act). It should be noted that India is not a "country under the Agreement" within the meaning of section 701(b). Therefore, section 303 of the Act as amended by section 103 of the Trade Agreements Act of 1979 after referred to as the Trade Act, continues to apply to this investigation. A Notice of Initiation of a Countervailing Duty Investigation was published in the Federal Register on March 14, 1980 (45 FR 16521).

Iron-metal castings from India enter the United States free of duty. Therefore, it has been necessary to refer this matter to the United States' International Trade Commission for determinations of injury. The United States International Trade Commission made a determination "that there is reasonable indication that an industry in the United States is materially injured by reason of the importation from India of manhole covers and frames, catch basin grates and frames and clean out covers and frames provided for in item number 657.09 of the Tariff Schedules of the United States (TSUS)." 45 FR 25972, April 16, 1980.

The bounties or grants alleged in the petition are as follows:

1. Cash grant program on exports.
2. Tax credit against business and income taxes based on export value.

3. Tax deduction at 150 percent on expenses for overseas export promotion.

4. Remission of Customs duties and excise taxes on machinery used for export production.

5. Subsidized export insurance and export credit available to Indian exporters.

6. Favorable import licenses and foreign exchange treatment.

7. Special incentives granted to manufacturers within free trade zones, including income tax holidays, financing at preferred rates, and cash subsidies by state and national governments.

8. Subsidized inland transportation and subsidized ocean freight.

9. Government underwriting of foreign trade shows.

10. Tax deductions for capital investment reserves for selected industries and new industrial ventures.

1. *Cash compensatory support on Export (CCS).* The Government of India (GOI) provides payments to exporters of iron-metal castings entitled "Cash Compensatory Support on Export". The level of payment is currently 12.5 percent of the f.o.b. value of the exported product. The GOI claims that the payment is a rebate of indirect taxes that is to compensate for indirect taxes paid but not otherwise refunded and has been calculated upon documented actual tax experience.

In determining either the existence of a subsidy or determining the net subsidy, the refund of indirect taxes is accepted under the General Agreement on Tariffs and Trade (see Article VI, paragraph 4) and the Agreement on Interpretation and Application of Articles VI, XVI, XXIII of the General Agreement on Tariffs and Trade, relating to Subsidies and Countervailing Measures, (See Annex A). The legislative history of the Trade Agreement Act of 1979 indicates that Congress was concerned about the Treasury Department practice of offsetting indirect taxes paid from the gross subsidy for exported products. However, the Senate Report (Senate Report No. 96-249, July 17, 1979, pp. 84 and 85) states quite clearly that the limitations on offsets:

Contained in section 771(6) of the Act are not intended to prohibit the administering authority from determining that export payments are not subsidies, if those payments are reasonably calculated, are specifically provided as non-excessive rebates of indirect taxes within the meaning of Annex A of the Agreement and are directly related to the merchandise exported.

Administrative guidelines have been published by the Department (19 CFR Part 355 Annex 1, para. 2, 45 FR 4949) providing that generally, the payment of

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**Certain Iron-Metal Castings From India Preliminary Countervailing Duty Determination**

**AGENCY:** United States Department of Commerce.

a lump sum calculated and identified as a non-excessive rebate of the indirect tax incidence of the exported product, and its components, will not be treated as a subsidy, provided that the government has reasonably calculated and documented the actual tax experience of the product under investigation. *Ex post facto* rationalizations of export payment programs will not be accepted to determine the appropriateness of the export payments as rebates of indirect taxes paid. Any study which purports to show the linkage between export payments and indirect taxes must (a) have served as the official basis upon which the export rebate was calculated; (b) include a thorough analysis and degree of quantification of tax incidence; and (c) have reflected an undertaking to calculate the tax rebate for purposes other than to satisfy the requirements of U.S. law.

Information adequate to satisfy these criteria has not yet been submitted in this case. In the absence of such data, the refunds under the CCS have been preliminary determined to constitute a subsidy in their full amount, 12.5 percent of the f.o.b. value of the exported merchandise.

2. *Import Permits (REP)*. Indian exporters may be entitled to receive permits to import goods up to a percentage of what is exported. In the case of iron castings, the license entitles its holder to 10 percent of the value of the amount exported. Based on an official publication dated 1978, *Import Policy, April, 1978—March, 1979* the Government of India differentiated REP licenses from Actual User Import licenses, stating:

The REP licenses will be issued in the name of the Register Exporters only but will not be subject to Actual User condition. The license-holder may transfer the license in favour of any other person. The License Holder himself or such transferee may import the goods permitted therein . . .

The transfer of the license will not require any endorsement or permission from the licensing authority, i.e., it will be governed by the ordinary law.

Utilization of REPS for purposes other than stock replenishment (e.g. transfer) could constitute a subsidy. However, the Government of India has stated that castings are made from indigenous materials and so exports of castings are not eligible for REPS. In light of this information supplied by the Government of India, no subsidy has, at this time, been found to exist. This finding will be subject to confirmation during the verification proceeding.

3. *Duty Drawback*. Based on oral representations made by counsel for the

Government of India and information found in a publication, *The New Drawback Manual, 1977*, it appears that Duty Drawback is a nonexcessive rebate of indirect taxes (Central Excises and Salt Act) and therefore has not been considered a subsidy for purposes of this determination. However, prior to a final determination in this case, the facts upon which this duty drawback is paid will have to be verified.

4. *Support for Indigenous Suppliers*. Based on information available concerning Indian export policies it is believed that pig and scrap iron manufacturers may be eligible for REPS and CCS for materials sold for use in castings which are subsequently exported.

Because the Government of India's denial of REP benefits for relied on as best evidence, there is no evidence that pig-iron is eligible for benefits that iron castings are not eligible for.

Therefore, no benefit is presumed to accrue as a pass-through for the benefit of iron castings which is attributable to a reduction in the cost of raw material because of REPS to the materials supplier.

Pig-iron and scrap do not appear to be eligible for CCS benefits. Consequently, it is presumed that there are no CCS benefits provided for scrap iron or pig iron. Therefore, no benefit could accrue to casting manufacturers from a pass through of such benefits.

5. *Market Development Assistance*. Under the Market Development Assistance (MDA) Program, grants in aid for export efforts have been provided. Two organizations, the Engineering Export Promotion Council (EEPC) and the Trade Development Authority (TDA) have received grants which might be applicable to exports of castings from India.

The EEPC has received funds for exhibits in the United States and the operation of the Chicago office. The response from the GOI indicates that the exhibition and the Chicago office operation benefit all engineering products exported to all of North America, and spread over the value of engineering products imported from India to the region covered by the Office. The GOI paid expenses amount to an 0.056 percent subsidy. The EEPC has additionally paid for travel by private castings firms from marketing research here which is roughly 0.021 percent of the value of these castings sold in the U.S. in 1979. It is noted that membership of the EEPC is compulsory and that members must pay dues whether they wish to use EEPC services or not.

The TDA receives grants from the MDA in the same way as does the EEPC. Membership in the TDA handles most compulsory although members are required to pay dues. The TDA handles most manufactured Indian products. The TDA maintains an office in New York City which received funds from the GOI which have been preliminary determined to constitute a subsidy of 0.159 percent. Additional clarifying data is being requested from the GOI. In the absence of the clarifying data, the MDA grants to the EEPC and the TDA have been determined to constitute a subsidy in the amount of 0.24 percent of the f.o.b. value of the exported merchandise.

6. *Kandla Free Trade Zone*. The petition alleged that benefits constituting subsidies were received by manufacturers or exporters of iron-metal castings based on their location within a free trade zone. The GOI response indicates that no manufacturers or exporters of this product are located within such a zone and therefore no benefit may be received.

7. *Freight Subsidies and Income Tax Concessions*. The Government of India was asked if there was any difference in ocean freight tariffs and cargo insurance from Indian ports to ports in the United States between vessels of Indian registry and vessels registered in other countries. The Government of India said there was none. The Government of India was asked if there was any difference in freight rates between castings for domestic use and castings for export for iron castings when shipped between inland points of origin to major ocean ports in India. The Government of India said there was none and there was no rebate or credit for inland freight against other expenses.

The Government of India denied that there were any tax credits against business and/or income taxes based on the value of exports which are applicable to iron castings. However, based on the copending fasteners investigation it has been determined that other tax relief provisions exist which may be germane to this investigation. The GOI has several programs which allow special income tax deductions. These include the Export Markets Development Allowance (EMDA) income tax deduction, a special deduction for capital investment in new equipment, and deductions for the first five years for new industrial undertakings. No definite information is known concerning the extent to which these programs might be utilized by manufacturers or exporters of castings.

The Export Market Development Allowance provides for a deduction

from revenues for income tax purposes equal to one and one-third times the expenses incurred in export transaction. Such a deduction may fall within the Illustrative List of Export Subsidies contained in Annex A of the Agreement incorporated by reference in the Act as Section 771(5)(A) (93 Stat. 177, 19 U.S.C. 1677(5)(A)):

(f) The allowance of special deductions directly related to exports or export performance, over and above those granted in respect to production for domestic consumption, in the calculation of the base on which direct taxes are charged.

The Government of India has claimed that the other two programs should not be considered subsidies since they are not related to exports. The export relation test is no longer in effect. (See para. 4 of Annex 1 to the Commerce Regulations, 19 CFR Part 355 Annex 1, 45 F.R. 4949). If these programs were utilized, were not made available to all industries, and they provide more favorable tax treatment to exporting firms than otherwise allowed under the Indian tax laws, they would constitute a subsidy. For purposes of this preliminary determination they are considered to constitute a subsidy. Further information on these programs will be developed in arriving at our final determination.

The benefit derived from the above subsidies, for purposes of the preliminary determination, is estimated to be 0.2 percent of the f.o.b. value of the merchandise. This benefit is attributable to the EMDA program. Benefits under the other two programs are currently believed to be negligible.

**8. Preferential Export Financing.** The Government of India allows commercial banks to provide short-term export financing at rates which are considered to be preferential when compared to commercial interest rates presently charged in India. Rates of domestic commercial financing were said to vary between 12.5 and 15 percent or higher depending on the bank, the borrower, and other credit considerations. Pre-shipment export financing is available for periods of up to 270 days at interest rates which are graduated depending on the length of utilization. Post-shipment export financing is available where payments are delayed for at least one year. (A basis of only one year for post-shipment financing was assumed in estimating postshipment export financing benefits.) The financing rate charged to castings exporters is only 8 percent. Information is being requested regarding the actual utilization of the lower rates available on export

financing for manufacturers and exporters of the subject castings.

In the absence of other information, the availability of pre-shipment credit at preferential rates is deemed to constitute a subsidy of 1.81 percent and post-shipment credit is deemed to constitute a subsidy of 7 percent. The total benefit is determined to be 8.81 percent of the f.o.b. price of the exported castings.

On the basis of the analysis made to date of possible subsidies provided by the Government of India, I hereby preliminarily determine that subsidies do exist within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303). It has been further determined that these subsidies on castings amount to 21.75 percent of the f.o.b. value of the exported merchandise.

The amount of subsidy preliminarily found to exist has, in certain respects, been based on incomplete or inadequate information concerning the nature and utilization of specific programs. Where the information provided has been incomplete or inadequate the assumption has been made that a subsidy program exists and has been fully utilized by producers of iron metal castings. To the extent adequate supplementary information is provided in a timely manner and can be verified, the amount of subsidy found to exist may change.

An opportunity to present oral views is being afforded to interested parties in accordance with § 355.35, Commerce Regulations (19 CFR 355.35, 45 FR 4946). This hearing is scheduled to be held, if requested, at the U.S. Department of Commerce, room 3817, 14th and Constitution Avenue, NW., Washington, D.C. 20230, beginning at 10:00 a.m., Tuesday, July 1, 1980. Interested parties who are interested in having such a conference should provide a written request for a conference with the Office of the Deputy Assistant Secretary for Import Administration, room 2800, at the address shown above. These requests shall contain: (1) The name, address, and telephone number of the requester; (2) the number of participants and the reason for attending and (3) a list of the issues to be discussed. All requests must be received no later than 10 days after publication of this notice.

Any written views filed in accordance with § 355.34, Commerce Regulations (19 CFR 355.34, 45 FR 4946) should be filed with the address indicated above, in at least 10 copies. Any written views should be filed not later than June 23, 1980.

In accordance with section 703, Tariff Act of 1930, as amended (93 Stat. 153, 19 U.S.C. 1671b) Customs offices will be

advised to suspend liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise on or after May 23, 1980. The posting of a cash deposit, bond, or other security, in the amount of 21.75 percent of the f.o.b. value of the merchandise will be required. This suspension of liquidation shall remain in effect until further notice.

This determination is published in accordance with § 355.28, Commerce Regulations (19 CFR 355.28, 45 FR 4943), May 20, 1980.

John D. Greenwald,  
Deputy Assistant Secretary for Import Administration.

(FR Doc. 80-15846 Filed 5-22-80; 8:45 am)

BILLING CODE 3510-25-M



APPENDIX C

FINAL SUBSIDY DETERMINATION OF THE COMMERCE DEPARTMENT

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**DEPARTMENT OF COMMERCE****International Trade Administration****Countervailing Duties—Certain Iron-Metal Castings From India; Final Countervailing Duty Determination**

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Final countervailing duty determination.

**SUMMARY:** This notice is to advise the public that the Department of Commerce has determined that the Government of India confers benefits upon the production or export of certain iron-metal castings which constitute subsidies within the meaning of the countervailing duty law. This case has been referred to the International Trade Commission for a determination regarding injury.

**EFFECTIVE DATES:** August 20, 1980.

**FOR FURTHER INFORMATION CONTACT:** Steven Morrison, Program Analyst, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202-377-3965).

**SUPPLEMENTARY INFORMATION:****Background**

On February 19, 1980, the Department of Commerce received a petition in satisfactory form from James Pinkerton, Jr. and Pinkerton Foundry, Inc., on behalf of Domestic manufactures of iron-metal castings, alleging that bounties or grants (subsidies) are being provided on the manufacture, production, or exportation of certain iron-metal castings from India. A "Notice of Initiation of Countervailing Duty Investigation" was published in the Federal Register on March 14, 1980 (45 FR 16521). A notice of "Preliminary

Countervailing Duty Determination" was published in the Federal Register on May 23, 1980 (45 FR 34945). The Department has afforded interested parties an opportunity to present oral views in accordance with § 355.35, Commerce Regulations (19 CFR 355.35, 45 FR 4946). In addition, written views and oral views have been received in accordance with § 355.34(a), Commerce Regulations (19 CFR 355.34(a), 45 FR 4946).

On January 1, 1980, Title I of the Trade Agreements Act of 1979 (93 Stat. 150) (the TAA) took effect. The TAA superseded section 303 of the Tariff Act of 1930 (the Act) for countervailing duty cases involving products of any country determined to be a "country under the Agreement" as defined in section 701(b) of the Act (19 Stat. 151, 19 U.S.C. 171(b)). The TAA also amended section 303 of the Act (19 U.S.C. 1303).

India is not presently a "country under the Agreement". This case is, therefore, governed by section 303 of the Act, as amended by section 103(b) of the TAA (19 Stat. 190, 19 U.S.C. 1303(b)). Cases under section 303 generally do not include an injury determination by the International Trade Commission. The only exception is merchandise that is not subject to normal Customs duties. Because iron-metal castings are not dutiable, this case will be referred to the Commission for a final determination of whether there is material injury to an industry in the United States by reason of the subsidized merchandise.

The iron-metal castings covered by this determination consist of manhole covers and frames, clean-out covers and frames and catch basin grates and frames which enter the United States under item number 657.09 of the Tariff Schedules of the United States (TSUS).

#### Nature of Industry

The Indian iron-metal castings industry is composed of "small scale" manufacturers with a capital investment of \$125,000 or less. Iron-metal castings production is labor intensive. The materials used are supplied locally (i.e., are not imported).

All exporters of castings are required to belong to the Engineering Export Promotion Council (EEPC). Many of the manufacturers also belong to the Trade Development Authority (TDA). Both of these organizations assist in export promotion.

#### Programs Investigated

The petitioner has alleged that Indian exports of castings to the United States receive a variety of subsidies, most of which are direct export subsidies. The issues raised, and the reasons for our

decision, are substantially similar to those dealt within our final determination, published in the Federal Register on July 21, 1980, in the case of Certain Industrial Fasteners from India (45 FR 48607).

As in the fasteners case, the major program involved is a system of cash compensatory supports for exports. Representatives of the Indian exporters and the Indian Government have argued that this program should be considered a rebate of indirect taxes which are not otherwise rebated to exporters and, therefore, payments made under it should not be considered subsidies. The other programs investigated are, in terms of benefit to the exporter, far less significant.

#### Programs Found to be Subsidies

Of the programs investigated, we have determined that the following constitute subsidies within the meaning of the countervailing duty law:

1. *Cash Compensatory Support on Export (CCS)*—The CCS program was introduced in 1968 and, since then, has been revised periodically. The Government of India has stated that the primary—but not the exclusive—purpose of the CCS program is to compensate exporters for various indirect taxes paid, and not otherwise rebated, on products that are exported. CCS payments are designed to support exports in a manner consistent with the competitive needs of Indian producers.

The CCS rate varies depending upon the product exported. It is determined after taking into account the incidence of indirect taxes paid by producers of a particular product and not otherwise refunded, the existence of other disincentives to exports, and the competitive needs of the producers. There is no "right" to CCS payments; none are granted even where there are indirect taxes not otherwise rebated if the Government of India decides that the competitive need of a particular industry does not warrant CCS payments.

In the case of iron-metal castings exported to North America, the CCS rate was established, effective April 1, 1979, at 12.5% of the f.o.b. value of the merchandise exported. In October 1978 the Ministry of Commerce requested all Export Promotion Councils, including the EEPC (which represents the castings industry), to submit updated information on the indirect taxes levied on castings, and other matters affecting this export.

The Ministry stated that such information was needed to determine revised CCS payment levels. The CCS rate was established after the data submitted by the manufacturers and

exporters of castings had been reviewed.

As we stated in our decision in the fastener case, the primary considerations in determining whether programs like the CCS program should be considered indirect tax rebates are (1) whether the program operates for the purpose of rebating indirect taxes; (2) whether there is a clear link between eligibility for payments on export and indirect taxes paid; and (3) whether the government has reasonably calculated and documented the actual indirect tax incidence borne by the product concerned and has demonstrated a clear link between such tax incidence and the amount paid on export.

In the fasteners case, a number of points were raised concerning the general structure of the CCS program (e.g., CCS payments were not made by the taxing authorities; industries do not have a right to CCS payments). However, our decision turned not on such general considerations but on specific analysis of the relationship between the level of CCS payments for fasteners exports and the incidence of indirect taxes borne by these exports. Our decision in this case also rests on specific analysis of the indirect tax/CCS payments relationship for the product involved. Several characteristics of this relationship convince us that the standards presented above have not been satisfied in this case.

We reviewed data on the actual indirect taxes paid by iron-metal castings producers that export to the United States and provided the Indian Government with information for purposes of fixing the level of CCS payments. In most cases total indirect taxes paid were considerably less than 12.5% of the value of the merchandise. Moreover, these tax calculations included several payments (i.e., a steel development surcharge, payments to an engineering goods export assistance fund, port congestion charges, and taxes on electricity and fuel) which we would not consider indirect taxes which may be rebated on export.

In addition to the difference in incidence of indirect taxes and the level of CCS payments, the manner in which the information on the tax levels was submitted to the Government of India and relied on raises, of itself, certain problems. The Commerce Ministry required the Export Promotion Council governing the castings sector to submit information relating to its indirect tax burden. Some individual company experiences were provided to the Ministry, but apparently without an appropriate aggregation showing the weighted average tax incidence for the

sector as a whole. In order to satisfy the question of whether export payments are made to remit indirect taxes, we require evidence demonstrating that the tax incidence of any given product sector has been determined quite precisely. In this case, there is no such satisfactory evidence. Counsel for the EEPC himself pointed out that calculations of indirect taxes paid by producers of castings varied from 4% to 13.6%. In the absence of evidence showing the average tax incidence on all the products at issue to have been near the high end of this range, counsel's characterization of this 12.5% figure as a "middle ground" is unconvincing.

Thus, the evidence in this case includes neither a satisfactory demonstration of the requisite linkage between the indirect tax incidence and the level of CCS payments, nor a showing that the actual indirect tax incidence has been reasonably calculated and documented. The CCS program, as applied to exports of iron-metal castings, does not appear to involve indirect tax rebates as much as it does a general export payment which, while undoubtedly compensating in some measure for indirect taxes not otherwise rebated, goes well beyond this purpose.

We have therefore concluded that, in this case, the CCS payments must be considered a subsidy program and have found the amount of subsidy to be 12.5% of the f.o.b. value of the exported merchandise.

Counsel representing Indian manufacturers of iron-metal castings has argued that, in the event we find that the CCS program as applied to exports of castings constitutes a subsidy, the amount of the subsidy should be offset by an export inspection fee in the amount of 1% of the value of the exported merchandise, which all castings exporters must pay. We have decided that such an offset would be inappropriate.

Counsel maintains that the export inspection fee should be considered "an application fee . . . paid in order to qualify for . . . the benefit of the subsidy" and, therefore, an allowable offset under section 771(b)(A) of the Act. However, it does not appear that the inspection fee is related to application for CCS payments. Export inspection, and payment of export inspection fees, are required for certain engineering product exports, whether or not the exports benefit from CCS payments. The inspection is meant to be a service that benefits the exporter by ensuring quality control over exports. The fee is payment for the service provided, not for CCS application.

Counsel has also argued that the benefit conferred by CCS payments should be calculated on an after tax basis—i.e., should be reduced by the "approximately 60% income tax rate" paid by "most casting firms". We have not accepted this argument.

The information we have received provides no basis for accurate calculation of extent to which CCS payments are taxed. The tax rate may vary from producer to producer. Moreover, the extent to which the payments are taxed will depend upon the extent to which the exporter has net income, after deductible expenses.

Because we have not been given a basis upon which accurately to gauge the real impact of taxation of CCS payments, we need not reach the underlying legal question of whether the limitations in the countervailing duty law prevent calculating the subsidy on an after tax basis. However, in facing this issue we would have to begin from the demonstrable intent of Congress to restrict offsets severely.

**2. Preferential Export Financing—**Packing credit loans are available to exporters of castings. These loans have a sliding scale interest rate which varies with the elapsed time that the loan is outstanding. The interest rate ranges from 11% for the first 90 days, 13% for the next 45 days and thereafter at negotiated commercial rates. Commercial credit is generally available to manufacturers and traders from rates of 13.5% to 15%.

The Government of India (through the Reserve Bank of India) apparently underwrites the lower interest rate of the packing credit loans by paying the lending bank an additional 1.5% interest rate without any charge to the exporter. There is a direct transfer of funds to support the loan from the Central Bank to the lending bank. Accordingly, we have found that packing credit loans involve a subsidy of 0.4% of the f.o.b. value of the exported merchandise.

**3. Tax Deductions—**The GOI has a program which allows for a special income tax deduction for export market development.

The Export Markets Development Allowance provides for a tax deduction of 133% of certain specific expenses. These include expenses incurred both before and after sale, although commissions normally are not an allowable deduction unless they are tied to other specific expenses. The claims made by the manufacturers for this special deduction normally exceed the amount eventually allowed for deduction by the tax authorities, if and when the tax returns of the companies are audited, sometimes by a substantial

amount. Final settlement of the tax returns normally takes two to three years.

Because the kind of expenses allowed under the special deduction would be deductible in full if incurred in non-export business activities, the benefit to the manufacturers is limited to 33 percent of the allowed amount applied to the corporate tax rate. On this basis, we have determined that exporters of castings receive a subsidy in the following amounts:

	Percent of f.o.b. value
Uma Iron & Steel .....	3.8
RB Agarwala .....	2.0
Basant Udyog .....	0.9
Kerjwal Iron & Steel .....	0.2
Kajaria Exports .....	0.0
All Others .....	0.4

**4. Market Development Assistance—**Under the Market Development Assistance program, grants have been provided for export promotion to the Engineering Export Promotion Council (EEPC) and the Trade Development Authority (TDA). These grants have been used by the EEPC and the TDA to operate overseas offices and organize exhibits designed to promote Indian exports generally. Firms which belong to these organizations pay dues which exceed any specific benefits they derive from EEPC and TDA activities. In addition, the firms are billed for all special services such as participation in trade shows, listing in directories, etc. We have, accordingly, decided that such market development assistance does not amount to a subsidy under the countervailing duty law.

However, apart from these services, special grants for export market study teams to travel to and sell in the United States were provided for the benefit of Uma Iron & Steel and Kajaria Exports. We have determined that such grants are subsidies. The benefit to Kajaria was de minimis (0.0001%). The grant to Uma Iron and Steel amounted to 0.3% of its f.o.b. export sales.

#### Programs Not Used

**1. Import Permits—**The Government of India provides import permits to manufacturers which export in order to allow them to replenish their stocks of imported inputs. The import permits are negotiable and therefore can have a market value. However, since manufacturers of castings use local materials, they receive no import permits and there is no question of possible subsidization.

**2. Kandla Free Trade Zone**—The petition alleged that benefits were received by manufacturers or exporters of castings based on their location within the Kandla Free Trade Zone. No castings manufacturer is located within the zone nor are castings exported to the U.S. from the zone. Thus, there is no question of any benefit that would constitute a subsidy within the meaning of the countervailing duty law.

**3. Post-Shipment Export Financing**—Documents were provided by the Reserve Bank of India which listed the categories of manufacturers eligible and those ineligible for post shipment financing. Castings manufacturers are listed as ineligible. Thus, no benefit has been conferred on castings manufacturers by this program.

**4. Subsidized Freight Rates**—The GOI submitted information indicating that a program to provide preferential freight rates for exports is no longer in effect.

#### Programs Found Not To Be Subsidies

**1. Tax Deductions for Capital Equipment and New Industrial Undertakings**—The Government of India allows income tax deductions for purchases of new capital equipment and establishment of new industrial enterprises. We have found that these deductions are generally available (i.e., they are not industry or enterprise specific) and therefore have concluded that they are not subsidies within the meaning of the countervailing duty law.

**2. Refund of Excise Taxes**—Under a "duty drawback" program, excise taxes collected under the Excise and Salt Tax Act on the sale of pig iron and scrap iron are refunded when products incorporating the iron ore are exported. The nonexcessive rebate of excise taxes is not a subsidy within the meaning of the countervailing duty law. Pig iron and scrap iron is subject to an excise tax of 73.50 rupees per ton; it is rebated on export at a rate of 73.00 rupees per ton. Accordingly we find that there is no subsidy involved.

**3. Export Credit Insurance**—Petitioner has alleged that castings manufacturers and exporters receive preferential export insurance rates. Export Credit Guarantee Corporation (ECGC) is chartered by the GOI to insure export transactions against default. However, the ECGC does not receive funds from the GOI. It is a commercial entity which charges rates sufficient to cover its operating expenses and to provide profit. Accordingly we have determined that ECGC insurance does not amount to a subsidy.

#### Verification

The information relied upon in reaching this determination has been verified by Department officials through investigation of government documents, discussions with GOI, trade organization, and corporate officials, and corporate books and records.

Examples of the type of documents examined include official government reports and policies, announcements of government programs, letters from banks ledger sheets, and income tax reports.

#### Determination

I hereby determine that the Government of India provides bounties or grants (subsidies) within the meaning of section 303 of the Act and that the estimated aggregate net amount of these benefits equals the amount indicated in the table below.

Effective on August 20, 1980, and until further notice, deposit of estimated countervailing duties, bond or other security shall be required at the time of entry, or withdrawal from warehouse, for consumption. The amount to be deposited is the amount specified in the table below. Entry documents should state the manufacturer of the merchandise, as well as the identity of the exporter. If the shipper is not the manufacturer of specific merchandise, the higher of the indicated rates will be applicable.

	Percent of f.o.b. price
Uma Iron & Steel .....	16.8
R.B. Agarwala & Co.....	14.9
Basant Udyog .....	13.8
Kejriwal Iron & Steel Works .....	12.1
Karjaria Exports .....	12.9
All Other Companies .....	13.3

This notice is published pursuant to section 303 and 706 of the Act (19 U.S.C. 1303, 1671(c), and § 355.36 of the Department of Commerce Regulations (19 CFR 355.36).

**Robert E. Herzstein,**  
*Under Secretary for International Trade.*

[FR Doc. 80-25265 Filed 8-19-80; 8:45 am]

BILLING CODE 3510-25-M



APPENDIX D

U.S. INTERNATIONAL TRADE COMMISSION NOTICE OF  
INVESTIGATION AND HEARING

iron-metal castings and that, as a result, an industry in the United States, economically and efficiently operated, is being materially injured. Such subsidies are alleged to constitute a bounty or grant within the meaning or section 303 of the Tariff Act of 1930, as amended (93 Stat. 190, 19 U.S.C. 1303), hereinafter "the Act." Notice of the institution of the Commission's preliminary investigation and of a public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's New York Office, and by publishing the notice in the Federal Register of February 27, 1980 (45 FR 12933). A public conference was held in Washington, D.C. on March 17, 1980.

Since India is not a "country under the Agreement," with the meaning of section 701(b) of the Act, that investigation was conducted pursuant to section 303 of the Act, as amended by section 103 of the Trade Agreements Act of 1979.

On April 3, 1980, this Commission determined "that there is a reasonable indication that an industry in the United States is materially injured by reason of the importation from India of manhole covers and frames, catch basin grates and frames, and cleanout covers and frames provided for in Item No. 657.90 of the Tariff Schedules of the United States (TSUS)." Notice of that determination was published in the Federal Register (45 FR 25972, April 16, 1980).

On May 20, 1980, the Deputy Assistant Secretary for Import Administration, United States Department of Commerce "preliminarily determined that benefits are granted by the Government of India to manufacturers, producers, or exporters of certain iron-metal castings which constitute a subsidy within the meaning of the countervailing duty law."

**Authority.** Section 303(a)(2) of the Act requires the Commission to conduct countervailing duty investigations, pursuant to the provisions of title VII of the Tariff Act of 1930. Section 705(b) requires that the Commission make a final determination of injury within 120 days of the day on which the administering authority makes its affirmative preliminary determination under section 705(b) or within 45 days of the day on which the administering authority makes its affirmative final determination under section 703(a). Accordingly, the Commission hereby gives notice that effective as of May 20, 1980, it has instituted a final investigation into the above-referenced matter, pursuant to section 703(b) of the Act. This investigation will be subject to the provisions of Part 207 of the

Commission's *Rules of Practice and Procedure* (19 CFR 207, 44 FR 76457) and, particularly, subpart C thereof.

**Scope.** The present investigation is being titled "Certain Iron-metal Castings From India" to conform with the title used by the Department of Commerce in its investigation. This change in no way affects the scope of the investigation or the products being studied. As in the preliminary investigation, this investigation will focus on certain iron-metal castings. For the purposes of this investigation, the term "certain iron-metal castings" means manhole covers and frames, catch basin grates and frames, and cleanout covers and frames, provided for in item 657.09 of the Tariff Schedules of the United States.

**Written submissions.** Any person may submit to the Commission on or before the prehearing statement due date specified below a written statement of information pertinent to the subject matter of the investigation. A signed original and nineteen true copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

**Hearings.** The Commission has tentatively scheduled a hearing in connection with the investigation for 10 a.m., p.d.t., on Wednesday, August 27, 1980, in the Golden Gate Holiday Inn, 1500 Van Ness Avenue, San Francisco, California. A report containing preliminary findings of fact prepared by the Commission's professional staff will be made available to all interested persons prior to the hearing. Each party shall submit a prehearing statement on or before August 20, 1980. All persons who desire to appear at the hearing and make oral presentations must file prehearing statements. For further information consult the Commission's *Rules of Practice and Procedure*, Part 207, Subpart C (44 FR 76457), effective January 1, 1980.

Issued: June 13, 1980.

By order of the Commission.

Kenneth R. Mason,  
Secretary.

(FR Doc. 80-19410 Filed 6-17-80; 8:45 am)  
BILLING CODE 7030-03-M

A-60

[303-TA-13 (Final)]

**Certain Iron-Metal Castings From India; Institution of Final Countervailing Duty Investigation and Hearing**

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of final countervailing duty investigation to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from India of certain iron-metal castings, provided for in item 657.09 of the Tariff Schedules of the United States (TSUS), upon which the Administering Authority has found a reasonable basis to believe or suspect that a subsidy is being provided.

**EFFECTIVE DATE:** May 20, 1980.

**FOR FURTHER INFORMATION CONTACT:** Patrick J. Magrath of the Commission's staff (202-523-0283).

**SUPPLEMENTARY INFORMATION:**

**Background.** A petition was received in satisfactory form on February 19, 1980, from James W. Pinkerton, Jr., of Pinkerton Foundry, Inc., Lodi, California, alleging that subsidies are provided by the Government of India on the production and exportation of certain



**APPENDIX E**

**LIST OF WITNESSES APPEARING AT THE  
COMMISSION'S HEARING**

CALENDAR OF PUBLIC HEARING

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

Subject : Certain Iron-Metal Castings from India

Inv. No. : 303-TA-13 (Final)

Date and time: August 27 & 28, 1980 - 10:00 a.m., p.d.t.

Sessions were held in the Golden Gate Holiday Inn, 1500 Van Ness Avenue, San Francisco, California.

In support of the petition:

Simonelli & Phillips--Counsel  
Washington, D.C.  
on behalf of

James W. Pinkerton, Jr., President, Pinkerton Foundry, Inc.,  
Lodi, California

John Campbell, President, Campbell Foundry, Harrison, New  
Jersey

Vulcan Foundry, Denham Springs, Louisiana

Wallace Morgan, Jr., President

William Burke

Francis Le Baron, President, Le Baron Foundry Company,  
Brockton, Massachusetts

Neenah Foundry Company, Neenah, Wisconsin

William Aylward, President

W. C. Herrmann, Sales Manager

Carrell L. Rymo, Secretary-Treasurer, Municipal Castings,  
Inc., Madison, Minnesota

Alex de Bogory, President, U. S. Foundry & Manufacturing  
Corporation, Miami, Florida

Jerry Simonelli )  
Stephen G. Phillipps) --OF COUNSEL

In opposition to the petition;

Kaplan, Russin & Vecchi--Counsel  
Washington, D.C.  
on behalf of

The Engineering Export Promotion Council of India

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