PLASTIC ANIMAL IDENTIFICATION TAGS FROM NEW ZEALAND

Determination of No Material
Injury or Threat Thereof in Investigation
No. 303-TA-14 (Final)
Under Section 303(b)
of the Tariff Act of 1930,
Together With the Information
Obtained in the Investigation

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Catherine Bedell

Paula Stern

Kenneth R. Mason, Secretary to the Commission

Prepared by:

Judith Case, Investigator
Robert Skinner, Office of Industries
Daniel Klett, Office of Economics
Chandrakant Mehta, Office of Investigations
Carol Verratti, Office of the General Counsel
Lynn Featherstone, Supervisory Investigator

Address all communications to
Office of the Secretary
United States International Trade Commission
Washington, D.C. 20436

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Note.--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigation No. 303-TA-14 (Final)

PLASTIC ANIMAL IDENTIFICATION TAGS FROM NEW ZEALAND

Determination

On the basis of the record 1/ developed in investigation No. 303-TA-14 (Final), the Commission unanimously determines, pursuant to section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), that an industry in the United States is not materially injured or threatened with material injury and the establishment of an industry in the United States is not materially retarded by reason of imports from New Zealand of plastic animal identification tags provided for in item 666.00 of the Tariff Schedules of the United States which the Department of Commerce has found to be subsidized by the Government of New Zealand.

Background

The Commission instituted this investigation effective October 28, 1980, following a preliminary determination by the Department of Commerce that bounties or grants are being provided by the Government of New Zealand with respect to the production or export of plastic animal identification tags 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 posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register of November 19, 1980 (45 F.R. 76553). The hearing was held on January 30, 1981, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

VIEWS OF CHAIRMAN BILL ALBERGER, VICE CHAIRMAN MICHAEL J. CALHOUN, 1/ AND COMMISSIONER PAULA STERN

On the basis of the record developed in Investigation No. 303-TA-14 (Final), we determine that an industry in the United States is not materially injured or threatened with material injury and the establishment of an industry in the United States is not materially retarded 2/ by reason of imports from New Zealand of plastic animal identification tags which the Department of Commerce has found to be subsidized by the Government of New Zealand.

The imported article and the domestic industry

We must first identify the industry against which the impact of the subject imports must be assessed. Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as:

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

The term "like product" is defined in section 771(10) of the act 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 under this title.

The imported articles subject to this investigation are two-piece plastic animal identification tags. They are designed for application to the ears of cattle, hogs, sheep, or goats for the purpose of individual identification and management.

1/ Note additional views of Vice Chairman Calhoun.

2/ Material retardation of the establishment of an industry is not an issue in this investigation, since there are already several domestic producers of plastic animal identification tags. It will not be discussed further.

In the United States, production of virtually identical two-piece ear tags by major producers did not begin until late 1977. Production of a one-piece plastic tag, however, has existed for some time, and an important question in this investigation is whether U.S.-produced one-piece ear tags are also "like products" to the imports. If so, our examination of injury would include not only the data for production of two-piece tags, but data for one-piece tags as well. For the reasons stated below, we believe the two articles are "like" within the terms of the statute.

The Senate Finance Committee Report which accompanied the Trade Agreements Act of 1979 provides guidance to the Commission in determining the nature of a "like product." According to the report:

> (T)he requirement that a product be "like" the imported article should not be interpreted in such a narrow fashion as to permit minor differences in physical characteristics and use to lead to the conclusion that the products are not like each other, nor should the definition of "like product" be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under investigation. 1/

Our designation of the like product in this case as both one- and two-piece plastic animal ear tags is consistent with the Senate's advice. 2/ There is an obvious physical difference between one- and two-piece ear tags, but it is not a difference in terms of either their basic characteristics or the uses for which they are designed. Rather, this difference relates only to their quality, real or perceived. Both types of tags, are used for in-herd identification of animals, and both have highly desirable

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1/ Committee on Finance, U.S. Senate, Report No. 96-249, 96th Cong., 1st Sess., pp. 90-91. (Senate Report 96-249)

2/ In any event we would have been compelled to assess injury in regard to both products since separate financial data were not available for two-piece ear tag production. The law clearly states that when separate data are not available the Commission should base its determination on analysis of the narrowest group or range of products, which include a like product, for which necessary information can be provided. See Section 771(4)(D).

characteristics such as visibility and durability. Furthermore, both one- and two-piece ear tags are produced on the same machinery by the same employees. They are marketed by the same sales force through the same channels of distribution. 1/ One- and two-piece tags are "like products," and to exclude one-piece tag production from the definition of like product under consideration would have prevented consideration of an industry potentially adversely affected by the imports. 2/ 3/

Therefore, we find that firms which produce one- and two-piece ear tags constitute the relevant industry for purposes of this investigation. There are seven known domestic producers of such plastic animal identification ear tags.

The question of material injury by reason of subsidized imports

In considering whether there exists material injury by reason of imports of the subsidized product, we are required by statute to consider, inter alia, the volume of imports, their impact on domestic prices, and the consequent impact on the domestic industry.

Volume of imports

Imports of plastic animal identification ear tags increased from 5.7 million in 1977 to 11.8 million in 1979, more than doubling in the three years. They continued to increase in January-September 1980, by 1.4 million

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1/ Vice Chairman Calhoun does not feel that the production process, employees, or marketing channels are relevant to the assessment of characteristics and uses. See his additional views.

2/ While there are other types of animal identification (i.e., neck chains, hip tags, and metal ear tags), these represent only a small portion of domestic production (for the most part, data are not available on these products). Furthermore, they have substantially different characteristics; they are less visible, less practical, and are able to have less information written on them. Hip tags have different uses--primarily for identifying animals at auctions. None of the parties argued that they should be included within the scope of the domestic industry.

3/ Vice Chairman Calhoun disassociates himself from this statement. See his additonal views.

tags or 16 percent, compared with those in the corresponding period of 1979. As a share of apparent U.S. consumption, imported tags rose from 17 percent in 1977 to 26 percent in 1979 and 29 percent in January-September 1980. 1/

Price considerations

Price comparisons between domestic and imported tags at the first level at which they compete in the U.S. market indicate that prices of the imported tags were higher in almost every quarter during 1978-1980 than prices of comparable domestic tags. Prices of imported tags were held constant from July 1978 through May 1980, but this did not seem to cause any price suppression, since prices of domestic tags continued to rise and sales of the domestic tags continued to increase in this period.

Petitioners have argued that the appropriate price comparison should be between the price Delta sells to the importers and the price the domestic producers sell to their distributors, and that if this comparison were made, there would be underselling. However, since our focus here is on the impact of prices in the market, we must make our price comparison at the first level of distribution in the U.S. market where there is head to head competition between the imported and domestic ear tags. In this case, this point occurs at the time of sale from both the domestic producers and the main importers to a common network of distibutors.

1/ Report, pp. A-34 through A-36.

Impact on the industry

Delta Plastics, Ltd., the New Zealand producer, began marketing its tags in the United States under the brand name "Allflex" in 1974. The new Allflex tag was able to establish itself firmly in the market for at least three years before domestic companies began to introduce their own two-piece tags. It was alleged by the importer that, rather than injuring the domestic industry, their product actually expanded the market for animal ear tags. This, in fact, seems to be a valid point. 1/ After 1977, domestic firms acted quickly to participate in the growing market for two-piece tags by rapidly increasing their capacity from 61.3 million in 1977 to 67.5 million in 1978 and 91.3 million in 1979. 2/ The new capacity was apparently added with the expectation that the two-piece product would attract new customers who had previously not tagged their animals. Domestic production of ear tags increased by 14.1 million tags from 1977 to 1979, mostly because of growing production of two-piece tags. 3/

Not only did production increase, but shipments of domestic tags increased as well. Total domestic shipments of U.S.-produced ear tags increased from 26.8 million in 1977 to 34.0 million in 1979, an increase of 7.2 million tags or 27 percent. Again, this growth in ear tag shipments was attributable to rapidly increasing sales of two-piece tags as shipments of one-piece tags actually declined from 1977 to 1979. 4/

1/ Posthearing Brief of Delta Plastics, Ltd. et.al., p. 9.
2/ Report, p. A-20.
3/ Report, p. A-17.
4/ Report, p. A-22.

As with production of ear tags, employment increased rapidly during this period. Workers engaged in the production of ear tags numbered 92 in 1977 and 173 in 1979, an 88 percent increase. 1/

The capacity utilization of the domestic industry was relatively low in 1977, but it is difficult to analyze the industry's raw capacity utilization ratio as an indication of either good or poor performance. Instead, it is necessary to look at utilization in the context of other performance indicators of the industry. In 1977, the industry's capacity utilization was 38 percent. It increased to 51 percent in 1978, the year in which two major producers of ear tags began producing two-piece tags. Total production increased by 47 percent from 1977 to 1978 while capacity increased by only ten percent, thus resulting in the increase in capacity utilization in 1978. In 1979, the situation reversed. In apparent response to the rapidly expanding market, domestic producers increased their capacity by 35 percent. However, production did not keep pace, increasing by only 9 percent. As a result, capacity utilization dropped to 41 percent. 2/ While some might consider this a fairly low capacity utilization ratio, the financial information provided by U.S. producers (which is discussed in more detail below) indicates that while operating at this level, the domestic industry achieved a higher ratio of net operating profit to net sales than it did in 1978, when it had a higher capacity utilization ratio.

1/ Report, p. A-30.
2/ Report, p. A-20.

U.S. producers' inventories increased from 6.1 million tags at the end of 1977 to 11.3 million at the end of 1979. 1/ This increase of 86 percent in two years can be explained by the nature of the product and its distribution. Since plastic ear tags come in a variety of sizes and colors, and because orders must be filled as they are received, producers must maintain relatively high inventories. Between 1977 and 1978, three of the major domestic producers began producing two-piece tags, which, like one-piece tags, are available in different sizes and colors. In order to continue filling orders as quickly as before, domestic producers had to keep larger inventories.

The increase in inventories is much less dramatic when examined relative to production and shipments. The ratio of inventories to production actually declined from 1977 to 1978, then increased by only 5 percentage points in 1979, and the ratio of inventories to shipments increased by 10 percentage points from 1977 to 1979. These increases are attributable in large part to producers' uncertainties regarding shifts in demand for different types of tags and the concomitant adjustments in production required of domestic producers. It must be remembered that the rapid growth in production is in a product line which is still rather new to domestic producers, and some over-stocking is inevitable.

Domestic producers supplied numerous allegations of lost sales, but the staff was able to confirm that only a small percentage of these were lost to imports. Rather, it appears that there is healthy competition

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1/ Report, pp. A-26 through A-28.

in the market, with most of the reported lost sales going to other domestic companies. 1/ Since the price of the Allflex tag was almost always higher than that of the domestic product, it would seem that price was not a factor in those sales which were lost to imports.

Financial data were provided by four domestic companies which accounted for 90 percent of industry shipments in 1979. Their financial experience shows that from 1977 to 1979, net sales increased by 81 percent, net operating profit more than tripled, and the ratio of net operating profit to net sales increased from 7.8 percent to 14.0 percent. 2/ 3/ These facts point to an industry in excellent health.

The data on economic performance for 1977-1979 do not show material injury to the domestic industry. The only possible signs of weakness in the industry for the whole period under investigation relate to January-September 1980 data. In this period, domestic producers' total shipments declined slightly, capacity utilization dropped somewhat, and inventories increased. Employment grew in the first quarter and dropped in the third quarter. The ratio of net operating profit to net sales also dropped during this period. However, a careful examination of this data reveals that while the industry certainly has not sustained the growth it experienced from 1977-1979, it is not suffering from material injury by reason of the imports of subsidized ear tags. The decline in shipments is negligible, the employment decline relates only to a very brief period, and the capacity

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1/ Report, pp. A-44 through A-46.
2/ Report, pp. A-30 through A-32.
3/ The aggregate data do camouflage financial difficulties of some companies in the industry. But our determination, as noted in the industry section, is to be based on analysis of "domestic producers as a whole of a like product. . . ."

utilization decline merely reflects a continued greater increase in capacity than production. Growing inventories are explained by factors noted above and by the fact that domestic producers had expected the market to expand in 1980 as rapidly as it had in 1979. 1/ The decline in net profits for this period can be attributed primarily to a 37 percent increase in general, selling, and administrative expenses. These costs reflect internal company policy decisions to increase marketing efforts in order to improve sales of two-piece tags. These decisions are not suprising considering domestic production of two-piece tags was only three years old. A better indicator of financial condition may be the ratio of gross profit (i.e. profit before deductions are made for general, selling, and administrative expenses) to net sales, which increased from 54.4 percent in the first nine months of 1979 to 56.7 percent in the first nine months of 1980. It is also noteworthy that net operating profit for the first 9 months of 1980 is greater than for all of 1977, and the ratio of net operating profit to net sales is virtually the same for these two periods.

In any case, an examination of the pattern of import penetration 2/ reveals that the inability of the U.S. industry to maintain the 1977-1979 performance in 1980 is not attributable to the subsidized imports. The most significant growth in shipments of imports occurred from 1977-1979, when the U.S. industry was thriving. But, in 1980, as the U.S. market for ear tags slowed, import shipments--like domestic sales--dropped.

Threat

The Senate Report on the Trade Agreements Act of 1979 gives some guidance to the Commission for determining whether an industry in the

1/ Hearing Transcript, pp. 28-29.
2/ Report, p. A-36.

United States is threatened with material injury:

> An ITC affirmative determination with respect to threat of material injury must be based upon information showing that the threat is real and injury is imminent, not a mere supposition or conjecture. 1/

The House Report on the Trade Agreements Act of 1979 states that certain

> . . . 'demonstrable trends' -- for example, the rate of increase of the subsidized or dumped exports to the U.S. market, capacity in the exporting country to generate exports, the likelihood that such exports will be directed to the U.S. market taking into account the availability of other export markets, and the nature of the subsidy in question (i.e., is the subsidy the sort that is likely to generate exports to the U.S.) -- will be important. 2/

In this final investigation, we obtained clarification of Delta's currently available and projected excess capacity, new data on Delta's worldwide export patterns, more detail on the subsidy programs we can expect Delta to utilize in the imminent future, and, as described above, a fuller understanding of the current condition of the domestic industry.

Sales of animal ear tags in the United States by Delta appear to have peaked or nearly peaked for the immediate future. Subsidized imports have increased from 1977 to the present time; however, the rate of this increase was lower in 1979 than in 1978 and still lower in the first nine months of 1980 than in 1979. Current inventory levels of the importers are consistent with those reported for the entire period covered by this investigation. Delta is now operating at a capacity utilization rate of about 80 percent 3/, and the company is presently introducing two new

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1/ Senate Report 96-249, pp. 88-89.
2/ Committee on Ways and Means, U.S. House of Representatives, Report No. 96-317, 96th Cong. 1st Sess., p. 47.
3/ Report, p. A-9.

products in New Zealand and Australia that are produced on the same machines as the animal ear tags. Sales of these new products are expected to increase the plant's capacity utilization ratio substantially by the end of 1981.

Of the output accounted for by the current 80 percent capacity utilization rate, approximately 87 percent is exported. Exports to the United States comprise about half of these exports. However, Delta exports to over thirty countries 1/, and export sales to these countries, like those to the

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1/ There are some superficial similarities between this case and a recent dumping investigation, Anhydrous Sodium Metasilicate (ASM) from France (Inv. No. 731-TA-25), in which the Commission made a unanimous affirmative finding of threat. In the ASM case there was also a single foreign exporter (Rhone-Poulenc) involved with sales worldwide and a capacity utilization rate similar to Delta's. However, in these two cases the conditions of trade and competition in the industries involved and realistic expectations as to the potential role of imports in the U.S. market in the immediate future differ significantly. To illustrate, in the ASM investigation, Rhone-Poulenc exports to third countries were not consistently increasing. To the contrary, it was clear that demand for ASM had fluctuated widely from year to year in various markets and that sales lost in other countries were diverted to the United States. Rhone-Poulenc had not established a U.S. plant. Moreover, ASM is a fungible product with sales based solely on price and in that case the dumping margin was substantial. In the present case, the foreign and domestic products compete most vigorously not on the basis of price but rather on the basis of perceived performance differences. The subsidy level is not anywhere near the magnitude of the dumping margin in the ASM case. Furthermore, in the ASM case, the condition of the domestic industry, particularly in the Northeast, demonstrated the imminency of the threat of injury to the entire industry. In the present case, the condition of the industry does not support an affirmative finding of threat. Importantly, the whole history of the market for each of these products differs. The market for ASM has been declining not just due to recession. The market for eartags is growing and this growth derives from the introduction of the two-piece tag by the exporter.

United States, have increased steadily since 1975. With demand growing worldwide, Delta will not need to increase the share of its exports destined for the United States. The establishment of Allflex Manufacturing, Inc. in New York by Delta and G. C. Hanford Manufacturing Co., a major importer of Allflex tags, makes the possibility of shifts of exports to the United States even more remote.

Conclusion

A full analysis of the data supports the contention of the importer that its presence in this market has not injured the domestic industry, but has, in fact, helped to expand its market. The domestic industry has enjoyed considerably increased sales and production owing in part to the introduction by the importer of the two-piece tag. Its efforts to capitalize on the market created by Delta were only slowed in 1980 by market factors that affected both import and domestic sales. The domestic industry is well-positioned to reestablish its growth as the market recovers, and Delta's capacity and interest in continued export expansion to the U.S. market appear to be limited. It is thus clear from our analysis of the case that the domestic industry is not suffering from nor threatened with material injury by reason of imports of subsidized animal identification tags from New Zealand.

ADDITIONAL VIEWS OF VICE CHAIRMAN MICHAEL J. CALHOUN

While I concur in the conclusions and reasoning of my colleagues, Chairman Alberger and Commissioner Stern, I submit these additional views on matters in this case which were of particular concern to me and about which I feel compelled to offer additional discussion.

Like Product

The essence of the question of whether products are "like" (as opposed to "similar") is whether the characteristics and uses of one product coincide with those of another to such a degree as to render the coincidence something more than casual. We have in various determinations used the standard of "virtually identical" in characteristics and uses to reflect the level of coincidence necessary to find those products which are "like" the imported article. 1/ Incorporated in this standard is the recognition, noted by the Report of the Committee on Finance, 2/ that minor differences do exist between products which, for all intents and purposes, are identical to each other in the terms relevant here. It has been our intention in the application of this standard to accommodate precisely this concern.

1/ See, Leather Wearing Apparel from Uruguay (701-TA-68 (P)), USITC Pub. 114, December 19, 1980, Barium Carbonate and Strontium Carbonate from the Federal Republic of Germany and Strontium Nitrate from Italy (731-TA-31-33(P)), USITC Pub. 1105, October, 1980.

2/ Committee on Finance, U.S. Senate, Report No. 96-249, 96th Cong., 1st Session, pp. 90-91.

In this regard, then, I fully agree with my colleagues in the conclusion and, largely, in the assessment of the question of whether one- piece ear tags are like two-piece ear tags. First, the objective observation of the characteristics of one- and two-piece tags reveals that the only demonstrable differences between the two are in the method of attachment and in the price. But, evidence on the record indicates that the advantage of attachment enjoyed by two-piece tags is juxtaposed against its higher price, thus, reducing the importance of these differences. Second, the mechanical comparison of the susceptibility of a one-piece tag to be used for the same purpose as a two-piece tag renders no significant deficiency.

I depart from the views of my colleagues, however, on three matters. First, I disagree with the importance they attached to the fact that one- and two-piece tags share common machinery, employees and distribution channels. In my view, while the absence of these factors may add weight to a conclusion that two products are <u>not</u> like or similar in characteristics and uses, their presence adds no significant weight to a conclusion that two products <u>are</u> like or similar in this respect.

Second, with regard to my colleagues' view that,

> to exclude one-piece tag production from the definition of like product under consideration would have prevented consideration of an industry potentially adversely affected by the imports,

I take exception to the extent this view is meant to suggest that adverse effect on domestic producers is relevant to the question

of whether a domestic product is "like" an import. It must be appreciated that the specific issue of like product in this case does not arise with respect to whether one-piece tags are "similar" to two-piece tags. The issue is whether they are "like," since there is domestic production of a product which is the same as that which is being imported.

I fail to see how this question of whether one-piece tags are "like" two-piece tags can be advanced by reference to the presence of adverse impact on the domestic producers of one-piece tags by two-piece tag imports. The presence of adverse effect seems to go to the existence of a competitive relationship between the two products. If framed properly, inquiry regarding such an effect can be helpful in determining whether two products are similar. But adverse impact provides me with no useful tool in undertaking the task in this case which is to assess whether the coincidence of characteristics and uses of one-piece tags are so great as to render them "like" two-piece tags.

In my view, the Senate Report language is supportive of my interpretation. The language most relevant to this case is the specific exhortation regarding the definition of "like." We are called upon by this language not to be so narrow in our views as to "permit minor differences in physical characteristics and use to lead to the conclusion that the products are not <u>like</u> each other..." (emphasis added). The language relied upon by my colleagues, that we ought not to define "like product" so as "to prevent

consideration of an industry adversely affected by imports..." is a general policy underlying the whole of the "like product" assessment and has its greatest bearing in cases where there are no domestic products which are "like" the import.

The final point on which I distinguish myself from my colleagues regarding our industry determination is with regard to the treatment of domestically produced animal identification tags other than plastic ear tags. Since there is patent similarity among all domestically produced animal identification tags, I feel we are obligated by statute specifically to find why only plastic ear tags are like products to the imports.

In the United States there are many tags produced for use as in-herd identification of cattle, hogs, sheep, or goats. This range of tags includes one-piece and two-piece plastic ear tags, neck chain tags, hip tags, and metal ear tags. With this wide variety of domestically produced animal identification tags the basis for differentiating among them for the purpose of finding the like product is especially important in this case. In this regard, one-piece and two-piece plastic ear tags share several characteristics which distinguish them in an essential way from any other animal identification tag which may be produced domestically: Plastic ear tags are highly visible, more so than the other types due to their placement in the animal's ear, their size, and the bright colors in which they are available. They are easier to apply than many of the other tags and, due to their flexibility, are less likely to get caught in fences, brush, etc.

and pulled out of the animal's ear. Their size is especially important in that it enables various kinds of information, important to the user, to be imprinted on them. For these reasons I find animal identification tags other than plastic ear tags not to be like products to the two-piece plastic ear tags under investigation.

In view of such a high coincidence of the identity of characteristics and uses between one- and two-piece tags discussed above and in the joint views of my colleagues and me, the only basis upon which one could conclude that they are not like each other would be upon substantial evidence from the marketplace that, in fact, users do not perceive them as such. Respondents have attempted to direct our attention to this very kind of evidence:

> One need only to look at the consumption trends for the two products to be convinced of the fact that they are not "like". One-piece tag consumption has been virtually flat over the last three years, while two-piece consumption is up sharply, as is the domestic producer's share of that consumption. 1/

While the underlying theory of respondents' contention is sound, that the marketplace is the ultimate authority on whether one product is a like product with another, the evidence relied upon does not support their conclusion. One piece consumption has not been flat in the face of increasing two piece consumption. All indicators show that, except for 1978, consumption of one-piece tags is in decline. Indeed, the rate of consumption for

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1/ Post-hearing brief on behalf of Delta Plastics, Ltd., et al., at page 3.

1980 will likely result in consumption below that of 1977. Under these conditions, the only reliable inference to be drawn is that one- and two-piece tags are competing with each other. Nothing from this plain evidence of competition between the two can be seen as going to the question of how similar or dissimilar these items may be.

Even if one-piece consumption were flat against increasing consumption of two-piece tags, this information alone would not be conclusive as to the question of like product. All this fact shows, standing alone, is that increasing numbers of purchasers prefer two-piece to one-piece tags. It sheds no useful insight on whether the preference is based on a perception of an objective difference between the products or on some other perception such as, for example, qualitative superiority or greater availability.

Material Injury

It has been suggested that the impact which most likely approaches that of material injury to this industry arises out of the considerable advertising effort by distributors of the Delta product. The material injury sustained by the domestic industry, such an argument suggests, results from the domestic industry having to attempt a commensurate level of advertising to maintain market share. Such an undertaking has allegedly resulted in a reduction in net profits enjoyed by the domestic industry. The

rise in general, selling, and administrative expenses together with the decline in net operating profit is relied upon as establishing this conclusion.

Since I have joined in the finding that this industry is neither suffering material injury nor threat of material injury, consideration of this argument is not necessary. Nevertheless, I do find the theory underlying such an argument consistent with my view of our task in subsidy cases. This argument attempts to establish a nexus between material injury and the imported article without relating the subsidy to the harm. Rather, in satisfying the causality requirement, it attempts only to relate the behavior of the import in the marketplace to the harm suffered by the domestic industry. I believe such a showing is quite sufficient to establish the requisite nexus. In subsidy cases, we are called upon to determine whether any material injury or material retardation to the domestic industry is "by reason of imports of that merchandise." Nothing in the plain language of the statute nor in the legislative history suggests that we establish a causal link between the subsidy and the existence of material injury. 1/

Of course, the level of a subsidy can be so low that the impact of the product in the market can be indistinguishable from that of the same product without a subsidy. But, even here,

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1/ See, Sections 701 (a), 703(a), 705(a), and 771(7) of the Trade Agreements Act of 1979. See also, Committee on Finance, U.S. Senate, Report No. 96-249, 96th Cong., 1st Session, pp. 88-89, and Committee on Ways and Means, House Report No. 96-317, 96th Cong., 1st Session, pp. 46-48. In cases of threat of material injury, however, we are specifically directed to consider the nature of the subsidy in making our determination. See, Section 771(7)(E)(i) of the Trade Agreements Act of 1979; Senate Report, supra, at p. 84; and House Report, supra, at p. 47.

examination of the impact of the subsidy on the domestic industry should not be a matter of concern to us. Once the Department of Commerce has established the existence and quantum of the subsidy, our fundamental task is to use the various measures prescribed as well as those we find relevant to assess the impact of the imported product on the domestic industry.

Allocation

I must express agreement with respondents on page 3 of their post-hearing submission that it is "incredible" that the domestic industry claims it cannot allocate data on profits and employment between one- and two-piece tag production. Though, in the final analysis, the need for such data was not relevant in this case, this matter of allocation is a growing source of irritation to me.

In many instances, the finding of material injury turns on whether we assess the impact of imports on the production of the like product or on production of a broader category of products. Claims by the domestic industry of inability to allocate relevant data to the production of the like product obstruct the clear preference of the statute. Where this inability is a legitimate problem we must accept it. But where it results from other reasons it presents a serious frustration of the statute.

I am finding it increasingly unacceptable that so many domestic companies seeking redress before this agency claim that they do

not legitimately know their production costs on a product line basis. If companies are able to price they must have some notion of cost. This is true, of course, unless they undertake their pricing solely with regard to the prices set by a particular price leader. But even in this circumstance, a company, at some point, must develop objective evidence of or some informed intuition as to the extent to which their price is adequately covering their cost on a product line basis. To keep this data from the Commission when such data is reasonably available touches upon obstruction. To deny that it is available when it is, in fact, reasonably available can be a more serious transgression.

It is especially ironic that companies resist so much in providing us product line data. In most instances, by far, product line allocations will further the interest of the petitioner in demonstrating the existence of material injury.

VIEWS OF COMMISSIONER CATHERINE BEDELL

On the basis of the record developed in investigation No. 303-TA-14 (Final), I determine that an industry in the United States is not materially injured or threatened with material injury and the establishment of an industry in the United States is not materially retarded 1/ by reason of imports from New Zealand of plastic animal identification tags provided for in item 666.00 of the Tariff Schedules of the United States which the Department of Commerce has found to be subsidized by the Government of New Zealand.

The imported article and the domestic industry

First, the industry must be identified against which the impact of the subject imports is to be assessed. Section 771(4)A of the Tariff Act of 1930 defines the term "industry" as--

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

The term "like product" in turn is defined in section 771(10) of the act 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 under this title.

The imported articles subject to this investigation are two-piece plastic animal identification tags. They are designed for application to the ears of cattle, hogs, sheep, or goats for the purpose of individual identification and management. 2/

In the United States there are many tags produced for the identification of animals, including one-piece and two-piece plastic ear tags, neck chain

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

2/ Report, pp. A-2 and A-3.

tags, tail tags, dewlap tags, hip tags, and metal ear tags. 1/ There are several characteristics which distinguish the one-piece and two-piece plastic ear tags from the other tags listed. The one- and two-piece tags are highly visible due to their placement in the animal's ear, their size, and the bright colors in which they are available. They are also easier to apply than many of the other tags and, due to their flexibility, are less likely to get caught and pulled out of the ear. Their size is also important in that it enables various kinds of information to be imprinted on them. 2/

A further question is whether both one-piece and two-piece ear tags are the "like product" in this investigation. The obvious difference between one-piece and two-piece tags is the number of pieces. However, this difference does not distinguish one from the other in terms of their basic characteristics or the uses for which they were designed (and which set them apart from other tags), but rather affects their quality, real or perceived. Furthermore, both one- and two-piece ear tags are produced on the same machinery by the same employees. They are marketed by the same sales force through the same channels of distribution and are interchangeable in their end use.

Therefore, I find that one- and two-piece ear tags are the product "which is like, or in the absence of like, most similar in characteristics and uses with" the imported article, and that the firms which produce one- and two-piece ear tags constitute the relevant industry for purposes of this investigation. There are seven known domestic producers of such plastic animal identification ear tags in the United States. 3/

1/ Report, pp. A-4 and A-5.
2/ Report, pp. A-3 through A-5.
3/ Report, pp. A-6 through A-8.

Impact of the imports

U.S. shipments of imports of plastic animal identification ear tags increased from 5.7 million in 1977 to 11.8 million in 1979, more than doubling in the 3 years. They continued to increase in January-September 1980, by 1.4 million tags or 16 percent, compared with those in the corresponding period of 1979. As a share of apparent U.S. consumption, imported tags rose from 17 percent in 1977 to 26 percent in 1979 and 29 percent in January-September 1980. 1/

While market penetration did increase, it is important to note that this was an expanding market, at least that part of it consisting of two-piece tags. When calculated only on the basis of two-piece tag sales, market penetration fell each year from 1977 to 1979. Thus, it is apparent that the market for one-piece tags, which is serviced only by domestic producers, was relatively stable, and that the growth in sales of two-piece tags was shared by domestic and imported tags. 2/

Thus, from 1977 to 1979, when imports were increasing most rapidly, shipments and net operating profit of the domestic producers increased by 27 percent 3/ and more than 200 percent, 4/ respectively. It is only in January-September 1980 that shipments of domestically produced tags declined slightly, and this corresponds with a general leveling off of total U.S. tag consumption.

Prices

Price comparisons between U.S.-produced and imported tags at the first level at which they compete in the U.S. market indicate that prices of the

1/ Report, pp. A-34 through A-36.
2/ Report, pp. A-22 and A-36.
3/ Report, p. A-22.
4/ Report, p. A-31.

imported tags were higher in almost every quarter during 1978-80 than prices of comparable domestic tags. Prices of imported tags were held constant from July 1978 through May 1980, but this did not seem to cause any price suppression since prices of domestic tags continued to rise and sales of the domestic tags continued to increase in this period. 1/

No material injury by reason of subsidized imports

Delta Plastics, Ltd., the New Zealand producer, began marketing its tags in the United States under the brand name "Allflex" in 1974. At that time, the domestic industry was producing only one-piece tags, and it was not until 1978 that major domestic producers began marketing two-piece tags in commercial quantities. The new Allflex tag was therefore able to firmly establish itself in the market for at least 3 years before domestic companies introduced their two-piece tags. U.S. firms acted quickly after 1977 to participate in the growing market, however, and rapidly increased their capacity to produce plastic animal identification tags from 61.3 million in 1977 to 67.5 million in 1978 and 91.3 million in 1979. 2/ The new capacity was apparently added with the expectation that the two-piece product would not replace the one-piece, but would attract new customers who had previously not tagged their animals. This seems to have happened as domestic production of ear tags increased by 14.1 million tags from 1977 to 1979, mostly because of growing production of two-piece tags. 3/

Shipments of domestic tags also increased, from 26.8 million in 1977 to 34.0 million in 1979, representing an increase of 7.2 million tags or 27 percent. Again, this was attributable to rapidly increasing sales of two-piece tags, as shipments of one-piece tags actually declined from 1977 to 1979. 4/

1/ Report, pp. A-36 through A-44.
2/ Report, p. A-20.
3/ Report, p. A-17.
4/ Report, p. A-22.

In 1977, the industry's capacity utilization was 38 percent. It increased to 51 percent in 1978 (the year in which the major producers of ear tags began producing two-piece tags in addition to one-piece tags) because capacity increased by only 10 percent in that year while total production increased by 47 percent. In 1979, in apparent response to the rapidly expanding market, domestic producers increased their capacity by 35 percent. Production, however, did not keep pace, increasing by only 9 percent, and thus capacity utilization dropped to 41 percent. 1/ Despite the decline in capacity utilization, however, the financial information provided by U.S. producers (which I will discuss in more detail later) indicates that while operating at this level, the domestic industry achieved a higher ratio of net operating profit to net sales than it did in the previous year, when it had a higher capacity utilization ratio.

The total number of production and related workers engaged in producing ear tags increased during this time period from 92 in 1977 to 173 in 1979. 2/ This is an increase of 88 percent.

U.S. producers' inventories increased from 6.1 million tags at the end of 1977 to 11.3 million at the end of 1979. 3/ However, plastic ear tags come in a variety of sizes and colors, and in order to be able to fill orders as they are received, producers must maintain relatively high inventories. As three of the major domestic producers began production of two-piece tags between 1977 and 1979, much of the increase in inventories is explained by their need to stock adequate quantities of those tags. Further, the ratio of inventories to production actually declined from 1977 to 1978, and then increased by only 5 percentage points in 1979. 4/

1/ Report, p. A-20.
2/ Report, p. A-30.
3/ Report, pp. A-26 through A-28.
4/ Report, p. A-28.

Comparable financial data were provided by four domestic companies which accounted for 90 percent of industry shipments in 1979. Their financial experience shows that from 1977 to 1979, net sales increased by 81 percent, net operating profit more than tripled, and the ratio of net operating profit to net sales increased from 7.8 percent to 14.0 percent. 1/

The lost sales of the imported product which the Commission was able to confirm represented a small percentage of those reported. Since the price of the Allflex tag was almost always higher than that of the domestic product, it would seem that price was not a factor in those lost sales which were confirmed. 2/ In view of the above discussion, I find there was no material injury from imports from 1977 to 1979.

There are some indications of a downturn in the industry in January-September 1980, as shipments and capacity utilization declined slightly. Production and capacity utilization increased, however, and the decline in capacity utilization was the result of the addition of new, but underutilized, equipment rather than the idling of existing facilities. The ratio of net operating profit to net sales declined from 15.4 percent in January-September 1979 to 7.2 percent in the corresponding period of 1980. This decline was not due to a decline in the value of sales, which actually increased by 8 percent in 1980, or rapidly increasing costs of producing the goods, which increased by only 3 percent, but rather to a 37-percent increase in general, selling, and administrative expenses. The ratio of gross profit (i.e., profit before deductions are made for general, selling, and administrative expenses) to net sales increased from 54.4 percent in January-September 1979 to 56.7 percent in the January-September 1980. 3/ Therefore, I do not find material injury to this industry by reason of subsidized imports during this more recent period.

1/ Report, pp. A-30 through A-32.
2/ Report, pp. A-44 through A-46.
3/ Report, p. A-31.

No threat of material injury

The Commission is provided some guidance in reaching a determination that an industry in the United States is threatened with material injury in both the Senate and House reports on the Trade Agreements Act of 1979. The Senate report states:

> An ITC affirmative determination with respect to threat of material injury must be based upon information showing that the threat is real and injury is imminent, not a mere supposition or conjecture. 1/

The House report points out that in determining the likelihood of a situation's developing into actual material injury--

> . . . demonstrable trends--for example, the rate of increase of the subsidized or dumped exports to the U.S. market, capacity in the exporting country to generate exports, the likelihood that such exports will be directed to the U.S. market taking into account the availability of other export markets, and the nature of the subsidy in question (i.e. is the subsidy the sort that is likely to generate exports to the U.S.)--will be important. 2/

In this final investigation these "demonstrable trends" do not indicate likelihood of material injury. The subsidized imports increased from 1977 through September 1980; however, the rate of the increase was lower in 1979 than in 1978 and still lower in January-September 1980 than in the corresponding period of 1979. 3/

The New Zealand producer of ear tags, Delta Plastics, Ltd., is presently operating at a capacity utilization ratio of about 80 percent and approximately 87 percent of its sales in 1979 were export sales. 4/ Its largest single export market is undoubtedly the United States, however, it

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1/ Trade Agreements Act of 1979: Report of the Committee on Finance . . ., S. Rept. No. 249 (96th Cong., 1st sess.), 1979, pp. 88 and 89.
2/ Trade Agreements Act of 1979: Report of the Committee on Ways and Means . . ., H. Rept. No. 317 (96th Cong., 1st sess.), 1979, p. 47.
3/ Report, p. A-25.
4/ Report, p. A-9.

exports to over 30 countries around the world, and its exports to these countries have increased as well. There is no evidence to indicate that it would shift more exports to the United States. To the contrary, there are indications that this is not likely to happen. Delta Plastics recently formed a new company in Syracuse, N.Y., with G. C. Hanford, one of the importers of the Allflex tag, to begin production of a new type of Allflex tag in the United States. 1/ In addition, Delta has two new products which it is presently introducing to the markets in New Zealand and Australia. Production of these products is expected to increase the plant's capacity utilization substantially by the end of 1981. The main program under which Delta received a subsidy provides tax deductions and credits for increased exports. Delta did receive a subsidy under this program in 1980; however, in 1981 it will have to claim exemptions under an alternative program (export performance incentive for qualifying goods), which will yield a lower tax credit. 2/ The export tax incentive program in New Zealand would seem to encourage the development of new products for export, which Delta is now attempting. There is no evidence to indicate that Delta is planning to increase its export of two-piece tags to the United States; in fact, the information presently available indicates that it is not.

Conclusion

On the basis of the foregoing information, I conclude that an industry in the United States is not materially injured or threatened with material injury by reason of subsidized imports of plastic animal identification tags from New Zealand.

1/ Report, p. A-10.
2/ Post-hearing Brief on Behalf of Delta Plastics, Ltd. et. al., p. 7.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On August 1, 1980, the U.S. International Trade Commission and the U.S. Department of Commerce received a petition from Y-Tex Corp., Cody, Wyo., alleging that a bounty or grant is being paid with respect to plastic animal identification tags imported from New Zealand, classifiable under item 666.00 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, 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 September 9, 1980, a public briefing was held and the Commission voted unanimously that there was such a reasonable indication of material injury or threat of material injury. The Commission informed the Department of Commerce of this decision on September 15, 1980. 1/

On October 28, 1980, the Department of Commerce made a preliminary determination, under section 303 of the Tariff Act of 1930, that the Government of New Zealand has given subsidies within the meaning of the countervailing duty law, to the manufacturers, producers, or exporters of plastic animal identification tags. 2/ Commerce also determined that critical circumstances did not exist in this case due to a leveling of imports during the 18 months prior to June 1980 and a decline in the share of the U.S. market for two-piece identification tags held by imports.

As a result of the affirmative preliminary subsidy determination by the Department of Commerce, the Commission instituted investigation No. 303-TA-14 (Final), effective October 28, 1980, 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.

On January 13, 1981, the Department of Commerce made a final affirmative subsidy determination 3/ concerning plastic animal identification tags from New Zealand. Commerce determined that the Government of New Zealand makes available incentive programs that constitute bounties or grants within the meaning of the countervailing duty law and that the exporter of animal identification tags utilizes these programs and receives tax deductions, exemptions, and credits from them in the aggregate amount of 13.18 percent ad valorem on exports to the United States.

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

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

3/ A copy of the Department of Commerce's final subsidy determination is presented in app. C.

In connection with the Commission's investigation, a public hearing was held at the International Trade Commission building, 701 E Street NW, Washington, D.C., on January 30, 1981. Notice of the institution of the investigation and of the public hearing was given by posting copies of the notice at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. and by publishing the notice in the Federal Register of November 19, 1980 (45 F.R. 76553). 1/ 2/ The Commission voted on the investigation on February 17, 1981.

The Product

Description and uses--imported tags

The articles which are the subject of this investigation are plastic animal identification tags, classifiable in item 666.00 of the TSUS. These tags are designed for attachment to the ears of cattle, hogs, sheep, or goats for purposes of animal identification and management. The only articles imported from New Zealand which have been identified are two-piece plastic (polyurethane) tags produced by Delta Plastics, Ltd. and sold under the brand name Allflex. The two pieces of the tag consist of a male and a female component which are attached through the ear of the animal. The male component consists of a button or a tag with a hollow stem extending from the center of the button or from the neck at the top of the tag. The stem is tipped with a hollow copper cone. The female component consists of the tag itself and has a short hollow cylinder, again extending from the center of round button tags or the neck of the larger rectangular tags. The tag is attached by a pliers-like device which has a clip-on fastener for the cylinder of the female tag on one arm and a pin for the male tag on the other arm. When the handles of the applicator are squeezed, the ear is pierced by the applicator pin which guides the stem of the male component through the ear and the cylinder of the female component; pressure is maintained until the components are firmly connected.

The imported article comes in four sizes: a small button (1-3/16 in. diameter), medium (1-1/2 in. by 1 in.), large (2-1/4 in. by 1-1/2 in.), and maxi (3 in. by 2-1/2 in.). In addition, a "hi-vu" style is offered which is the same size as the maxi tag but is designed to stand above the ear rather than hang down from it. The hi-vu tag is actually one piece, but contains both the male and female components in that one piece. It is applied in the same manner as the other tags using the same applicator. Medium and large tags are also available as "double tags," a product where both the male and female components are tags. This allows the information on the tag to be visible on both sides of the ear. Allflex tags are available in yellow, white, green, blue, orange, red, purple, and black. They can be purchased blank or with numbers or other identifying information stamped on them. Blank tags can be marked with special pens or paint, purchased separately.

The tags are produced by an injection-molding process and can be made in different sizes and shapes on the same basic machinery by using different molds. The tags are used for in-herd identification of particular animals and

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

may contain information on such things as innoculation or lineage. In addition, they can be used for quick identification when animals belonging to many different owners must mingle, as in a feedlot.

Description and uses--U.S.-produced tags

Animal identification ear tags are produced in the United States in two forms, a one-piece tag and a two-piece tag. These tags are attached to the ear of the animal and are usually made from polyurethane, although a vinyl or harder plastic material can be substituted. The tags are usually produced by an injection-molding process, although one domestic producer uses an extrusion process, whereby the polyurethane is extruded into a long strip and the tags are cut from it. Specific tag sizes vary among different producers but most offer several sizes ranging between 0.75 and 9 square inches, one-side surface area. The tags can be hot-stamped by the producer with identifying information or special paints or pens can be sold with the tags to allow the customers to mark the tags themselves.

The two-piece tag produced by the domestic industry is basically the same as the imported two-piece tag. It has male and female components which are attached to the animal's ear using a pliers-like instrument. With the domestic tags, however, the tip on the stem of the male component is a solid plastic or metal cone and it is this tip, rather than the applicator pin, which pierces the ear of the animal. This feature is preferred by some users since it allows tags to be applied without dipping the applicator in disinfectant before each use. The disinfectant is recommended when using the Allflex system since the ear is pierced by the same pin on each application.

There is also a one-piece tag produced by the domestic manufacturers. In the one-piece-tag system, a star- or T-shaped fastening device is connected to the primary section of the tag. The fastening device is notched for attachment to a knife-like applicator called a trocar. During the installation process the trocar is pushed through the earlobe, carrying the fastening device with it. As the trocar is withdrawn, it releases the fastening device on the other side of the animal's ear. There is also a pliers-type applicator available for use with the one-piece tag. It has a knife-like device on one arm and an attachment for the tag on the other. The ear is between them. When the handle is squeezed, the knife goes through the ear and attaches to the star or T-bar fastening device. The handle is then released, pulling the fastening device back through the ear and attaching the tag.

Prior to the introduction of the two-piece Allflex identification tag in 1975, the one-piece tag dominated the U.S. tag market. It was not until 1978 that the larger U.S. producers began to market a two-piece tag.

The most important differences between the one-piece and two-piece tags are the ease of application, cost, and degree of permanence. The two-piece-tag system is generally considered to be easier to use, particularly when compared with the trocar method of applying one-piece tags. When the one-piece tag is applied with the pliers-like device this advantage is less evident. In terms of cost, the one-piece tags are generally priced below the two-piece tags of comparable size. As far as permanence is concerned, it is

alleged that a properly fastened two-piece tag will stay in place for the life of the animal, whereas one-piece, trocar-applied tags tend to work loose due to their placement in a slit in the animal's ear.

There is some debate as to whether the one-piece or two-piece ear tag provides the least health risk for the animal. Proponents of the two-piece system argue that because the hole made in the ear with a two-piece tag is smaller, there is less chance of infection. Advocates of the one-piece tag, however, argue that the two-piece tag causes necrosis, a condition which develops because the two-piece tag pinches the ear and prevents blood from getting to the tissue near the wound. In addition, they argue that the two-piece tag prevents air from getting to the wound, thus slowing the healing process. Regardless of the type of tag, however, any infection which developed would be minor and would probably disappear without treatment. It could, however, have a negative long-term effect on the ultimate weight of the animal.

In addition to plastic animal ear tags, there are other tags used for identifying animals, including neck chain tags, tail tags, dewlap tags, hip tags, and metal ear tags.

Neck chain tags are egg-shaped tags usually made from polyurethane or other hard plastic. The tags have a hole approximately three-fourths of an inch in diameter in them through which a rope or chain can be placed. The rope or chain is then put around the animals neck, suspending the tag from it. These tags are generally used in the dairy industry. Two domestic companies, Fearing Manufacturing Co. and Ritchey Manufacturing Co., reported that they sell this tag and both indicated that such sales constitute a very minor part of their business, less than *** percent in both instances. The major disadvantage of the neck chain tag is that it hangs around the animals neck and can catch on trees or fences, thus immobilizing or strangling the animal. In addition, although the tag itself is priced only slightly higher than the two-piece tag, the rope or chain from which it hangs adds an additional cost of $0.80 to $1 thus making the entire neck-chain system relatively expensive.

Hip tags or back tags are hard cardboard tags approximately 4 square inches in size with numbers stamped on them. They are generally glued to the back of the animal for auctioning and are sometimes referred to as auction tags. These tags are for temporary identification only. They are used once and thrown away. One domestic producer, Fearing, reported sales of approximately *** back tags a year.

Tail tags are made of black urethane and attached to the tail of the cow. These tags are used on dairy cows. The price per tag is approximately $0.60 to $1 although no domestic producer reported production of these tags and their manufacture may have been discontinued.

Dewlap tags are attached by punching a hole in the cow's dewlap, a fold of skin under the neck of the animal about 10 inches below the jaw. A hasp is then run through the hole and the tag is attached to the hasp. The tags are approximately 2-1/2 inches wide and 3 inches high and cost between 60 and 80

cents apiece. No U.S. producer reported production of this tag and the extent of their use is unknown.

Metal ear tags are small tags made of steel which are attached to the animal through a hole punched in the ear. The metal tag is one piece which bends around the ear and through the hole, locking into itself on the other side. Metal tags come in three sizes: cattle tags, approximately 1-1/2 inches by 3/8 inch; and hog and sheep tags, with dimensions of less than one inch. Identifying information is engraved on the tag and prices are generally lower than those for plastic ear tags.

U.S. Tariff Treatment

Plastic animal identification tags are classified under the provision for other agricultural and horticultural machinery and implements, in item 666.00 of the TSUS. Merchandise entered under this item is duty free.

Prior to 1975, the U.S. Customs Service did not have a uniform established practice for the classification of plastic animal identification tags. Vinyl animal identification tags which were used for temporary identification of cattle during an auction were held by the Customs Service to be classifiable under the provision for articles of plastic, not specially provided for (TSUS item 774.60), and dutiable at a rate of 8.5 percent ad valorem. 1/ That Treasury Decision appeared to contradict an earlier Customs Information Exchange (C.I.E.) ruling which held that plastic numbered tags chiefly used for herd identification were classifiable under item 666.00 of the TSUS and entitled to duty-free entry. 2/

A uniform practice of classification for animal identification tags was established by U.S. Customs Service Internal Advice Ruling No. 00247 (Oct. 23, 1975). The request for the ruling was initiated by ***, which was contesting the Port of Los Angeles classification of the tags under TSUS item 774.60. After reviewing all the prior rulings, the Customs Service decided that the identification tags were more properly classifiable under item 666.00 of the TSUS, with entry free of duty. Furthermore, the identification tag applicator was also entitled to duty-free entry under TSUS item 651.39 as an agricultural or horticultural hand tool. The Customs Service advised the Commission that the 1975 internal advice ruling is still in effect.

Nature and Extent of Bounties or Grants

On January 13, 1981, the Department of Commerce made a final affirmative countervailing duty determination concerning plastic animal identification tags from New Zealand. The Department determined that the Government of New Zealand makes available incentive programs that constitute bounties or grants within the meaning of the countervailing duty law and that the exporter of animal identification tags, Delta Plastics, Ltd., utilizes these programs and receives tax deductions, exemptions, and credits from them. The aggregate net amount of these benefits equals 13.18 percent ad valorem on exports to the United States.

1/ Treasury Decision 72-340 (G), Aug. 23, 1972.
2/ C.I.E. Ruling No. 1563/66, June 8, 1966.

The single largest benefit to Delta is from the Increased Exports Taxation Incentive program, which provides the taxpayer with a deduction from income for increases in export sales of qualifying goods during the income tax year. For this program the Department of Commerce computed a subsidy of 10.84 percent.

The programs under which the New Zealand producer/exporter of animal identification tags received a benefit and the amount of the subsidy for each program are as follows:

	Percent
Regional investment allowance on certain new plants and machinery	0.24
Investment allowance on new manufacturing plants and machinery used for export	1.03
Investment allowances on new plant and machinery used in high priority activity	0.60
Export on goods to new markets	0.03
Machinery for export production: Exemption from sales tax	0.44
Increased Exports Taxation Incentive program	10.84
Total	13.18

U.S. Industry

There are currently seven known U.S. producers of animal identification tags. Three of the producers make both one-piece and two-piece tags. One company manufactures only two-piece tags and the other three companies currently produce only one-piece tags. In addition, two companies produce other tags, namely neck-chain and back tags.

Y-Tex Corp. of Cody, Wyo., the petitioner in this investigation, is a subsidiary of Nielson Enterprises. A major U.S. producer of one-piece tags since 1967, Y-Tex introduced a flexible two-piece tag in 1969 and 1970, but found no market for it at that time. It introduced its current two-piece tag in 1978. Y-Tex produces its own tags using the injection-molding process. At the present time it has *** hot-stamp machines for numbering and personalizing the tags. In 1975, Y-Tex started a mail-order catalog business called Modern Farms, which caters to the rural farm population. The Modern Farms catalog offers direct sales of Y-Tex animal identification tags to the consumer. Y-Tex ***, accounting for approximately *** percent of total U.S. producers' domestic shipments of tags in 1979.

Temple Tag Co. was founded in 1957 and manufactured one-piece tags exclusively for 20 years. In February 1977, the Starbar Tag Co. (a subsidiary of Zoecon Industries), 1/ purchased Temple Tag and merged all animal tag operations under the Temple name. Temple presently produces both one-piece and two-piece tags in its production facility in Temple, Tex. Its original tag is a small hard plastic clip-on tag which is threaded through a slit in the ear. The current Temple product line also includes a two-piece tag called the "Herdsman," which is produced in large and medium sizes; the two-piece "Top-Tag," which sits on top of the ear to allow greater visibility and is also produced in large and medium sizes; the Country Giant, a one-piece tag, again available in the large and medium size; and a small two-piece "Herdsman" designed for use on hogs. Temple has a pliers-type applicator for its two-piece tags as well as for its one-piece Country Giant tags. It also provides a push-pull trocar applicator for its one-piece tags. Temple sells its tags both stamped and unstamped, and, in 1979, accounted for *** percent of U.S. producers' domestic shipments of tags.

American Stockman Tag Co. of Temple, Tex. was incorporated in August 1979 and began production in January 1980. Using the injection-molding process, it manufactures only one-piece maxi tags, which are sold ***. It sells the tags already numbered or blank, and also markets an ink marker so the customer can mark the blank tags. American Stockman informed the Commission that ***. American Stockman made no sales in 1979, but accounted for *** percent of total U.S. producers' domestic shipments of tags in January-September 1980.

Fearing Manufacturing Co. is a family-owned firm located in St. Paul, Minn. It began the manufacture of livestock identification products in 1945, added flexible one-piece tags to its line in 1964, and began manufacturing two-piece tags in 1978. Fearing owns the patents and the molds for the tags, but contracts the actual molding of the tags to several different companies which use their own injection-molding machines to produce the tags. Fearing purchases the raw material, supplies it to the contractor, and oversees the operation of the contractor. Fearing stamps, packages, and markets the tags itself. The company produces three sizes of the one-piece tag and three sizes of the two-piece tag. In addition, they have a button tag for sheep and hogs and a new "Bacon Button" designed specifically for hogs. Fearing also carries small clip-on hard plastic ear tags and a few neck-chain tags and hip tags. Fearing accounted for approximately *** percent of U.S. producers' domestic shipments of tags in 1979.

On July 8, 1980, the Economic Development Administration of the Department of Commerce approved the guarantee of $410,000 in trade adjustment assistance loans for Fearing Manufacturing Co. Included in the assistance are loans for $245,000 to purchase machinery and equipment and $165,000 to be used as working capital. 2/

1/ Zoecon is in turn a subsidiary of Hooker Chemical Co. which is owned by Occidental Petroleum Co.

2/ A copy of the notice of adjustment assistance is set forth in app. F.

Ritchey Manufacturing Co. of Brighton, Colo. is a family-owned firm that began producing one-piece ear tags in 1964. It manufactures and sells only one-piece tags and accessories such as applicators and marking pens. ***. Five sizes are produced, ranging from just under 1 square inch to approximately 7.5 square inches. The tags are available blank or stamped, with a special ink provided for use with blank tags. The U.S. Park Service purchases tags from Ritchey for use in its research on wild animals. Ritchey accounted for approximately *** percent of total U.S. producers' domestic shipments of tags in 1979.

Apollo Tag Inc., located in Casper, Wyo., began operation in 1963 as the Perma-Tag Manufacturing Co. Its products at that time included identification neck chains. In 1965, Apollo was awarded a patent for a two-piece identification tag. Currently, Apollo only manufactures those two-piece tags. Until the fall of 1980, Apollo contracted out for the injection molding of their tags. At that time they began doing their own injection molding. Their tag is slightly different from the other two-piece tags in that the male part of the tag is made in a single molding process, from a polycarbonate which is a harder plastic than that used by other tag producers. There is no metal tip required and one step in the production process is thereby eliminated. In 1979, Apollo accounted for approximately *** percent of U.S. producers' domestic shipments of tags.

Rio Vista Farms began production of one-piece animal tags in December 1979 after it purchased the "Sta-Put" tag line from Agri-Marketing International. Like Fearing, Rio Vista contracts out for the actual injection molding of the tags. Rio Vista then numbers and personalizes the tags and packages them for marketing. Rio Vista accounted for *** percent of total U.S. producers' domestic tag shipments in 1979. This firm's most important business is the raising and selling of cattle.

In 1977, one U.S. producer of identification tags, International Beef Breeder of Colorado, ceased production. That firm produced two-piece tags.

The Foreign Industry and Capacity of the Foreign Industry to Generate Exports

The only New Zealand exporter of animal identification tags is Delta Plastics, Ltd., a subsidiary of Allflex Holdings, Ltd., Palmerston North, New Zealand. Allflex Holdings, Ltd., was established as a publicly owned company in December 1979, with Delta Plastics as a subsidiary operating company. The prospectus issued by Allflex in connection with its establishment and its 1980 annual report are the sources for the information in this section.

Delta Plastics was established in 1955 as an engraver of plastic signs, and by 1966 had entered the animal identification tag field. The most successful product designed and marketed by the firm is the Allflex animal identification tagging system. Its sales of the ear tags increased from $NZ 181,000 in 1971 to $NZ 5.1 million in 1979. Export sales of tags by Delta increased from 29 percent of total company sales in 1973 to 87 percent in 1979 (table 1).

Table 1.--Animal identification tags: Domestic New Zealand tag sales and export tag sales by Delta Plastics, Ltd., fiscal years 1971-79

(In New Zealand dollars)

Year ended Mar. 31--	Domestic sales	Export sales	Share of total company sales accounted for by export sales
			Percent
1971	$128,000	$53,000	29
1972	162,000	50,000	24
1973	256,000	105,000	29
1974	333,000	287,000	46
1975	302,000	362,000	55
1976	291,000	1,099,000	79
1977	594,000	2,063,000	78
1978	493,000	2,663,000	84
1979	651,000	4,468,000	87

Source: Allflex prospectus.

Currently, the company's New Zealand plant has a capacity to produce 100 million tags a year. The number of tags sold during fiscal 1979 was approximately 48 million. Production for fiscal 1980 was expected to exceed 80 million tags. Delta also produced 90,000 tag applicators in 1979. Approximately 50 percent of Delta's exports go to the United States. It has wholly owned subsidiaries in Melbourne, Australia, and Culver City, Calif., and joint-venture manufacturing facilities in Vitre, France, and Syracuse, N.Y.

U.S. Importers

Four U.S. companies import Allflex animal identification tags from New Zealand: Allflex Tag Co., Culver City, Calif., G.C. Hanford Manufacturing Co., Syracuse, N.Y., Vet Brand, Inc., Torrance, Calif., and Diamond Shamrock Corp., Cleveland, Ohio.

Allflex Tag Co. is a wholly owned subsidiary of Delta Plastics, Ltd., and acts as an agent for its parent company in the United States. The U.S. subsidiary conducts a retail mail-order business for Allflex tags and also helps Delta's two master agents, Vet Brand and G.C. Hanford, in various problem areas. Allflex Tag Co. accounted for *** percent of U.S. sales of the imported tag in 1979. Vet Brand was a distributor of farm-animal-related products before it began marketing tags. Currently, more than *** percent of Vet Brand's total sales is accounted for by Allflex tags. The company maintains a complete stamping operation for numbering and personalizing the tags and accounted for *** percent of the U.S. sales of the imported tag in 1979. G.C. Hanford Manufacturing Co. began operation in 1864 as a producer of veterinary medicines and related products. Hanford became an importer of the Allflex tags upon the recommendation of Vet Brand. While the bulk of Vet Brand's tag sales are ***. Hanford accounted for *** percent of U.S. sales of the imported tag in 1979.

In early 1980, G.C. Hanford and Delta Plastics jointly formed a new company in New York called the Allflex Manufacturing Co., Inc. The new company was started for the exclusive purpose of manufacturing the Allflex tag system. Financed by a bond issue from the Onondaga (N.Y.) County Industrial Development Board, the new company has built an 8,000-square-foot building adjacent to Hanford's plant. 1/ Production began in October 1980, ***. The additional machines will be ordered as the demand for increased production develops. George Hanford, president of Allflex Manufacturing Co., estimated that the new company will produce 5 million tags in the first year of operation and will attempt to double production in each of the next 2 years. 2/ It is expected that production by the Allflex Manufacturing Co. will supplement rather than replace the imported tags. 3/

In 1979, Diamond Shamrock acquired the Animal Health Division of Shell Oil, which was importing male buttons from Delta Plastics for use in an insecticide tag for cattle called the Raybon tag. Shell, and Diamond Shamrock after the acquisition, provided the female part of the tag, which contains the insecticide. The insecticide ear tag was first marketed in commercial quantities in 1980. Diamond Shamrock and Allflex expect that demand for the new product will be *** tags a year.

U.S. Market

Channels of distribution

The majority of sales of ear tags in the United States are made through distributors, that in turn sell them to dealers or end users. There are some sales of ear tags directly to the end user through mail-order catalogs. One domestic producer 4/ has its own catalog business and many of the others sell through other farm catalogs. *** sells directly to feedlots; however, the other companies sell to feedlots only through their regular distributor channels.

Structure of market demand

The demand for ear tags is derived from their use in the cattle, sheep, and hog industries, and thus depends on the size of these industries and degree of use in them. The following discussion is based on official statistics of the U.S. Department of Agriculture (USDA) and conversations with individuals familiar with these industries.

Cattle.--The cattle industry in the United States is made up of beef and dairy cattle segments, with beef cows outnumbering dairy cows by about 3.5 to 1. 5/ Data are not available on the number of ear tags sold specifically to the cattle industry, but industry sources indicated that most ear tags go to

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1/ Transcript of the conference, investigation No. 303-TA-14 (Preliminary) pp. 71-72.
2/ Ibid., p. 73.
3/ Ibid., pp. 81 and 82.
4/ Y-Tex.
5/ John H. McCoy, Livestock and Meat Marketing, Westport, Conn., Avis Publishing, 1979, p. 60.

this market. From a comparison of ear tag sales with USDA cattle supply it is estimated that from 15 to 30 percent of all cattle are identified with ear tags and that this share has been growing. 1/

The cattle industry is cyclical in nature. A downturn or liquidation phase, triggered by declining cattle prices in 1974, began in 1975 and lasted through 1979. This downturn was characterized by declining calf crops, declining cattle inventories, and a decrease in the number of cattle slaughtered. USDA statistics show that an accumulation phase began in 1980 when the calf crop and cattle inventories increased for the first time since 1975 (tables 2 and 3). Prices paid for cattle by feedlots declined from mid-1979 through mid-1980, but rose for the first time in four quarters in July-September 1980. 2/

Table 2.--U.S. balance sheets for cattle and calves, 1977-80

(In millions of head)

Item	1977	1978	1979	1980
Jan. 1 inventory	122.8	116.4	110.9	111.0
Calf crop and imports	47.2	45.1	43.5	46.2
Total supply	170.0	161.5	154.4	157.3
Slaughter	48.1	44.3	37.1	36.8
Deaths and exports	6.1	5.8	5.7	5.5
Total disappearance	54.2	50.1	42.8	42.3
Residual	.6	(.5)	(.6)	0
End-of-period inventory	116.4	110.9	111.0	115.0

Source: USDA, Cattle, January 1980 and January 1981.

Table 3.--U.S. calf crops, 1978-80

Period	1978		1979		1980	
	Quantity	Percent of total	Quantity	Percent of total	Quantity	Percent of total
	Thousands		Thousands		Thousands	
Jan. 1-June 30	31,038	70.8	29,899	69.9	32,550	71.5
Jul. 1-Dec. 31	12,801	29.2	12,853	30.1	1/ 12,975	28.5
Total	43,839	100.0	42,752	100.0	1/ 45,525	100.0

1/ Expected calf crop for 1980.

Source: USDA, Cattle, Jan. 30, 1980, and July 28, 1980.

1/ The low estimate of 15 percent is based on the assumption that ear tags for cattle are generally of larger sizes (over 2 square in). The high estimate of 30 percent is based on the assumption that any size ear tag may be used for cattle.

2/ USDA, Livestock and Meat Situation, November 1980.

Within the cattle industry, the degree of use of ear tags varies according to the function of the animal. Beef cattle are classified as either breeding stock or stock meant for eventual slaughter, although older or less productive breeding stock can be "culled" for slaughter. Several sources indicated that the use of ear tags is more prevalent in breeding stock, where monitoring individual cows or bulls is more important. Breeding stock consists of beef cows that have calved, heifers meant for beef cow replacement, and bulls. USDA combined statistics for inventories of these three categories are shown in the following tabulation.

	Quantity (1,000 head)
Jan. 1, 1978	47,198
Jan. 1, 1979	44,992
Jan. 1, 1980	45,517
Jan. 1, 1981	47,732

Beef cattle destined for slaughter are generally sold to a feedlot where final fattening takes place. 1/ When two or more herds are placed in a common feedlot, the feedlot operator uses brands or ear tags to identify each herd. The extent of use of each identification method varies by region. In the Southwest, where commercial feedlots are very large, branding is the preferred method. The possibility that plastic ear tags can fall out or shatter in cold weather is also considered a deterrent to their use. A major disadvantage of branding is that it damages the marketable hide, causing some feedlot operators to favor ear tags.

Several sources stated that if ear tags are used in feedlots, they are usually of the one-piece variety because the higher price of a two-piece ear tag limits its use in this application. Therefore, competition in this market appears to be between one-piece ear tags and branding. The *** one-piece feeder tag was cited as the predominant tag used in feedlots and *** estimated that *** percent of its total ear tag sales through its distributors were to feedlots. ***. All other manufacturers reported that their sales of ear tags to feedlots are insignificant or not known. Cattle placements in feedlots are shown in the following tabulation.

	Quantity (1,000 head)
1978:	
January-March	6,490
April-June	6,558
July-September	7,352
October-December	8,673

1/Grass-fed cattle are also slaughtered, but accounted for only 7 percent of total cattle slaughter in 1979 and 1980.

1979:	
January-March	5,853
April-June	6,149
July-September	5,957
October-December	8,077
1980:	
January-March	5,217
April-June	5,625
July-September	6,412

Certain States, particularly those allowing open-range grazing, require branding for herd identification. In these States, the more sophisticated cattle operations complement branding with the use of ear tags to identify cattle by lineage, pasture use, feed use, or other important characteristics. Such information can be encoded relatively easily on the highly visible ear tag. In other States, ear tags appear to have received wider acceptance, possibly because of the greater ability to monitor cattle in more intensive and controlled farming situations such as those in the Eastern and Midwestern regions.

Individual identification of dairy cattle is more widespread than that of beef cattle because of the need to monitor milk yields from individual cows. The traditional method of identification has been the neck chain. A manufacturer of neck chains, that also distributes ear tags, believes that ear tags are becoming more popular in the dairy cattle industry because neck chains often become caught on fences or brush. As in the beef industry, the use of individual identification depends on the sophistication of the operation. Ear tags or neck chains need not be used in a small herd where farmers can individually identify their animals by sight.

USDA statistics show that the average dairy cattle herd size has been increasing. Operations having less than 50 cows accounted for 83 percent of all operations in 1978, but 81 percent in 1979. Increasing herd size coupled with the increasing preference for ear tags over neck chains will quite likely increase ear tag use in this market. Both one- and two-piece ear tags are used, but the share of each in this market could not be determined. USDA milk cow inventories are shown in the following tabulation:

	Quantity (1,000 head)
Jan. 1, 1978	10,939
Jan. 1, 1979	10,790
Jan. 1, 1980	10,779
Jan. 1, 1981	10,869

Sheep.--In the sheep industry, sources indicate that ear tags are used most extensively in breeding stock (called stock sheep by USDA) and in the smaller herd regions, such as the Midwest, rather than in the larger herd Southwest region. The U.S. balance sheet for all sheep and lambs is presented

in table 4, and USDA statistics on stock sheep inventories are shown in the following tabulation:

	Quantity (1,000 head)
Jan. 1, 1977	11,035
Jan. 1, 1978	10,725
Jan. 1, 1979	10,667
Jan. 1, 1980	10,891

Table 4.--U.S. balance sheet for all sheep and lambs, 1977-79

(In thousands of head)

Item	1977	1978	1979
Jan. 1 inventory	12,766	12,348	12,220
Lamb crop and imports	8,615	8,031	8,053
Total supply	21,381	20,379	20,273
Slaughter	6,555	5,543	5,187
Deaths and exports	2,296	2,176	2,165
Total disappearance	8,851	7,719	7,352
Residual	(182)	(440)	(408)
Dec. 31 inventory	12,348	12,220	12,513

Source: USDA, Sheep and Goats, Jan. 25, 1980.

Hogs.--A representative from the National Bureau of Swine Records stated that ear notching is the accepted and standard method of identifying breeding hogs for registration purposes. Ear tags may also be used, in addition to ear notching, for monitoring disease, feed use, or other purposes. In the commercial sector, if ear tags are used, they are used on sows. Use of ear tags in this market, although growing, is presently limited. Because of the aggressive nature of hogs towards each other, an ear tag is vulnerable to being ripped out. For this reason, one source suggested that the two-piece ear tag, which fits more tightly against the ear, might be more appropriate for this market. Table 5 shows breeding and commercial hog inventories from 1978 to 1980.

Table 5.--Inventories of hogs on farms, by types, as of Sept. 1, 1978-80

(In thousands of head

Item	1978	1979	1980
Breeding	7,463	8,277	7,447
Market	41,837	48,993	48,113
Total	49,300	57,270	55,560

Source: USDA, Livestock and Meat Situation, October 1980.

Consideration of Injury to the U.S. Industry

There are seven known U.S. producers of plastic animal identification tags, which account for almost all shipments of domestically produced tags. The Commission received a questionnaire response from all seven companies. However, there were differences among the firms concerning the type of tag produced and when production began, and some firms provided only estimated data or data based on varying fiscal years.

In 1977, the first year for which data were collected, Ritchey, Fearing, and Y-Tex produced only one-piece tags. In 1978, Fearing and Y-Tex began producing two-piece tags, whereas Ritchey continues to produce only one-piece tags to the present time. Temple produced both one-piece and two-piece tags throughout the period. Apollo produced only two-piece tags. Rio Vista began production of one-piece tags in 1979 and American Stockman began producing one-piece tags in 1980. Apollo, Fearing, and Ritchey reported some of the data based on their respective fiscal years, and all firms except American Stockman indicated that some of their data were estimated.

When available, aggregated data will be shown, with estimates or information given on other than a calendar year basis clearly footnoted. In some instances, when aggregation of data is not appropriate, it will be presented separately for individual producers.

U.S. capacity, production, and capacity utilization

The total U.S. capacity of reporting firms to produce plastic animal identification ear tags increased from 61.3 million tags in 1977 to 91.3 million tags in 1979. This 49 percent increase in capacity was due in large part to ***.

Figures for January-September 1980 compared with figures for the corresponding months in 1979 show that capacity has continued to increase in 1980, rising from 67.0 million in January-September 1979 to 80.3 million in the corresponding period of 1980, representing an increase of 20 percent. This increase was due to ***.

Total capacity figures 1/ for U.S. producers of animal identification ear tags are shown in the following tabulation:

	Quantity (1,000 units)
1977	61,317
1978	67,483
1979	91,255
January-September--	
1979	67,015
1980	80,304

1/ Temple provided estimated capacity figures. Capacity figures for Fearing, Rio Vista, and Apollo were based on capacity of the molds in normal use.

January-March--	
1979	22,065
1980	26,098
April-June--	
1979	22,180
1980	26,878
July-September--	
1979	22,770
1980	27,328

As the same machines which produce one-piece tags are used to produce two-piece tags, 1/ capacity figures for the production of one-piece and two-piece tags are based on an average estimated product mix. If demand should shift from one type of tag to the other, the firms which produce both types could shift production with relative ease by changing molds.

There are four known U.S. producers of two-piece animal identification ear tags. Their capacity to produce two-piece tags increased from *** tags in 1977 2/ to *** tags in 1979, representing an increase of 25.1 million tags, or 503 percent. A comparison of capacity figures for January-September 1980 with those for the corresponding period of 1979 shows that two-piece tag capacity continued to increase, rising from 20.4 million in January-September 1979 to 27.9 million in the corresponding period of 1980, representing an increase of 36 percent.

Capacity figures for U.S. production of two-piece animal identification ear tags are as follows:

	Quantity (1,000 units)
1977	***
1978	19,058
1979	30,138
January-September--	
1979	20,437
1980	27,894
January-March--	
1979	6,539
1980	9,198
April-June--	
1979	6,654
1980	9,198
July-September--	
1979	7,244
1980	9,498

1/ The two components of a two-piece tag are being considered as one complete tag unit for statistical purposes.

2/ Only Apollo reported capacity figures for 1977.

There are presently six known U.S. producers of one-piece animal identification ear tags. The capacity of these producers to produce one-piece tags rose from *** in 1977 to 61.1 million in 1979, representing an increase of *** tags, or *** percent. A comparison of figures for January-September 1979 with those of the corresponding period in 1980, shows that U.S. capacity to produce one-piece tags continued to increase in 1980, rising from 46.6 million in January-September 1979 to 52.4 million in January-September 1980. This is an increase of 5.8 million tags, or 13 percent. Capacity figures for U.S. producers of one-piece animal ear tags are as follows:

	Quantity (1,000 units)
1977	***
1978	48,425
1979	61,117
January-September--	
1979	46,578
1980	52,410
January-March--	
1979	15,526
1980	16,900
April-June--	
1979	15,526
1980	17,680
July-September--	
1979	15,526
1980	17,830

In 1977, total U.S. production of animal identification ear tags, both one-piece and two-piece, was 23.4 million tags. In 1979, production had increased to 37.5 million, representing an increase of 14.1 million tags, or 60 percent. Figures for January-September 1980 show production of 28.7 million tags, representing an increase of 2 million tags, or 8 percent, over the figures for the corresponding period of 1979. The increase in production from 1977 to 1979 was due, for the most part, to ***. The increase in 1980 was due to ***.

Total U.S. production 1/ of animal identification ear tags in recent periods is shown in the following tabulation:

	Quantity (1,000 units)
1977	23,417
1978	34,523
1979	37,547
January-September--	
1979	26,647
1980	28,655

1/ Temple provided estimated production figures. Figures provided by Fearing were based on their fiscal year, May-April.

Data for the first three quarters of 1979 and 1980 give an indication of the cyclical nature of the ear tag business. The first quarter of both years shows higher production, in anticipation of higher sales in the spring. The next two quarters show lower production, this being a time when companies generally work off their inventories. The decline in production in the third quarter of 1980 is the result of a 6-week plant shutdown by Y-Tex beginning in July 1980, and a sharp drop in production by most of the other domestic producers. Only one company, ***, reported an increase in production for the third quarter of 1980, compared with production in the corresponding quarter of 1979. Quarterly production for January-September 1979 and 1980 is shown in the following tabulation:

	Quantity (1,000 units)
January-March--	
1979	10,568
1980	13,634
April-June--	
1979	8,050
1980	8,518
July-September--	
1979	8,028
1980	6,503

In 1977, U.S. production of one-piece tags was *** million; in 1978, it increased by *** million to 29.5 million, or by *** percent. In 1979, however, production declined by 2.6 million tags, or 9 percent, to 26.9 million ear tags. Thus, between 1977 and 1979 there was an overall increase in production of *** million tags, or *** percent. Data for January-September 1980 indicate an additional increase in the production of one-piece tags, from 19.9 million in January-September 1979 to 20.3 million in the corresponding period of 1980. This is an increase of 388,000 tags, or 2 percent. The increased production in 1980 is due to the beginning of production by American Stockman and the increase in production of ***. All other domestic producers showed a decline in the production of one-piece tags in the first three quarters of 1980. Production figures on one-piece animal identification ear tags are shown in the following tabulation:

	Quantity (1,000 units)
1977	***
1978	29,500
1979	26,903
January-September--	
1979	19,906
1980	20,294

During most of 1977, only one domestic company, Apollo, produced two-piece animal identification ear tags. Temple began production of the two-piece tag in late 1977. Total production for the two companies for the year was *** tags. By 1979 there were two other domestic producers of the two-piece tag and production had increased to 10.6 million tags. This is an increase from 1977 to 1979 of ***. Data for January-September 1980 show a continued increase, with production rising from 6.7 million tags in

January-September 1979 to 8.3 million tags in January-September 1980, representing an increase of 1.6 million tags, or 24 percent. Data on the production of two-piece animal identification ear tags are shown in the following tabulation:

	Quantity (1,000 units)
1977	***
1978	5,023
1979	10,644
January-September--	
1979	6,741
1980	8,361

Increases in production in 1980 are accounted for by two domestic companies, ***, with the other two producers of two-piece tags, ***, showing production decreases.

On a quarterly basis, production of two-piece tags was higher in the first two quarters of 1980 than in the corresponding quarters of 1979. In the first quarter, production increased from 2.4 million in 1979 to 3.8 million in 1980, representing an increase of 1.4 million, or 56 percent. In the second quarter, production increased from 1.7 million in 1979 to 2.6 million in 1980, representing an increase of 0.9 million or 52 percent. In the third quarter of 1980, however, production declined, when compared with the third quarter of 1979, falling from 2.6 million tags in 1979 to 2.0 million tags in 1980. Production figures on a quarterly basis for the first three quarters of 1979 and 1980 are shown in the following tabulation:

	Quantity (1,000 units)
January-March--	
1979	2,446
1980	3,807
April-June--	
1979	1,682
1980	2,551
July-September--	
1979	2,612
1980	2,003

The production and capacity figures for 1977-79 show that capacity utilization for one-piece and two-piece ear tags combined increased from 37.7 percent to 41.1 percent. This 41.1 percent is down, however, from the high of 51.2 percent in 1978, and data for January-September 1980 show a continued decline to 35.7 percent, compared with 39.7 percent for the corresponding period of 1979.

In 1977, capacity utilization for one-piece ear tags was *** percent. This *** to 60.9 percent in 1978 and then dropped to 44.0 percent in 1979. Figures for January-September 1979 compared with figures for the corresponding period of 1980 indicate a continued decline.

Capacity utilization for two-piece ear tags was *** percent in 1977, however, only one company provided both capacity and production figures for that year. In 1978, with four companies reporting, capacity utilization for two-piece tags was 26.3 percent. This utilization increased to 35.3 percent in 1979, but a decline is shown for January-September of 1980, when compared with the corresponding period of 1979 (table 6).

Table 6.--Animal identification ear tags: U.S. production, capacity, and capacity utilization, 1977-79, January-September 1979, and January-September 1980

Item and Period	Production	Capacity	Capacity utilization
	1,000 units	1,000 units	Percent
One-piece ear tags:			
1977	***	***	***
1978	29,500	48,425	60.9
1979	26,903	61,117	44.0
January-September--			
1979	19,906	46,578	42.7
1980	20,294	52,410	38.7
Two-piece ear tags:			
1977	1/ ***	1/ ***	1/ ***
1978	5,023	19,058	26.4
1979	10,644	30,138	35.3
January-September--			
1979	6,741	20,437	33.0
1980	8,361	27,894	30.0
Total ear tags:			
1977	23,142	61,317	37.7
1978	34,523	67,483	51.2
1979	37,547	91,255	41.1
January-September--			
1979	26,647	67,015	39.8
1980	28,655	80,304	35.7

1/ Figures shown are those reported by Apollo Tag only. Temple provided production figures but no capacity figures for 1977; therefore their data for 1977 were not included in the table.

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

Three of the firms do not have their own injection-molding equipment and their capacity figures were reported based on the capacity of the molds in normal use. Four of the firms do have their own injection-molding machines and were therefore able to report on their actual capacity. Production, capacity and capacity utilization for these firms are shown in table 7.

Table 7.--Animal identification ear tags: U.S. production, capacity, and capacity utilization, for 4 domestic producers with injection-molding machines, 1/ by types, 1977-79, January-September 1979, and January-September 1980

Item and period	Production	Capacity	Capacity utilization
	1,000 units	1,000 units	Percent
One-piece ear tags:			
1977	***	***	39.5
1978	***	***	61.4
1979	***	***	52.1
January-September--			
1979	***	***	49.9
1980	***	***	45.3
Two-piece ear tags:			
1977	***	***	0
1978	***	***	30.2
1979	***	***	36.5
January-September--			
1979	***	***	33.2
1980	***	***	28.0
Total ear tags:			
1977	***	***	39.5
1978	***	***	53.6
1979	***	***	47.1
January-September--			
1979	***	***	44.5
1980	***	***	39.6

1/ Temple, Ritchey, Y-Tex, and American Stockman (in 1980 only).

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

U.S. producers' domestic shipments

U.S. producers' total domestic shipments of animal identification ear tags increased steadily from 26.9 million tags in 1977 to 34.0 million tags in 1979, representing an increase of 7.2 million tags, or 27 percent. Shipments in January-September 1980 declined slightly, to 25.2 million, compared with 25.4 million in the corresponding period of 1979. This decline reflects only lower shipments of one-piece tags as shipments of two-piece tags increased throughout the period (table 8).

Table 8.--Animal identification ear tags: U.S. producers' domestic shipments, by types, 1977-79, January-September 1979, January-September 1980, and by quarters, January 1979-September 1980

(In thousands of units)

Period	2-piece tags	1-piece tags	Total
1977	***	***	26,851
1978	2,803	29,143	31,946
1979	8,282	25,749	34,031
January-September--			
1979	5,178	20,229	25,407
1980	6,565	18,645	25,210
January-March--			
1979	2,038	8,415	10,453
1980	3,183	8,502	11,685
April-June--			
1979	1,772	6,906	8,678
1980	1,777	4,526	6,303
July-September--			
1979	1,368	4,908	6,276
1980	1,605	5,617	7,222

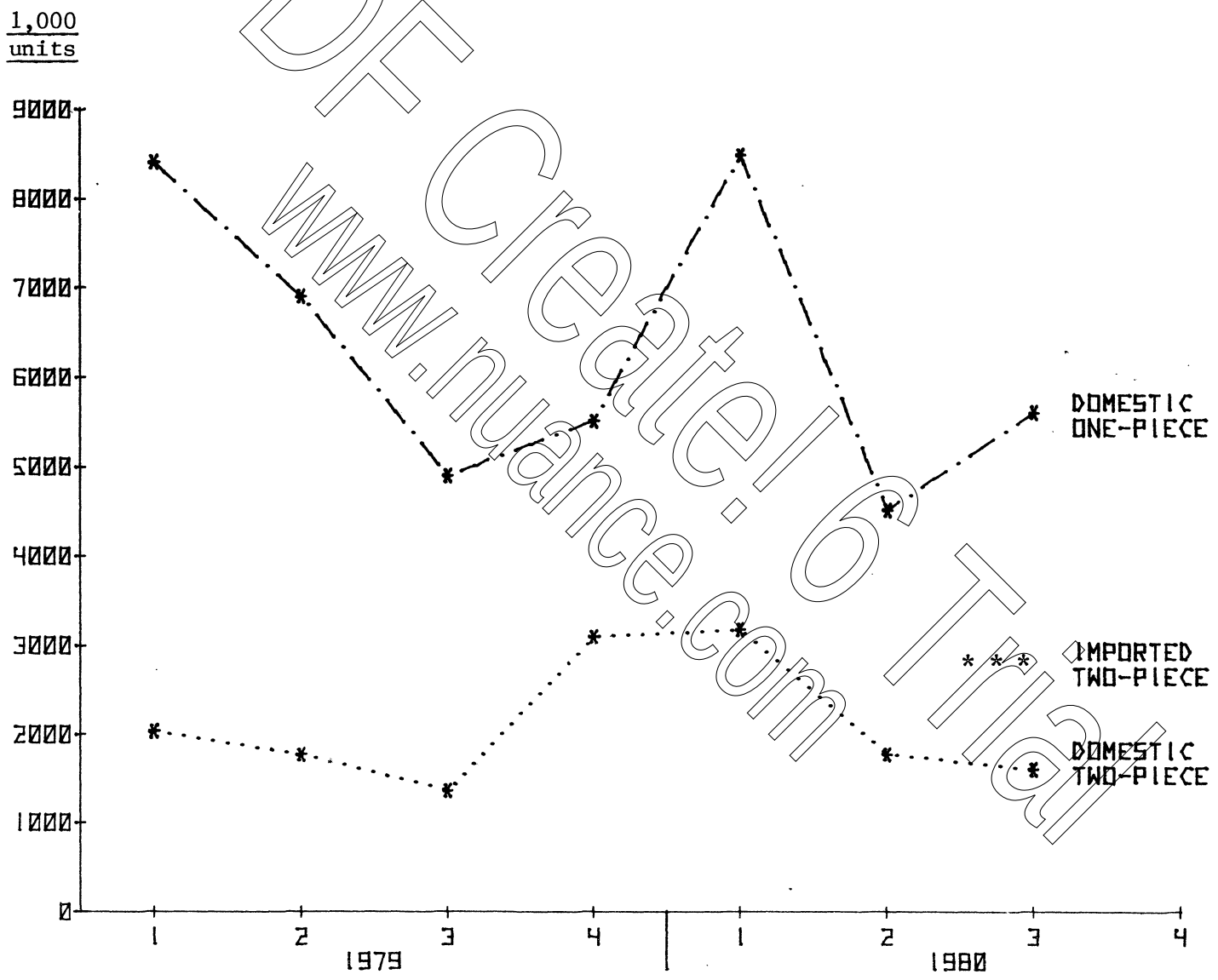
Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

In 1977, U.S. producers' domestic shipments of one-piece ear tags totaled *** units. Shipments *** in 1978 to 29.1 million, then declined to 25.7 million in 1979. This decline continued in January-September of 1980 with shipments of 18.6 million, compared with 20.2 million in the corresponding period of 1979.

U.S. producers' domestic shipments of two-piece tags rose from *** in 1977 to 2.8 million in 1978, and then jumped to 8.3 million in 1979. Shipments of two-piece tags continued to increase in January-September 1980, rising from 5.2 million in January-September 1979 to 6.6 million in the corresponding period of 1980. This represents an increase of 1.4 million tags, or 27 percent. ***.

The graph on the following page shows U.S. shipments of both the domestic and imported ear tags by quarters from January 1979 through September 1980. Additional information on importers shipments is presented later in the report.

Animal identification ear tags: Domestic shipments of U.S. producers and importers, by types and by quarters, January 1979-September 1980



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

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U.S. producers' exports

Four domestic companies reported export shipments of animal identification ear tags: ***. In 1977, exports of ear tags were *** units; they declined to *** in 1978 and then rose to *** in 1979. Figures for January-Septembter 1980 indicate that exports declined in that year, when compared with figures for January-September 1979. Total exports are shown in the following tabulation:

	Quantity (1,000 units)
1977	***
1978	***
1979	***
January-September--	
1979	***
1980	***
January-March--	
1979	***
1980	***
April-June--	
1979	***
1980	***
July-September--	
1979	***
1980	***

Export shipments of one-piece ear tags have declined irregularly since 1977. In that year, exports of one-piece ear tags totaled ***. Such shipments dropped to *** in 1978 and then increased slightly to *** in 1979. This represents a decrease in exports from 1977 to 1979 of ***, or 26 percent. Figures for January-September 1980 indicate this decline is continuing, with exports dropping from *** in January-September 1979 to *** in January-September 1980, representing a drop of *** tags, or 60 percent. Exports of one-piece tags are shown in the following tabulation:

	Quantity (1,000 units)
1977	***
1978	***
1979	***
January-September--	
1979	***
1980	***

Export shipments of two-piece tags, on the other hand, increased steadily from 1977 through January-September 1980. In 1977, export shipments of two-piece tags totaled *** units. This increased to *** in 1978 and then to *** in 1979. Figures for January-September 1980 show this upward trend continuing. In January-September 1979, export shipments of two-piece tags

were ***, whereas in the corresponding period of 1980 shipments increased to ***. Export shipment figures for two-piece tags are shown in the following tabulation:

	Quantity (1,000 units)
1977	***
1978	***
1979	***
January-September--	
1979	***
1980	***

U.S. imports

Nearly all U.S. imports of animal identification tags are from New Zealand. 1/ All the New Zealand tags are two piece and are manufactured by Delta Plastics, Ltd. The Commission received questionnaire responses from Delta's two master agent importers, G.C. Hanford Manufacturing Co. and Vet Brand, Inc., as well as Delta's wholly owned California subsidiary, Allflex Tag Co. Together, these three importers accounted for approximately *** percent of U.S. imports of animal identification tags from New Zealand.

As shown in the following tabulation, imports of tags from New Zealand by these three firms almost doubled, from *** tags 2/ in 1977 to *** tags in 1978, and then increased again to *** tags in 1979. During January-September 1980, imports of tags from New Zealand increased by 7 percent over the corresponding period of 1979, as follows:

	Quantity (1,000 units)
1977	***
1978	***
1979	***
January-September--	
1979	***
1980	***

The remaining *** percent of Delta's export sales to the United States have been made to Shell Oil/Diamond Shamrock Animal Health Division, which manufactures insecticide Raybon buttons. These tags use the Allflex male button with a Diamond Shamrock female tag containing the insecticide formula.

1/ According to U.S. Customs Service invoices, small amounts of tags are imported from the United Kingdom. They are manufactured by Dalton Supplies, Ltd., and amounted to *** units in 1977 (value ***), *** units in 1978 (value ***), *** units in 1979 (value ***), and *** units in January-September 1980 (value ***).

2/ The two components of a two-piece tag are being considered as one complete tag unit for statistical purposes.

The Allflex applicator is used to apply the special tag to the animal's ear. It should be noted that the tags manufactured by Diamond Shamrock are not for the identification of animals, and thus have not been included in U.S. industry data. However, the imported male buttons are subject to the subsidy determination and therefore are within the scope of the investigation. Since import data were presented in tag units (male and female components being counted as one tag), imports of the buttons were not included. The following tabulation shows the quantity of male buttons exported by Delta Plastics to Shell/Diamond Shamrock:

	Quantity (1,000 units)
1977	***
1978	***
1979	***
January-June--	
1979	1/
1980	***

1/ Not available.

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

Total U.S. producers' inventories of animal identification ear tags increased from 6.1 million tags at the end of 1977 to 8.6 million tags at the end of 1978. By the end of 1979, they had risen to 11.3 million, and by the end of September 1980 inventories totaled 12.9 million. This was 4.2 million higher than the 8.7 million units in inventory at the end of September 1979. Total end-of-period inventory 1/ figures are shown in the following tabulation:

	Quantity (1,000 units)
1977	6,062
1978	8,619
1979	11,280
Mar. 31--	
1979	10,360
1980	11,827
June 30--	
1979	8,604
1980	12,928
Sept. 30--	
1979	8,704
1980	12,885

1/ Inventory figures provided by Temple and Ritchey were estimated.

Inventories of one-piece ear tags increased from *** at the end of 1977 to 6.1 million at the end of 1979, representing ***. As of September 30, 1980, inventories of one-piece tags were 6.9 million units, representing an increase of 1.9 million tags, or 39 percent, more than the 5.0 million in inventory as of September 30, 1979. End-of period inventory figures for one-piece tags are shown in the following tabulation:

	Quantity (1,000 units)
1977	***
1978	5,721
1979	6,139
Mar. 31--	
1979	5,948
1980	6,709
June 30--	
1979	4,871
1980	7,180
Sept. 30--	
1979	4,976
1980	6,892

The majority of the increase in total inventories, however, was accounted for by ***. In 1977, with only one domestic company reporting on two-piece tags, inventories were ***. By the end of 1978, with two additional companies reporting on two-piece tags, inventories had risen to 2.9 million tags, representing an increase of *** tags. By 1979, with all four domestic companies reporting on two-piece tags, inventories had risen to 5.1 million, representing an additional increase over 1978 of 2.2 million tags, or 77 percent. Inventories as of September 30, 1980 were 6.0 million units, representing an increase of 2.3 million, or 61 percent, compared with the level of September 30, 1979. End-of-period inventories of two-piece tags are shown in the following tabulation:

	Quantity (1,000 units)
1977	***
1978	2,898
1979	5,141
Mar. 31--	
1979	4,412
1980	5,118
June 30--	
1979	3,733
1980	5,748
Sept. 30--	
1979	3,728
1980	5,993

It is the practice in the domestic ear tag industry to maintain inventories sufficient to fill orders with as little delay as possible. With the variety of sizes and types of tags produced, companies are required to maintain large inventories. This can be seen when examining the ratios of inventories to production and inventories to shipments (table 9).

Table 9.--Animal identification ear tags: Ratio of U.S. producers' end-of-period inventories to U.S. producers' production and shipments, by types, 1977-79, January-September 1979, and January-September 1980

(In percent)

Period	Ratio of inventories to--	
	Production	Shipments
Total tags:		
1977	26	23
1978	25	27
1979	30	33
January-September--		
1979	1/ 23	1/ 26
1980	2/ 32	2/ 38
One-piece tags:		
1977	***	***
1978	19	20
1979	23	24
January-September--		
1979	1/ 18	1/ 19
1980	2/ 25	2/ 29
Two-piece tags:		
1977	***	***
1978	58	103
1979	48	62
January-September--		
1979	1/ 35	1/ 45
1980	2/ 46	2/ 57

1/ Ratios calculated on the basis of full-year production and shipments.
2/ Ratios calculated on the basis of annualized production and shipments.

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

Importers' end-of-period inventories

At the end of 1977, U.S. importers of ear tags from New Zealand held inventories of *** tags. By the end of 1979, these inventories had ***. Inventory levels *** slightly in 1980 as well. The ratio of inventories to shipments of imports remained very stable throughout the period as shown in the following tabulation:

	Importers' end-of-period inventories (1,000 units)	Ratio of inventories to shipments (Percent)
1977	***	***
1978	***	***
1979	***	***
Mar. 31-		
1979	***	1/ ***
1980	***	2/ ***
June 30--		
1979	***	1/ ***
1980	***	2/ ***
Sept. 30--		
1979	***	1/ ***
1980	***	2/ ***

1/ Based on full-year shipments.
2/ Based on annualized shipments.

Employment

The total number of persons employed in establishments producing animal identification ear tags increased from 147 in 1977, to 211 in 1978, and to 242 in 1979 (table 10). A comparison of quarterly figures for 1980 with those of 1979 shows that employment was up in the first two quarters and dropped slightly in the third quarter. The number of production and related workers engaged in producing animal identification tags increased from 92 in 1977 to 173 in 1979. This increase of 88 percent was due, in large part, to the startup of production of two-piece tags by three firms and the startup of production of one-piece tags by another firm. In the first quarter of 1980, the number of production and related workers was 17 percent higher than in the corresponding quarter in 1979. By the third quarter of 1980, the number of production and related workers was 15 percent less than the number in the third quarter of 1979.

Table 10.--Average number of total employees and production and related workers in U.S. establishments producing animal identification ear tags and average hourly wages for the latter, 1977-79, and by quarters, January 1979-September 1980

Item and period	Total employees	Production and related workers	Average hourly wage for production and related workers
1977	147	92	$4.26
1978	211	155	4.30
1979	242	173	1/ 4.15
January-March--			
1979	241	172	4.21
1980	277	202	4.30
April-June--			
1979	234	164	4.25
1980	236	163	4.37
July-September--			
1979	229	166	4.35
1980	215	141	4.41

1/ Average hourly wage for production and related workers declined due to ***.

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

Financial experience of U.S. producers

Usable profit-and-loss and other financial data were received from four domestic producers, 1/ representing about 90 percent of total U.S. shipments of animal identification tags in 1979. As shown in table 11, aggregate net sales of animal identification tags by these producers increased by 81 percent, from $4.2 million in 1977 to $7.6 million in 1979, and increased by another 8 percent during January-September 1980, compared with net sales in the corresponding period of 1979. The rise in net sales during 1977-79 was due to increases in the quantity of tags sold coupled with increasing average unit sale prices. The increase in net sales in January-September 1980 resulted only from higher prices as the volume of tags sold declined in that period compared with the corresponding period of 1979.

Net operating profit generated by these four domestic producers of animal identification tags increased by over 200 percent from $329,000 in 1977 to $1.1 million in 1979. During January-September 1980, however, net operating profit declined by almost half, to $421,000, compared with a net operating profit of $836,000 in January-September 1979. The main reasons for the decline in net operating profit were an increase of 37 percent in general, selling, and administrative expenses during January-September 1980, compared

1/ Temple, Y-Tex, Fearing, and Apollo.

Table 11.--Selected financial data for U.S.-producers on animal identification ear tag operations, by firms, 1977-79, January-September 1979, and January-September 1980

	Sales	Cost of goods sold	Gross profit	General, selling, and administrative expenses	Net Operating profit or (loss)	Ratio of net operating profit or (loss) to--			Original cost of fixed assets	Book value of fixed assets
						Net sales	Original cost of fixed assets	Book value of fixed assets		
	1,000 dollars					Percent			1,000 dollars	
1977:										
Y-Tex Corp. 1/	***	***	***	***	***	***	***	***	***	***
Temple Tag Co. 2/	***	***	***	***	***	***	***	***	***	***
Fearing Manufacturing Co. 3/	***	***	***	***	***	***	***	***	***	***
Apollo Tag, Inc. 4/	***	***	***	***	***	***	***	***	***	***
Total or average	4,236	1,719	2,517	2,188	329	7.8	10.0	14.0	3,295	2,342
1978:										
Y-Tex Corp	***	***	***	***	***	***	***	***	***	***
Temple Tag Co	***	***	***	***	***	***	***	***	***	***
Fearing Manufacturing Co	***	***	***	***	***	***	***	***	***	***
Apollo Tag, Inc	***	***	***	***	***	***	***	***	***	***
Total or average	5,808	2,640	3,168	2,476	692	11.9	17.8	24.6	3,897	2,818
1979:										
Y-Tex Corp	***	***	***	***	***	***	***	***	***	***
Temple Tag Co	***	***	***	***	***	***	***	***	***	***
Fearing Manufacturing Co	***	***	***	***	***	***	***	***	***	***
Apollo Tag, Inc	***	***	***	***	***	***	***	***	***	***
Total or average	7,573	3,582	3,991	2,929	1,062	14.0	24.6	34.9	4,314	3,039
January-September 1979:										
Y-Tex Corp	***	***	***	***	***	***	***	***	***	***
Temple Tag Co	***	***	***	***	***	***	***	***	***	***
Fearing Manufacturing Co	***	***	***	***	***	***	***	***	***	***
Apollo Tag, Inc	***	***	***	***	***	***	***	***	***	***
Total or average	5,410	2,465	2,945	2,109	836	15.4	20.6	29.3	4,064	2,850
January-September 1980:										
Y-Tex Corp	***	***	***	***	***	***	***	***	***	***
Temple Tag Co	***	***	***	***	***	***	***	***	***	***
Fearing Manufacturing Co	***	***	***	***	***	***	***	***	***	***
Apollo Tag, Inc	***	***	***	***	***	***	***	***	***	***
Total or average	5,854	2,536	3,318	2,897	421	7.2	8.9	12.9	4,706	3,256

1/ The accounting year for Y-Tex Corp. ended Dec. 31.
2/ Zoecon Industries acquired Temple Tag in 1977 and it's accounting year ended Dec. 31.
3/ The accounting year for Fearing Manufacturing Co. ended April 30. The ear tag sales account for *** percent of total sales of the company.
4/ The accounting year for Apollo Tag, Inc. ended June 30. The ear tag sales account for over *** percent of total sales of the company.

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

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with those during January-September 1979, as well as a decline in sales volume. Selling prices did not keep pace with increasing costs and expenses, particularly marketing expenses, which accounted for most of the increase. Specific cost increases resulted from enlarged sales forces, expanded and modified mail-order operations, extended travel activities, and more investments in research and development. Interest expenses are not included in computing net operating profits. If such expenses had been taken into account, reported profits would have been lower.

The ratio of net operating profit to net sales increased from 7.8 percent in 1977, to 11.9 percent in 1978, and 14.0 percent in 1979. The ratio for January-September 1980 declined to 7.2 percent from 15.4 percent in January-September 1979.

Ritchey Manufacturing Co., which accounted for about *** percent of total U.S. shipments of tags in 1979, presented its financial data on a cash method of accounting, wherein sales and expenses are recorded when payments are received or paid, and not when obligations are actually incurred. Hence the data do not reflect the company's true financial picture on a yearly basis and cannot be included in the aggregated industry data. Selected financial data for Ritchey are presented in the following tabulation and show ***.

Period	Net sales	Net operating profit or (loss)	Ratio of net operating profit or (loss) to net sales
	1,000 dollars		Percent
Fiscal years ending Mar. 31--			
1977	***	***	***
1978	***	***	***
1979	***	***	***
1980	***	***	***
January-September--			
1979	***	***	***
1980	***	***	***

American Stockman Tag Co. started production of one-piece identification tags in January 1980. The company reported sales of *** and a net operating *** of *** during its first fiscal year, which ran from August 1979 to July 1980.

U.S. producers' investment in fixed assets employed in the production of animal identification tags is also shown in table 11. The ratio of net operating profit to book value or original cost of fixed assets followed an increasing trend during 1977-79 and a declining trend in January-September 1980 similar to that of the ratio of net operating profit to net sales.

Advertising

Advertising and marketing have become important parts of the ear tag business. In 1977, all U.S. producers of identification tags spent a total of $82,000 on advertising. This increased to $100,000 in 1978 and then to $160,000 in 1979, almost doubling in the 3 years. In January-September 1980, U.S. producers spent $114,000 to advertise their product, compared with $127,000 in the corresponding period of 1979.

In 1977, the three companies importing the Allflex tag from New Zealand spent a total of *** to advertise their product. This increased to *** in 1978, and to *** in 1979, more than *** the amount spent in 1977. In January-September 1980, the three import companies spent *** on advertising, compared with *** in the corresponding period of 1979, representing an increase of ***. Although Allflex Tag Co. accounted for *** of U.S. shipments of the imports they paid for approximately one third of the advertising of the tags.

Capital expenditures and research and development expenses

Total capital expenditures by domestic producers for facilities used principally in the manufacture, warehousing, and marketing of animal identification tags decreased yearly from *** in 1977 to *** in 1979, but rose sharply to *** during January-September 1980 as shown in the following tabulation:

Period	Capital expenditures	Research and development expenses
	1,000 dollars	
1977	***	***
1978	***	***
1979	***	***
January-September		
1979	***	***
1980	***	***

Roughly *** percent of the entire increase in 1980 was attributable to the initial investment made by newly started American Stockman Tag Co.

Most research and development expenses by domestic producers were incurred in improving and adding new features to existing products. The bulk of the total expenses were incurred by ***. Research and development expenditures increased from *** in 1977 to *** in 1978, declined to *** in 1979, and then rose to *** during January-September 1980.

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

Market penetration

U.S. shipments of Allflex tags imported from New Zealand increased from 5.7 million tags in 1977 to 11.8 million tags in 1979, more than doubling in the 3 years. They continued to increase in January-September 1980, rising from 8.9 million in January-September 1979 to 10.3 million in the corresponding period of 1980, representing an increase of 1.4 million tags, or 16 percent. Actual U.S. shipment figures for the imported tags are shown in the following tabulation:

	Quantity (1,000) units
1977	5,652
1978	8,374
1979	11,817
January-September--	
1979	8,897
1980	10,335
January-March--	
1979	***
1980	***
April-June--	
1979	***
1980	***
July-September--	
1979	***
1980	***

Apparent U.S. consumption for the total animal identification tag market increased from 32.5 million units in 1977 to 40.3 million units in 1978, and to 45.9 million units in 1979 or by 41 percent over the 3 year period. In January-March 1980, apparent consumption was *** million, 17 percent higher than the corresponding period of 1979. In April-June 1980, consumption declined to *** million tags, 19 percent less than the corresponding period of 1979. Apparent consumption rose slightly in July-September 1980 and was 12.6 percent higher than the corresponding period of 1979 (table 12).

The growth in the total ear tag market is due almost completely to the rapid increases in the two-piece tag market. During 1977-79, apparent U.S. consumption of two-piece tags went from *** million tags to 20.1 million tags. Apparent U.S. consumption of two-piece tags continued to increase in each of the first 3 quarters of 1980, when compared with the corresponding quarter in 1979. Apparent U.S. consumption of one-piece tags, on the other hand, increased by *** million tags from 1977 to 1978, but then dropped by 3.4 million tags in 1979. One-piece tag sales increased slightly in January-March 1980 when compared with the corresponding period of 1979, but dropped below the April-June 1979 level in April-June 1980. The market was higher by 709,000 tags in July-September 1980, when compared with July-September 1979. During 1977-79, apparent U.S. consumption of one-piece tags declined by *** units, while consumption of two-piece tags increased by *** units.

Table 12.--Animal identification ear tags: Apparent U.S. consumption for the two-piece, one-piece, and total tag markets, 1977-79, January-September 1979, January-September 1980, and by quarters, January 1979-September 1980

(In thousands of units)

Period	2-piece tag market	1-piece tag market	Total market
1977	***	***	32,503
1978	11,177	29,143	40,320
1979	20,099	25,749	45,848
January-September--			
1979	14,075	20,229	34,304
1980	16,900	18,645	35,545
January-March--			
1979	***	8,415	***
1980	***	8,502	***
April-June--			
1979	***	6,906	***
1980	***	4,526	***
July-September--			
1979	***	4,908	***
1980	***	5,617	***

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

In the total U.S. animal identification ear tag market, imports from New Zealand increased their share of consumption from 17 percent in 1977, to 21 percent in 1978, and 26 percent in 1979. In January-March 1980, imports *** their share to *** percent, compared with *** percent in January-March 1979. In April-June, the imports share of the total market rose to *** percent compared with *** percent in the corresponding quarter of 1979. In July-September 1980, the share of consumption held by imports fell to *** percent, one percentage point less than its level in the July-September 1979.

In the two-piece ear tag market, imports from New Zealand declined from *** percent of the market in 1977 to 75 percent in 1978 and 59 percent in 1979. In January-March 1980, the share held by imports was *** percent, compared with *** percent in the corresponding period of 1979. In April-June 1980, imports held *** percent of the two-piece tag market, compared with 62 percent in the corresponding period of 1979. For July-September 1980, imports held *** percent of the market, 2 percentage points less than the amount held in July-September 1979 (table 13).

Table 13.--Animal identification ear tags: Total U.S. apparent consumption of ear tags and apparent consumption of 2-piece tags, 1977-79, January-September 1979, January-September 1980, and by quarters, January 1979-September 1980

	Apparent total consumption	Ratio of imports to total consumption	Apparent consumption of 2-piece tags	Ratio of imports to consumption of 2-piece tags
	1,000 units	Percent	1,000 units	Percent
1977	32,503	17	***	***
1978	40,320	21	11,177	75
1979	45,848	26	20,099	59
January-September--				
1979	34,304	26	14,075	63
1980	35,545	29	16,900	61
January-March--				
1979	***	***	***	***
1980	***	***	***	***
April-June--				
1979	***	***	***	***
1980	***	***	***	***
July-September--				
1979	***	***	***	***
1980	***	***	***	***

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

Prices

The Commission collected selling price data from the seven domestic producers and the three importers of animal identification tags. These prices are compared in tables 14-19 at the first level of competition in the U.S. market. Allflex Tag Co. of California, as reported before, is a wholly owned subsidiary of Delta Plastics, Ltd. and acts as an agent for that company in the United States. G.C. Hanford Manufacturing Co., of New York, and Vet Brand, Inc. of California, the other two importers of the ear tag from New Zealand, are master agents of Delta Plastics, Ltd. They, along with Allflex, are the exclusive importers of the Delta tag and do not market any other tag. They negotiate the price at which they buy the tags from New Zealand and have an average markup of *** percent between the price they pay for the tags from New Zealand and the price they charge their U.S. distributors.

The first level at which the domestic and imported tags meet in competition is at the distributor level. Thus, for comparative purposes, the prices presented in tables 14-19 are the prices from the domestic companies and the importers to distributors. As Allflex sells its tags only through a mail-order catalog and to Hanford and Vet Brand, but not directly to distributors, its prices are not comparable at this level and are discussed separately. Hanford and Vet Brand maintain identical price lists and their prices are listed in the pricing tables collectively under Delta.

Domestic producers of ear tags maintain nationwide price lists and generally sell directly to distributors, although most of the companies have a small percentage of sales through some mail-order catalogs as well. Prices through the catalogs are at a different level of distribution and, therefore, are not included in the pricing tables. Some of the manufacturers at various times offered discounts and promotions that are not reflected in the prices shown in the tables because in most instances they were in effect for only a month or two in a quarter. They are footnoted in the tables, however, and discussed in more detail later in the text.

Prices were reported quarterly from 1978 through 1980 on blank plastic animal identification ear tags by specified size and type. Although tags are sold both blank and numbered, the observed price differentials between them are virtually constant and prices for blank ear tags are representative of all prices for comparative purposes.

Price Trends.--Tables 14, 15, and 16 present prices for two-piece ear tags closest in size to 1 square inch, 4 square inches, and 8 square inches, respectively. Delta's prices on these tags remained constant for seven quarters from July 1978 through May 1980. This was apparently due to a decision by Delta to "hold our selling price in the USA where we have seen strong efforts by our competitors to regain their declining share of the market." 1/

From January-March 1979 to October-December 1980, domestic prices rose by an average of 23 percent. Price increases among the domestic firms appear to follow a pattern in that a price increase by any one firm is usually followed by a similar price increase by other domestic firms after a lag of up to several months. Generally, price increases were applied to all product lines. Delta's price increases have been less frequent than those of U.S. producers and averaged 16 percent from January-March 1979 to October-December 1980.

Delta's prices have generally been higher than those of U.S. producers. *** two-piece ear tags were priced substantially lower than other comparably sized two-piece tags. Representatives of *** suggested this may be due to ***.

In January-March 1979, domestic prices were lower than Delta's prices for comparable size tags by an average of 4.0 cents per tag, or 16 percent. These price differentials narrowed to an average of 5 percent in April-June 1979 when price increases of domestic manufacturers brought the prices of two of them, *** and ***, equal to or more than Delta's. Some domestic producers again raised prices in January-March 1980, making domestic prices an average of 0.5 cents, or 2 percent, below Delta's average price. The prices of some *** and *** tags continued to be higher than Delta's price at this time. From July 1978 to May 1980, prices of imported ear tags did not change. In June 1980, Delta increased prices by an average of *** percent across all product lines. As a result, domestic prices were again lower than Delta's an average of 4.0 cents per tag, or 13 percent. The price differential narrowed in July-September to 3.2 cents per tag, or 11 percent as *** and *** raised some prices. Temple, Y-Tex, and Apollo had discounts in 1980 and therefore the prices reported for these firms are overstated to some extent.

1/ Director's report to the shareholders of Allflex Holdings, Ltd, of which Delta Plastics, Ltd., is a subsidiary.

Table 14.--Animal identification ear tags: Prices to distributors for the blank, 2-piece ear tag closest in size to 1-square inch, of importers of Delta, Ltd., and the domestic manufacturers, Y-Tex Corp., Fearing, Inc., Temple Tag, and Apollo Tag, Inc., by quarters, January 1978-December 1980

(In cents per tag)

Period	Delta 1/	Y-Tex 2/		Fearing 3/	Temple 4/	Apollo 5/
		All-American	Super-Star			
1978:						
January-March	***	-	-	-	-	-
April-June	***	-	-	-	-	-
July-September	***	6/ ***	-	-	-	6/ ***
October-December	***	6/ ***	-	-	-	6/ ***
1979:						
January-March	***	***	-	***	-	6/ ***
April-June	***	7/ ***	-	7/ ***	***	6/ ***
July-September	***	***	-	***	***	6/ ***
October-December	6/ ***	***	-	***	***	6/ ***
1980:						
January-March	6/ ***	6/ ***	6/ ***	***	6/ ***	6/ ***
April-June	7/ ***	6/ ***	6/ ***	7/ ***	6/ ***	6/ ***
July-September	***	6/ ***	6/ ***	***	***	6/ ***
October-December	6/ ***	6/ ***	6/ ***	***	6/ ***	6/ ***

1/ The reported size of this tag on one side only is 1.5 square inches.

2/ The reported size of this tag on one side only is 1.7 square inches for the All-American ear tag and 1.8 square inches for the Super-Star ear tag.

3/ The reported size of this tag on one side only is 1.9 square inches.

4/ The reported size of this tag on one side only is 2.7 square inches.

5/ The reported size of this tag on one side only is 2.5 square inches.

6/ These prices do not reflect periodic concessions or discounts provided by the companies during these quarters. The various discount policies are described in the text.

7/ Effective June 1.

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

Table 15.--Animal identification ear tags: Prices to distributors for the blank, 2-piece ear tag closest in size to 4 square inches, of importers of Delta, Ltd., and the domestic manufacturers, Y-Tex Corp., Fearing, Inc., and Temple Tag, by quarters, January-1978-December 1980

(In cents per tag)

Period	Delta 1/	Y-Tex 2/		Fearing 3/	Temple 4/
		All-American	Super-Star		
1978:					
January-March	***	-	-	-	-
April-June	***	-	-	-	-
July-September	***	5/ ***	-	-	-
October-December	***	5/ ***	-	-	***
1979:					
January-March	***	***	-	***	***
April-June	***	6/ ***	-	6/ ***	***
July-September	***	***	-	***	***
October-December	5/ ***	***	-	***	***
1980:					
January-March	5/ ***	5/ ***	5/ ***	***	5/ ***
April-June	6/ ***	5/ ***	5/ ***	6/ ***	5/ ***
July-September	***	5/ ***	5/ ***	***	***
October-December	5/ ***	5/ ***	5/ ***	***	5/ ***

1/ The reported size of this tag on one side only is 3.4 square inches.

2/ The reported size of this tag on one side only is 3.6 square inches for the All-American ear tag and 3.2 square inches for the Super-Star ear tag.

3/ The reported size of this tag on one side only is 4.2 square inches.

4/ From October 1978 to March 1979 prices are for the Temple "Top Tag." Prices from April 1979 are for the "Herdsman" with a size on one side of 4.4 square inches.

5/ These prices do not reflect periodic concessions or discounts provided by the companies during these quarters. The various discount policies are described in the text.

6/ Effective June 1.

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

Table 16.--Animal identification ear tags: Prices to distributors for the blank, 2-piece ear tag closest in size to 8 square inches, of importers of Delta, Ltd., and the domestic manufacturers, Y-Tex Corp., Fearing, Inc., Temple Tag, and Apollo Tag, Inc., by quarters, January 1978-December 1980

(In cents per tag)

Period	Delta 1/	Y-Tex 2/		Fearing 3/	Temple 4/	Apollo 5/
		All-American	Super-Star			
1978:						
January-March	***	-	-	-	***	-
April-June	***	-	-	-	***	-
July-September	***	6/ ***	-	-	***	-
October-December	***	6/ ***	-	-	***	-
1979:						
January-March	***	***	-	***	***	6/ ***
April-June	***	7/ ***	-	7/ ***	***	6/ ***
July-September	***	***	-	***	***	6/ ***
October-December	6/ ***	***	-	***	***	6/ ***
1980:						
January-March	6/ ***	6/ ***	6/ ***	***	6/ ***	6/ ***
April-June	7/ ***	6/ ***	6/ ***	7/ ***	6/ ***	6/ ***
July-September	***	6/ ***	6/ ***	***	***	6/ ***
October-December	6/ ***	6/ ***	6/ ***	***	6/ ***	6/ ***

1/ The reported size of this tag on one side only is 7.5 square inches.

2/ The reported size of this tag on one side only is 7.5 square inches for the All-American ear tag and 8.9 square inches for the Super-Star ear tag.

3/ The reported size of this tag on one side only is 8.7 square inches.

4/ From January 1978 to March 1979 prices are for the Temple "Top Tag." Prices from April 1979 are for the "Herdsman" with a reported size on one side of 7.8 square inches.

5/ The reported size of this tag on one side only is 9.0 square inches.

6/ These prices do not reflect periodic concessions or discounts provided by the companies during these quarters. The various discount policies are described in the text.

7/ Effective June 1.

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

Tables 17, 18, and 19 present price data for domestic one-piece ear tags. The prices of the one-piece tags are substantially lower, by more than 50 percent in the case of 1 inch tags, than the prices for a two-piece tag of comparable size. From January-March 1979 to October-December 1980, one-piece ear tag prices increased an average of 16 percent.

Table 17.--Animal identification ear tags: Prices to distributors for the blank, 1-piece ear tag closest in size to 1-square inch, of Ritchey Manufacturing Co., Fearing Inc., Y-Tex Corp., and Temple Tag, by quarters, January-1978-December 1980

(In cents per tag)

Period	Ritchey 1/	Fearing 2/	Y-Tex 2/	Temple 1/
1978:				
January-March	***	***	***	(E) ***
April-June	***	***	***	(E) ***
July-September	***	***	***	(E) ***
October-December	***	***	***	(E) ***
1979:				
January-March	***	***	***	(E) ***
April-June	***	***	***	(E) ***
July-September	***	***	***	***
October-December	***	***	***	***
1980:				
January-March	***	***	3/ ***	***
April-June	***	***	3/ ***	***
July-September	***	***	3/ ***	***
October-December	***	***	3/ ***	3/ ***

1/ The reported surface area on one side is 0.9 square inches.
2/ The reported surface area on one side is 1.0 square inches.
3/ These prices do not reflect periodic concessions or discounts provided by the companies during these quarters. The various discount policies are described in the text.

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

Table 18.--Animal identification ear tags: Prices to distributors for the blank, 1-piece ear tag closest in size to 4 square inches of Ritchey Manufacturing Co., Fearing, Inc., Y-Tex Corp., Rio Vista International, Inc., and Temple Tag, by quarters, January 1978-December 1980

(In cents per tag)

Period	Ritchey 1/	Fearing 2/	Y-Tex 3/	Temple 4/	Rio Vista 3/
1978:					
January-March	***	***	***	***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
1979:					
January-March	***	***	***	***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
1980:					
January-March	***	***	5/ ***	***	***
April-June	***	***	5/ ***	***	***
July-September	***	***	5/ ***	***	***
October-December	***	***	5/ ***	5/ ***	***

1/ The reported surface area on one side is 3.9 square inches.
2/ The reported surface area on one side is 5.6 square inches.
3/ The reported surface area on one side is 3.5 square inches.
4/ The reported surface area on one side is 4.0 square inches.
5/ These prices do not reflect periodic concessions or discounts provided by the companies during these quarters. The various discount policies are described in the text.

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

Table 19.--Animal identification ear tags: Prices to distributors for the blank, 1-piece ear tag closest in size to 8 square inches, of Ritchey Manufacturing Co., Fearing, Inc., Y-Tex Corp., American Stockman Tag Co., Rio Vista International, Inc., and Temple Tag, by quarters, January 1978-December 1980

(In cents per tag)

Period	Ritchey 1/	Fearing 2/	Y-Tex 3/	Temple 4/		Rio Vista 5/	American Stockman 6/
				Feedlot 7/	Country Giant 7/		
1978:							
January-March	***	***	***	-	(E) ***	-	-
April-June	***	***	***	-	(E) ***	-	-
July-September	***	***	***	(E) ***	(E) ***	-	-
October-December	***	***	***	(E) ***	***	-	-
1979:							
January-March	***	***	***	(E) ***	***	***	-
April-June	***	***	***	***	***	***	-
July-September	***	***	***	***	***	***	-
October-December	***	***	***	***	***	***	-
1980:							
January-March	***	***	8/ ***	***	***	***	8/ ***
April-June	***	***	8/ ***	***	***	***	8/ ***
July-September	***	***	8/ ***	***	***	***	8/ ***
October-December	***	***	8/ ***	***	8/ ***	***	8/ ***

1/ The reported surface area on one side is 7.6 square inches.
2/ The reported surface area on one side is 8.0 square inches.
3/ The reported surface area on one side is 8.0 square inches.
4/ The reported surface area on one side is 7.8 square inches.
5/ The reported surface area on one side is 8.2 square inches.
6/ The reported surface area on one side is 6.0 square inches. This tag is sold directly to feedlots.
7/ The "Feedlot" tag is produced specifically for use in feedlots, the "Country Giant" for other identification; both are sold through Temple's distributors.
8/ These prices do not reflect periodic concessions or discounts provided by the companies during these quarters. The various discount policies are described in the text.

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

The prices which Hanford and Vet Brand pay for the Allflex tag from Delta in New Zealand and, on occasion, from Allflex Tag Co. in California are shown in the following tabulation (in cents per tag):

Period of delivery	1 square inch	4 square inches	8 square inches
1978:			
January-March	***	***	***
April-June	***	***	***
July-September	***	***	***
October-December	***	***	***
1979:			
January-March	***	***	***
April-June	***	***	***
July-September	***	***	***
October-December	***	***	***
1980:			
January-March	***	***	***
April-June	1/ ***	1/ ***	1/ ***
July-September	***	***	***
October-December	***	***	***

1/ Effective June 1, 1980.

Discount policies.--As indicated before, some of the domestic ear tag manufacturers have used discount programs to promote their tags. The effect on reported prices in some cases is substantial and for this reason details of these discounts are discussed in this section.

* * * * * * *

Lost Sales

Two U.S. firms, *** and ***, supplied the Commission with the names of 35 distributors of ear tags to which they allegedly lost sales to the Allflex tag, totaling ***. The Commission staff obtained information from 30 of these firms representing ***, or 87 percent, of the alleged lost sales, and was able to confirm at least 8 lost sales representing ***. Other companies reported they believed they were losing sales to import competition from Delta but were unable or unwilling to supply the Commission with details of these allegations.

*** submitted a list of 25 alleged lost sales totaling ***. Details of the findings follow:

> Four of the firms contacted purchase no imported tags. They represented $126,524 of alleged lost sales.

Two firms sell the imports only by special order. One of these switched from *** to *** as its in-stock two-piece tag, and the second stocks only *** tags. They represent an alleged $81,087.

Two of the distributors stated that their purchases from *** began to decline before they began stocking the imported Allflex tags, in the 1978-79 period. The alleged lost sales for the two firms were $77,767.

One firm decreased its business with *** because its customers seemed to prefer a different U.S. one-piece tag and another chose to promote its own product, ***. The total alleged loss to these firms was $15,804.

Of the 11 other firms to whom *** allegedly lost sales, 5 sell both the Allflex tags and various domestic tags. Three of these five say that their sales of U.S. tags exceed their sales of the imports. The alleged amount of sales lost to these 5 firms totaled $104,621. The six firms that now stock only Allflex tags for their two-piece in-stock sales represented lost sales totaling $204,346.

*** reported 10 alleged lost sales, valued at ***. *** indicated that this was only a sampling of lost sales and was not a total of all the sales lost. The Commission staff was able to confirm two lost sales with a total value of $115,000. Details concerning its alleged lost sales follow:

One firm reported that it had never carried the imported product. The alleged value of sales lost to it was $17,000.

Two firms representing $700,000 of alleged lost sales discontinued purchases of ***.

Four firms representing $366,000 of alleged lost sales carry both domestic and imported tags and did not indicate any decline in their purchases of the domestic tags to purchase the imported tags. Representatives of these firms indicated that not only have U.S. manufacturers not been harmed by the imports but that they have actually benefited by the creation of the two-piece market.

Two firms representing $115,000 of alleged lost sales now carry only the Allflex two-piece tag and indicated that it has taken sales away from the *** one-piece tag.

A listing of total confirmed lost sales is presented below:

Manufacturer	Lost sales customer	Amount allegedly lost
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
		319,346

Ear tag distributors indicate that price does not seem to be the principal factor in sales of Allflex tags sales since they are no cheaper than any other two-piece units and in most instances are more expensive. Allflex sales seem attributable mainly to two other factors. The first is the widely recognized fact that Delta was the first company to successfully market the two-piece tag system in the United States. For 3 years, Delta was the main beneficiary of the rising popularity of the system, and it continued to reap the benefits of this market dominance even after U.S. firms began making two-piece tag sales. Advantages enjoyed by Delta include established distributorships, customer goodwill, and widespread name recognition. The second factor in Delta's sales success is the perceived superiority of its product. Particularly singled out for praise was the Allflex applicator which is purchased even by dealers that do not stock the Allflex tags.

APPENDIX A

U.S. INTERNATIONAL TRADE COMMISSION PRELIMINARY INJURY DETERMINATION

[Investigation No. 303-TA-14 (Preliminary)]

Plastic Animal Identification Tags From New Zealand

Determination

On the basis of the record [1] developed in investigation No. 303-TA-14 (Preliminary), the Commission unanimously determines that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury,[2] by reason of imports of plastic animal identification tags from New Zealand, provided for in item 666.00 of the Tariff Schedules of the United States and accorded duty-free treatment, which are allegedly being subsidized by the Government of New Zealand.

Background

On August 1, 1980, the U.S. International Trade Commission and the Department of Commerce each received a petition from Y-Tex Corp., Cody, Wyo., alleging that a bounty or grant is being paid with respect to plastic animal identification tags. 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. The statute directs that the Commission makes its determination within 45 days of its receipt of the petition, or in this case by September 15, 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 in the Commission's New York City Office, located at 6 World Trade Center, and by publishing the notice in the Federal Register on August 13, 1980 (45 FR 53922). The public conference was held in Washington, D.C., on August 22, 1980, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Statement of Reasons of Chairman Bill Alberger and Commissioner Paula Stern

On the basis of the record in Investigation No. 303-TA-14 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of the importation from New Zealand of plastic animal identification tags, provided for in item 666.00 of the Tariff Schedules of the United States, upon which subsidies are allegedly provided by the Government of New Zealand.[1]

Discussion

The Domestic Industry. We find that the industry in this preliminary case consists of all producers of animal identification tags. Since the "industry" under the statute must include all, or at least a major proportion, of the producers of a "like product," it would appear that our conclusion precludes parties from arguing in a final determination that the industry should be defined differently. This is not necessarily the case. For the purposes of our preliminary determination we are compelled to treat one- and two-piece tags as "like products" because the best information available reveals that they are nearly identical in characteristics and end uses. They are generally manufactured in the same facilities and marketed together, as most domestic firms producing one also produce the other. Moreover, Section 771(4)(C) requires us to assess the effects of subsidized imports on production of the narrowest range of products, including the like product, for which the necessary information can be provided. In this case, profitability data, a key element, is only available combined for one- and two-piece tags.

We would not want to preclude any arguments in a final determination that the domestic industry includes only two-piece tags, since virtually all of the imports are of this type. Conversely, we would not want to preclude arguments that the industry is actually broader, and should include other types of identification tags, such as metallic tags, for which data were not provided.

The Question of a Reasonable Indication of Material Injury by the Allegedly Subsidized Imports

Impact on Affected Industry. U.S. demand for animal eartags has increased dramatically over the past three years. Apparent U.S. consumption of such tags rose 44 percent from 1977 to 1979 from 31 million units to 45 million units. In the first six months of 1980, this growth continued as the total tag market increased 1.2 million units over the corresponding period in 1979.

This rapid market growth was stimulated by the introduction of the Allflex two-piece animal eartag by Delta Plastic Ltd. beginning in 1975. The larger U.S. producers of animal eartags began to enter the market with a product similar to the Allflex tag in 1978. From 1977-1979 domestic capacity for firms reporting data grew roughly 38 percent and employment rose more than 50 percent.

These data appear to indicate economic health. However, a thorough examination of the other statutory factors indicates certain weaknesses in the industry which provide the basis for our determination that there is a resonable indication of material injury.

The U.S. eartag industry has been losing market share continuously since 1977 and other indicators of deteriorating economic health have recently surfaced. From January through June 1980 total domestic shipments (one- and two-piece tags) fell two percent. This was the first time such shipments declined during the period under consideration. Sales in the one-piece market which had dropped only two percent from 1977-1979 fell roughly ten percent in the first six months of the year. Although U.S. sales of two-piece tags continued to rise during the same period, they did not keep up the pace set in 1979.

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In part the latter point may be explained by the fact that in 1980 the two-piece market does not appear to be growing as rapidly as in 1979 but we

[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] Chairman Alberger found only reasonable indication of material injury.

[1] Commissioner Stern also finds a reasonable indication of threat of material injury.

also find it significant that the U.S. share of the growth that is occurring in the two-piece market has slipped: between 1978 and 1979 the two-piece market grew by 64 percent and U.S. producers captured 71 percent of these sales. But, in January and June 1980, when sales of the two-piece eartags grew by 27 percent, U.S. producers captured only 43 percent of the growth.

Inventories of U.S. producers reporting data, which should be at their lowest point as of June 30th,[2] were up 112 percent from June 1979 to June 1980.[3] Inventory problems occurred for three of the four reporting companies. For the third largest producer, inventories rose some 208 percent during this period. For the petitioner, inventories rose 103 percent, and as a result, production of animal tags was halted from July through mid-August of this year.

Available profit data, which cannot be examined on an industry-wide basis,[4] do not reveal a thriving industry. Only one company reported a consistently improving profit picture. Other firms reported either stagnant or declining profits.

The Commission staff was able to confirm seven lost sales with an alleged value of $180,462. Also confirmed was the fact that seven distributors purchased tags from New Zealand to compelent their existing inventories of domestically-produced tags. Since we do not know when these lost sales took place, their significance is difficult to assess. We do not know whether U.S.-made two-piece eartags were available at the time the sales were lost or what the price differential was at the time between the U.S. and imported eartags.

In this particular case, the unavailability of data may be affecting the above indications of material injury. Most critically, in a final case we would hope to have complete data from Temple Tag Co. (the second largest producer), including inventories and financial data, and financial reports on a uniform accounting basis from all producers so that we can aggregate profit-and-loss data for the industry. Data were also not available on productivity, return on investment, cash flow, ability to raise capital and investment.

Impact of the Imports [5]

Volume. In absolute terms U.S. imports of animal eartags from New Zealand have risen significantly since 1977. Such imports increased by 92 percent from 1977 to 1978 and then increased another 24 percent from 1978 to 1979. During January-June 1980 they increased 23 percent over the corresponding period in 1979.

Imports have also been rising relative to U.S. consumption. From 1977-1979 imports from New Zealand increased their share of U.S. consumption by ten percentage points. Moreover, during the first six months of 1980 the imported tags increased their share of the U.S. tag market by another 6.5 percentage points.

Price Considerations. Price data do not show any evidence of a consistent pattern of underselling or price depression, but they do provide indications of price suppression. Delta Plastics Ltd. held its tag prices steady from 1978 until September 1980. The Allflex Holdings Ltd. Annual Report actually reports a decision by the company to "hold our selling price in the USA where we have seen strong efforts by our competitors to regain their declining share of the market."

Meanwhile, U.S. prices rose some 25 percent since January-March 1979, the first period for which price data are available. While costs have fluctuated by company, the petitioner, Y-Tex, has testified that its costs have been rising at a faster rate than the selling price of its animal identification tags.[6] [7]

These price developments have had two results: (1) for sales of two-piece tags, the gap between the prices of imported and domestically-produced tags (with the imported tag higher-priced) has closed. By January-June 1980, in fact, imported tags sold for nearly the same or a penny-a-tag less than the two-piece tags of the two largest U.S. producers; and (2) the gap between the prices of two-piece tags and the U.S.-produced one-piece tags has also narrowed. Thus, the price competitiveness of both domestic two-piece and one-piece tags has weakened in relation to the imported product.

During the investigation the importer stressed the view that any problems experienced by the domestic industry were attributable to a myriad of factors other than the alleged subsidized imports—including a superior imported product, better marketing practices of Delta's U.S. distributors, shifts in consumer taste. It appears that to remain economically viable U.S. companies need to compete successfully in the two-piece market. Though other factors may be at play in thwarting the domestic industry's shift to the newer product, there are indications that price suppression by the importers has been a contributing factor. In this preliminary case, this is sufficient to satisfy our "reasonable indication" standard. If the case returns to us for a final determination, however, the petitioner should focus on the effects of the alleged subsidization; for example, whether it has been used to improve the quality or marketing of the imported product. If the alleged subsidy has been used to improve the competitive posture of the imported product in the domestic market, this may be a factor tending to show how the imports may be injuring the domestic industry.

Threat [8]

To reach an affirmative finding of threat of material injury, the legislative history states that "demonstrable trends—for example, the rate of increase of subsidized . . . exports to the U.S. market, capacity in the exporting country to generate exports, the availability of other export markets and the nature of the subsidy in question (*i.e.*, is the subsidy the sort that is likely to generate exports to the U.S.)—will be important." [9]

At least three of the four demonstrable trends cited as examples above are present in this case. First, exports to the U.S. market have increased rapidly and continuously. Second, the exporting country has the capacity to increase exports significantly. Information obtained from Delta Plastics Ltd. indicates that the New Zealand company sold 48 million tags in fiscal 1979. Currently, the company's plant has a capacity to produce 100 million tags and production in fiscal 1980 is expected to exceed 80 million tags. The petitioner has also indicated that Delta Plastics Ltd. commissioned seven new injection molding machines last year and that the New Zealand company is presently planning the addition of 14,500 square feet to their factory.[10]

[2] Transcript of the Conference, p. 28.

[3] Inventories were also significantly higher in June 1980 than in December 1979 for most reporting companies.

[4] Usable profit data were received from only four of the seven U.S. producers of animal identification tags. The data submitted were not uniform. A number of the firms provided data only on their overall operations, not just on the production of eartags. One of the firms presented its data on a cash basis, whereas the others used the accrual method of accounting. Furthermore, each of the four reporting companies used different accounting years.

[5] Lost sales reflecting the impact of the imports have been discussed previously (see page 6).

[6] Transcript of the Conference, p. 31.

[7] For the final investigation it would be useful to have a fuller background on the cost situation in the U.S. industry, particularly Temple Tag Co.'s costs.

[8] Chairman Alberger, having found a reasonable indication of material injury, does not reach the question of threat in this determination.

[9] Committee on Ways and Means, House Report No. 96-137, 96th Cong., 1st Sess., July 3, 1979, at p. 46.

[10] Post Conference Brief on behalf of Y-Tex Corp., by Lamb and Lerch, August 25, 1979, p. 22.

Third, the nature of the subsidy alleged in this case is clearly likely to generate exports to the U.S. In fact, recent changes in the New Zealand export tax incentives program reward firms not only for increases in their export levels but also for maintenance of their export volume. Information on the availability of other export markets is limited and should be developed more fully should this case return for a final determination. Approximately 50 percent of Delta Plastics Ltd.'s exports have gone to the United States, and the Aliflex Holdings Ltd. Prospectus indicates that in fiscal 1980 sales to the USA rose 70 percent.

On the basis of these trends, I find a reasonable indication of a threat of material injury.[1] Should this case return for a final determination, my judgment then will be based on the best available information at that time, which hopefully will enhance the information we now have on the impact of these trends on the state of the domestic industry.

Findings of Fact. (1) U.S. imports of animal identification tags from New Zealand are allegedly subsidized by export incentives provided by the New Zealand government in the form of income tax credits for the exporter. All tags imported from New Zealand are produced by Delta Plastics, Ltd. Imports from New Zealand increased by 92 percent from 1977 to 1978, and then increased by another 24 percent from 1978 to 1979. During January–June 1980, imports of tags from New Zealand increased 23 percent over the corresponding period in 1979.

(2) U.S. imports of animal identification tags from New Zealand took an increasing share of the U.S. tag market: in the period from 1977 to 1979, the imports from New Zealand increased their share of U.S. consumption by 10 percentage points. Furthermore, in the first 6 months of 1980 the imported tags increased their share of the tag market by another 6.5 percentage points.

(3) Apparent U.S. consumption of animal identification tags increased from 31 million units in 1977 to 45 million units in 1979. In the first 6 months of 1980, apparent consumption was 1.2 million units higher than for the corresponding period in the previous year.

(4) Domestic production (of reporting firms) increased by almost 59 percent from 1977 to 1979. Production continued to rise over the first six months of 1980.

(5) Domestic production capacity (of reporting firms) grew from 60 million units in 1977 to 65 million units in 1978 and 83 million units in 1980. Capacity utilization (not including Temple Tags Co.) grew from 37 percent in 1977 to 60 percent in 1978, but then dropped to 43 percent in 1979. During the first six months of 1980 it was up again to 55 percent.

(6) Domestic shipments rose 27 percent in the period 1977–79. However, shipments were down slightly in the first 6 months of 1980 compared to the corresponding period in 1979.

(7) Employment figures from 5 reporting firms, which accounted for 73 percent of U.S. shipments in 1979, reveal steady growth.

(8) At the public conference, Y-Tex stated that the tag industry is seasonal, with 60 percent of the industry sales coming in the first 7 months of any given calendar year. Thus, a producer's inventory should be at its height as of December 31 and at its lowest as of June 30th. However, the largest U.S. producer of tags, Y-Tex Corp. experienced a 103 percent increase in inventories as of June 30, 1980, as compared to the same period in 1979. The third largest U.S. producer of tags experienced a 208 percent increase in inventories of tags as of June 30, 1980, compared to inventory levels of June 30, 1979. As a result of the excessive inventories, Y-Tex closed down production of tags from July through mid-August 1980.

(9) Two U.S. producers supplied the Commission with a list of 32 purchasing firms to which they allegedly lost sales of animal identification tags because of allegedly subsidized imports from New Zealand. The Commission staff was able to confirm seven lost sales with an estimated value of $180,462. In addition to the aforementioned lost sales, the Commission was able to confirm that an additional seven distributors purchased tags from New Zealand to complement their existing inventories of domestically produced tags.

(10) Profit and loss data suggest that, on an industry-wide basis, profit margins are low or nonexistent. Only one firm reports a consistently improving profit picture, while others low or stagnant profitability.

(11) There is no consistent pattern of underselling by the imported product. However, import prices remained generally steady from 1978 to September 1, 1980, when price increases went into effect.

(12) Information obtained from Delta Plastics, Ltd. indicates that the New Zealand company sold 48 million tags in fiscal 1979.[1] Currently the company's plant has a capacity to produce 100 million tags and production in fiscal 1980 is expected to exceed 80 million tags. The Government of New Zealand modified its export program in 1980 in a manner which will increase the export subsidy in the future.[2]

Supporting Statement by the Director of Operations for an Affirmative Preliminary Determination on Plastic Animal Identification Tags From New Zealand (Investigation No. 303–TA–14 (Preliminary))

I. *Recommendation.* On the basis of my review of the information developed during this investigation, I recommend that the Commission determine that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of the importation of plastic animal identification tags from New Zealand, which are alleged to receive bounties or grants from the Government of New Zealand. The question of material retardation of the establishment of an industry in the United States is not an issue in this investigation as there are seven companies producing plastic animal identification tags in the United States.

II. *The industry.* There are two basic types of plastic animal identification tags produced in the United States—a one-piece tag and a two-piece tag. Seven firms account for approximately 95 percent of domestic shipments of the two types of tags. Counsel for the petitioner contends that there is only one industry being adversely affected by the importation of allegedly subsidized animal identification tags from New Zealand—the domestic producers of animal identification tags. The purpose of all these tags, regardless of their configuration or method of application and regardless of whether they are one-piece or two-piece tags, is the same, i.e., the individual in-herd identification of animals. Therefore, the industry to be viewed in this investigation is the whole animal identification tag industry.[3] Counsel for the importers contends that since the New Zealand imports are only of the two-piece variety, the relevant

[1] The fact that Delta Plastics Ltd., in partnership with the Hanford Co., is in the process of establishing a manufacturing facility in Syracuse, New York, does not automatically preclude an affirmative determination at this preliminary stage. When pressed at the Conference on the relation of this new facility to the level of future New Zealand exports, the importers were non-committal; *see* pages 81, 99 and 102 of Conference Transcript.

[1] Chairman Alberger does not adopt findings regarding threat.

[2] Chairman Alberger includes the recommended determination of the Director of Operations for informational purposes below.

[3] Brief of Lamb & Lerch, p. 45.

U.S. industry should consist only of establishments and companies producing two-piece tags.[4]

Information developed by the Commission indicates that there is only one U.S. industry producing animal identification tags. First, nearly all the machinery and workers employed in the manufacture of one type of tag are or can be employed in the manufacture of the other type of tag. For firms producing both types, price sheets include both and both are marketed by the same sales force. Second, the two types of tags are generally not distinguishable from each other in terms of their respective markets. They pass through the same channels of distribution and are purchased by the same types of customers for the same purpose—in-herd identification. Consumers may prefer one kind over another, but the fact remains that the one- and the two-piece tags are completely interchangeable in their end use. Therefore, I recommend that the Commission find that the appropriate industry for consideration in this investigation consists of those firms which produce animal identification tags, whether of one-piece or two-piece construction.

III. *Material injury.* (1) U.S imports of animal identification tags from New Zealand are allegedly subsidized by export incentives provided by the New Zealand Government in the form of income tax credits for the exporter. All tags imported from New Zealand are produced by Delta Plastics, Ltd. Imports from New Zealand increased by 92 percent from 1977 to 1978, and then increased by another 24 percent from 1978 to 1979. During January–June 1980, such imports increased 23 percent over those in the corresponding period of 1979.

(2) U.S. imports of animal identification tags from New Zealand took an increasing share of the U.S. tag market: in 1977–79, they increased their share of U.S. comsumption by 10 percentage points, and in January–June 1980, by another 6.5 percentage points.

(3) At the public conference, Y-Tex Corp. stated that the tag industry is seasonal, with 60 percent of the industry's sales coming in the first 6 months of any given calendar year. Thus, a producer's inventory should be at its highest level as of December 31 and at its lowest as of June 30. However, the largest U.S. producer of tags, Y-Tex Corp., experienced a 103-percent increase in inventories as of June 30, 1980, compared with those on the corresponding date in 1979. Fearing Manufacturing, the third largest U.S. producer of tags, experienced a 208-percent increase in inventories of tags over the same period. As a result of the excessive inventories, Y-Tex closed down production of tags from July through mid-August 1980.

(4) Two U.S. producers supplied the Commission with a list of 32 purchasing firms to which they allegedly lost sales of animal identification tags because of allegedly subsidized imports from New Zealand. The Commission staff was able to confirm seven lost sales with an estimated value of $180,462. The Commission was able to confirm that an additional seven distributors purchased tags from New Zealand to complement their existing inventories of domestically produced tags.

IV. *Threat of material injury.* (1) While imports from New Zealand increased their share of U.S. consumption by 16.5 percentage points during January 1977–June 1980, considerably greater penetration is possible in the near future. Information obtained from Delta Plastics, Ltd., indicates that the New Zealand company sold 48 million tags in fiscal 1979. Currently the company's plant has a capacity to produce 100 million tags, and production in fiscal 1980 is expected to exceed 80 million tags. Thus, Delta's capacity and production levels will enable it to continue to expand tag exports to the United States. The Government of New Zealand modified its export program in 1980 in a manner which will increase the export subsidy in the future.

V. *Conclusion.* On the basis of the above, I recommend an affirmative determination as to whether there is a reasonable indication of material injury, or threat of material injury, to an industry in the United States by reason of allegedly subsidized plastic animal identification tags from New Zealand.

Statement of Reasons for the Affirmative Determination of Commissioners George M. Moore and Catherine Bedell

On the basis of the record developed in investigation No. 303–TA–14 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of the importation of plastic animal identification tags from New Zealand, provided for in item 666.00 of the Tariff Schedules of the United States (TSUS), upon which subsidies are allegedly provided by the Government of New Zealand.

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

Domestic industry. The first question which we must answer concerns the scope of the industry against which the impact of the subject imports must be assessed.[1] The term "industry" is defined in section 771(4)(A) of the Tariff Act of 1930 (19 U.S.C. 1677(4)(A)) as meaning "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." The term "like product" is in turn defined in section 771(10) of the Tariff Act as meaning "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."

Information developed during the course of the investigation indicates that the relevant domestic industry consists of the facilities in the United States used in the production of both one-piece and two-piece tags. Nearly all the machinery and workers employed in the manufacture of one-piece tags are or can be employed in the manufacture of two-piece tags.[2] For firms producing both types of tags, price sheets include both and both are marketed by the same sales force. Further, the two types of tags are generally not distinguishable from each other in terms of their respective markets. They pass through the same channels of distribution and are purchased by the same types of customers for the same purpose—in-herd identification. Consumers may prefer one kind over another, but the one- and the two-piece tags are completely interchangeable in their end use.

The question of reasonable indication of material injury or the threat thereof. Section 703(a) of the Tariff Act directs that the Commission "shall make a determination, based upon the best information available to it at the time of the determination . . . ." Section 771(7)(A) defines the term "material injury" to mean "harm which is not inconsequential, immaterial, or unimportant." And section 771(7)(B) directs that in making its determination, the Commission shall consider, among other factors, (1) the volume of imports of the merchandise which is the subject of the investigation, (2) the effect of imports of such merchandise on prices in the United States for like products,

[4] Brief of Bronz and Farrell, p. 6.

[1] All of the tags imported from New Zealand are two-piece tags. Both one-piece and two-piece tags are manufactured in the United States.

[2] Report, p. A-1.

and (3) the impact of imports of such merchandise on domestic producers of like products. In light of these directives, we base our decision on the findings of fact and conclusions of law discussed below.

Volume of Imports.—With regard to the volume of imports, the record shows that imports of plastic animal identification tags from New Zealand increased by 92 percent from 1977 to 1978 and then increased by another 24 percent in 1979.[3] In the first 6 months of 1980, imports of tags from New Zealand increased 23 percent over those in the corresponding period of 1979. All plastic identification tags from New Zealand are manufactured by Delta Plastics, Ltd. of Palmerston North.

Imports of plastic animal identification tags from New Zealand took an increasing share of a growing U.S. identification tag market during 1977–79. Such imports increased their share of aggregate apparent U.S. consumption, i.e., of both one- and two-piece tags, by 10 percentage points from 1977 to 1979. In the first 6 months of 1980, imports from New Zealand increased their share by another 6.5 percentage points.[4]

Effect of imports on prices.—Although there has been no consistent pattern of underselling by the imported identification tags, there is evidence of price suppression by the foreign producer, Delta Plastics. In his company's 1980 annual report, the Chairman of Directors of Allflex Holdings, Ltd. (the parent company of Delta), stated that the profit/sales ratio was lower for the income year 1980 because of a decision by Delta to "hold our selling price in the USA where we have seen strong efforts by our competitors to regain their declining share of the market."[5]

Furthermore, at the public conference held in connecton with this investigation, testimony was presented that raw-material and utility costs of the petitioner (Y-Tex Corp.) were increasing at a faster rate than the selling price of its animal identification tags.[6] In view of the substantial alleged subsidy (in the form of income tax credits) and the public acknowledgement by the respondent that it is deliberately holding down prices to maintain market share, it is appropriate to infer that sales of the imported tags have had a suppressing effect on domestic tag prices, notwithstanding some price increases by domestic manufacturers.

Impact of imports on domestic producers.—The record shows that as of June 30, 1980, the first and third largest U.S. producers experienced 103 percent and 208 percent increases, respectively, in inventory levels compared with those in the corresponding period of 1979.[7] Information developed during the course of the investigation indicates that since the domestic industry makes 60 percent of its sales in the first 6 months of a calendar year, inventory levels should be at their lowest level as of June 30. Furthermore, the Commission was able to confirm seven lost sales with an estimated value of $180,000.[8]

The record also shows that in order to reduce excessive tag inventories, the largest U.S. producer (Y-Tex Corp.) instituted promotional sales tactics in 1980 and ceased production of tags from July through mid-August 1980.[9] Another large producer did not produce any two-piece tags during January–August 1980 in order to reduce overstocked inventories.[10]

Threat of material injury.—The record shows that the foreign producer manufactured about 48 million tags in 1979, expects to produce about 80 million tags in 1980, and has an annual plant capacity to produce 100 million tags.[11] Thus, the increasing production levels and underutilized capacity of Delta Plastics indicate an ability for the New Zealand company to continue to expand tag exports to the United States. In addition, the Government of New Zealand has modified its export incentive program so that benefits paid to Delta Plastics on its exports may increase. This would provide further incentive to increase shipments to the United States.[12]

Conclusion

On the basis of the information available to the Commission at this time, we believe that there is a reasonable indication of material injury, or threat of material injury, to a domestic industry by reason of imports of plastic animal identification tags from New Zealand, provided for in item 666.00 of the TSUS.

Opinion of Vice Chairman Michael J. Calhoun

On the basis of the record developed in investigation number 303–TA–14 (Preliminary), I determine, pursuant to section 303(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(b)), that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of plastic animal identification tags from New Zealand as provided for in item 666.00 of the Tariff Schedules of the United States.

Discussion

There are many types of animal identification tags which are used on cattle, hogs, and sheep. Identification tags come in a variety of colors, sizes, and shapes. The animal identification tags under investigation here are attached to the ear, are made of plastic, and are of one- and two-piece construction. There are two methods of application for animal tags: Those tags of one-piece construction require application by cutting the animal's ear; while those of two-piece construction can be applied by piercing the ear and making a small hole as opposed to an incision. The use of two-piece animal identification eartags is a relatively new concept. The Allflex two-piece tagging system was developed in New Zealand and marketed in the United States by Delta Plastics, Limited.

Farmers and ranchers have found that with these identification tags they could, at a distance, identify animals and monitor their performance. Animal identification tags do not replace branding, which is a permanent means of identification for ownership.

Although the Allflex two-piece identification tagging system was developed in New Zealand and marketed extensively throughout the United States by Delta Plastics, Limited, domestic producers have begun to produce and market two-piece tags. One-piece tags are still popular, however they are losing market share to both domestic and imported two-piece tags.

Domestic Industry

In order to analyze the effect of subsidized imports on the domestic industry, that industry first must be defined. Section 771(4)(A) of the Tariff Act of 1930, defines the term industry as,

> [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.

And, section 771(10) defines like product 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 under this title.

[3] Report, p. A–13.
[4] Report, p. A–21.
[5] Annual report of Allflex Holdings, Ltd., p. 4.
[6] Transcript of the conference, p. 33.
[7] Report, pp. A–15 and A–16.
[8] Report, p. A–29.
[9] Report, pp. A–17 and A–27.
[10] Report, p. A–10.
[11] Report, pp. A–7 and A–8.
[12] Report, pp. A–3 and A–4.

The merchandise which is imported from New Zealand is animal identification tags of two-piece construction made from plastic in a variety of sizes, shapes, and colors and used on the ear of an animal.

The only producer of animal identification tags in New Zealand is Delta Plastics, Limited, a subsidiary of Allflex Holdings, Limited, Palmerston North, New Zealand. Two-piece identification tags are produced in the United States by entities who produce identification tags of various types, including plastic tags of one and two pieces which are attachable to the ear. A primary question to be considered here is whether all domestic animal identification tags can be considered like products to the two-piece plastic ear tags which are the subject of this investigation and, if not, whether domestic one-piece (in addition to two-piece) plastic ear tags are like products to the imported article. The Senate Finance Committee report which accompanies the Trade Agreements Act of 1979 provides guidance to the Commission in determining the nature of a "like product." According to the report,

[T]he requirement that a product be 'like' the imported article should not be interpreted in such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and articles are not like each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under investigation.[1]

Evidence obtained in this preliminary investigation is not sufficient to determine whether all domestically produced animal identification tags are like products to the two-piece plastic ear tags being imported. There is, however, ample evidence with regard to the narrower question of whether the domestically produced one-piece plastic ear tag is a like product to the imported article. Generally, the two types of tags are not distinguishable from each other interms of their respective markets and pass through the same channels of distribution. Customers purchase two-piece and one-piece tags for the same purposes; namely, in-herd identification of animals. The record thus far established, indicates that while customers may prefer one type of tag over another, the two types of tags are virtually interchangeable in their uses. And, although there are major differences in the method of application of the two types of tags, the record shows that consumers disagree on the effectiveness and on the ease of application of one method relative to the other.

Therefore, based on the data thus far collected, I find that domestically produced animal identification tags attachable to the ear and of both one- and two-piece construction is the like product to the imported article.

Material Injury

Section 771(4)(D) directs the Commission, for purposes of considering material injury, to assess the effects of subsidized imports "in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or the producers' profits." Section 771(D) further states that,

[I]f the domestic production of the like product has no separate identity in terms of such criteria, then the effect of the subsidized . . . imports shall be assessed by the examination of the production of the narrowest group or range of products, which include a like product, for which the necessary information can be provided.

In this instant case, separate data for one-piece and two-piece identification tags was not available and material injury will be examined on the basis of relevant data for both types of tags.

Section 771(7)(A) defines the term "material injury" to mean "harm which is not inconsequential, immaterial, or unimportant." Section 771(7)(B) provides guidelines for the Commission in making its determination as to material injury. The Commission shall consider, among other things—

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

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

(III) The impact of imports of such merchandise on domestic producers of like products.

(I) Volume of Imports

Imports of animal identification tags from New Zealand took an increasing share of a growing U.S. tag market during 1977–1979. Imports of identification tags from New Zealand increased by 92 percent from 1977 to 1978 and 24 percent from 1978 to 1979. In the first six months of 1980, imports of tags from new Zealand increased 23 percent over the comparable period in 1979. Apparent consumption in the United States for one- and two-piece tags was about 31.4 million in 1977, 40.5 million in 1978, and 45.1 million in 1979. In the total U.S. animal identification tag market, imports from New Zealand increased their share of the U.S. market by 10 percentage points from 1977 to 1979. In the first six months of 1980, imported identification tags increased their share of the total market by 6.5 percentage points over the corresponding period in 1980.

(II) Effects of Imports on Prices

Although the record at present indicates no consistent pattern of underselling for the imported identification tag, there is evidence of price suppression by the foreign producer, Delta Plastics. In its 1980 Annual Report, the producer's parent company explains that the profit/sales ratio was lower for the income year 1980 because of a decision by Delta to "hold our selling price in the USA where we have seen strong efforts by our competitors to regain their declining share of the market." On the other hand, the petitioner has represented that their raw material and utility costs are increasing at a faster rate than their selling price, but that they could not raise prices at a proportionate rate because of the imported product.

(III) Impact of Imports on Domestic Producers

Information developed during the course of this investigation indicates that since the domestic industry makes 60 percent of its sales in the first six months of a calendar year, inventory levels should be at their lowest level as of June 30. However, inventories for domestic producers were at their highest during this period in 1980. As of June 30, 1980, the largest and third largest producers in the U.S. experienced increases, respectively, of 103 percent and 208 percent in inventory levels when compared to the comparable period in 1979.

Threat of Material Injury

To reach an affirmative finding of the threat of material injury, the legislative history states that—

[D]emonstrable trends—for example, the rate of increase of subsidized . . . exports to the U.S. market, capacity in the exporting country to generate exports, the availability of other export markets and the nature of the subsidy in question (i.e., is the subsidy the sort that is likely to generate exports to the U.S.?) will be important.[1]

As noted above, exports to the U.S. market have increased rapidly and continuously. The New Zealand company presently has the capacity to increase exports significantly. Delta Plastics, Limited, sold 48 million

[1] Committee on Finance, U.S. Senate, Report No. 96-249, 96th Cong., 1st Session, pp. 90-91.

[1] Committee on Ways and Means, House Report No. 96-317, 96th Cong., 1st Session, p. 47.

identification tags in fiscal year 1979. Currently, the company's plant has a capacity to produce 100 million tags and is expected to produce 80 million identification tags in 1980. Seven new injection molding machines have been commissioned by Delta and the company is presently planning the addition of 14,500 square feet to its factory.

The nature of the alleged subsidy from the Government of New Zealand is an export tax incentive program which rewards firms for increases in exports and the maintenance of those exports. In 1977 New Zealand exported 78 percent of its produce, in 1978 84 percent, and in 1979 87 percent. Approximately 50 percent of Delta's exports go to the U.S. market and in the absence of evidence to the contrary it is only reasonable to assume that the U.S. will continue to receive such a share of New Zealand's exports.

Causality. Commission evidence confirms that seven lost sales with an alleged estimated value of $180,462 were attributable to imported identification tags. It was also confirmed that seven distributors purchased tags from New Zealand to supplement their existing inventories of domestically produced identification tags. One of the reasons given for lost sales was that the two-piece tag was an advanced systems design over the one-piece tag and it was easier to apply.

The petitioner argues that Delta has been able to accomplish its high level of market penetration by using the export taxation credit to advertise and promote its product extensively. Consequently, petitioners seem to suggest that without such a subsidy, the imported article would not be as successfully marketed, penetration levels would not be as great and the domestic producers would not be suffering the material injury indicated. In view of the rather weak lost sales data thus far gathered, the critical nexus between the evidence of material injury discussed above and the allegedly subsidized imports largely rests with this novel allegation by petitioners regarding the use of the subsidy made by the importers.

I am not yet prepared to wholly endorse such an argument. However, I think the theory is sufficient, in view of the evidence so far collected, to establish the essential nexus between material injury and subsidized imports in this preliminary case which, it must be remembered, involves the question of a *reasonable* indication of material injury by reason of subsidized imports.

Conclusion

In view of these facts, it is my view that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of plastic animal identification tags from New Zealand.

Issued: September 15, 1980.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-29758 Filed 9-24-80; 8:45 am]

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APPENDIX B

U.S. DEPARTMENT OF COMMERCE PRELIMINARY SUBSIDY DETERMINATION

DEPARTMENT OF COMMERCE

International Trade Administration

Plastic Animal Identification Tags From New Zealand; Preliminary Affirmative Countervailing Duty Determination

AGENCY: United States Department of Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: The Department of Commerce has made a preliminary determination, under section 303 of the Tariff Act of 1930, that the Government of New Zealand has given subsidies within the meaning of the countervailing duty law, to the manufacturers, producers or exporters of plastic animal identification tags.

The Department also has determined that critical circumstances do not exist in this case. The Department, therefore, will instruct Customs officers to suspend liquidation on all entries of merchandise subject to the determination which are entered, or withdrawn from warehouse, for consumption on or after November 3, 1980.

The Department will make a final determination no later than January 8, 1981.

EFFECTIVE DATE: November 3, 1980.

FOR FURTHER INFORMATION CONTACT: Roland L. MacDonald, Jr., Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202-377-4087).

SUPPLEMENTARY INFORMATION

Procedural Background

On August 1, 1980, the Department of Commerce ("the Department") received a petition in proper form from Y-Tex Corporation, Cody, Wyoming, alleging, on behalf of U.S. producers of plastic animal identification tags, that the Government of New Zealand provides to manufacturers, producers or exporters of such animal identification tags certain benefits which are bounties or grants ("subsidies") within the meaning of section 303, Tariff Act of 1930 (19 U.S.C. 1303) ("the Act").

On August 25, 1980, the Department published a notice of initiation of this countervailing duty investigation which stated that because New Zealand is not a country under the Agreement within the meaning of section 701(b) of the Act (19 U.S.C. 1671(b)), section 303 of the Act applies to this investigation (45 Fed. Reg. 56380). Usually a determination of injury to a domestic industry is not required in investigations under section 303. It is required, however, in investigations concerning non-dutiable merchandise not subject to normal customs duties. Since animal identification tags are non-dutiable, the International Trade Commission (ITC), under section 303 of the Act, conducted an investigation and, on September 25, 1980, issued a preliminary determination that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury by reason of imports of plastic animal identification tags from New Zealand (45 FR 63573).

Foreign Producer and Product Description

According to information submitted to the Department, Delta Plastics, Ltd., a subsidiary of Allflex Holdings, Ltd., Palmerston North, New Zealand, is the only producer of animal identification tags in New Zealand. The four U.S. companies importing Allflex animal identification tags from New Zealand are: (1) Allflex Tag Co., Culver City, Calif.; (2) G. C. Hanford Manufacturing Co., Syracuse, N.Y.; (3) Vet Brand, Inc., Torrance, Calif.; and (4) Diamond Shamrock Corp., Cleveland, Ohio. The Allflex Tag Co., a wholly owned subsidiary of Delta Plastics, Ltd. (New Zealand), acts as agent for its parent company in the United States by conducting a retail mail order business for Allflex tags and maintaining a complete stamping operation for numbering and personalizing tags.

Plastic animal identification tags are used for the temporary or permanent identification of animals such as cattle, hogs, sheep, and goats. The tags vary between 1.75 and 7.5 square inches of surface area. Numbers stamped into the plastic tags are used for identification or information purposes. One-piece tags are attached to the animal with a knife-like applicator called a trocar. Two-piece tags are attached by means of an applicator similar to a pair of pliers with a needle point on one side and a clamp on the other. All of these tags are classifiable under the provision for "other" agricultural and horticultural machinery and implements, in item 666.00 of the Tariff Schedules of the United States.

The Program Investigated

The New Zealand Government has several programs which allow special income tax deductions. One of these is the "Export Performance Taxation Incentive" (EPTI) program identified in the August 25, 1980, **Federal Register** Notice. The Government of New Zealand has informed the Department that no New Zealand exporter of animal

identification tags to the United States has received any tax credits from the EPTI.

However, the Government of New Zealand has informed the Department that Delta Plastics has qualified for another program, the Increased Export Taxation Incentive Scheme (IETI). Authorized by section 156 of the New Zealand Income Tax Act of 1976, as amended, the IETI provides the taxpayer with a deduction from income for increases in export sales of qualifying goods during the income tax year. Where (a) there is an increase in export sales for the income tax year, or (b) there are export sales for the income tax year and an increase in export sales for the income tax year immediately preceding that income year, section 156(5) of the Income Tax Act allows the taxpayer to deduct from assessable (taxable) income the greater of the following amounts: (1) 25 percent of the value of the qualifying f.o.b. export sales in excess of the average annual level of export sales in the base period, or (2) an amount equal to the value of the export sales during the income tax year divided by the value of the export sales during the income tax year immediately preceding that income tax year multiplied by 25 percent of the increase in export sales for the income year immediateely preceding that income year. The base period is defined as the first 3 of the 7 years immediately preceding the income tax year.

Because of confidentiality restrictions in the New Zealand Revenue Department Act, the Government of New Zealand has refused to release specific tax information for specific taxpayers. However, the Government noted that in the Consolidated 1980 Annual Report of Allflex Holdings, the company reported that it received $438,819 (New Zealand dollars) in "tax credits" for its worldwide export sales in fiscal year 1980. We have been advised by counsel for Allflex Holdings that animal identification tags and applicators were the only export products for which the company recieved the $438,819 "tax credit," and that this money was received under the IETI program discussed above. This tax credit is 6.7 percent of the company's total export sales for fiscal year 1980.

A special deduction from income taxes which is related to export performance, such as provided under the IETI program, is clearly a subsidy within the meaning of the countervailing duty law. (See The Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariff and Trade, Annex, "Illustrative List of Export Subsidies," (a) and (e)).

Preliminary Determination

We preliminarily determine that there is a reasonable basis to believe or suspect that the IETI program established by section 156 of the New Zealand Income Tax Act, as amended, is a subsidy within the meaning of the U.S. countervailing dury law (19 U.S.C. 1303). Based on figures supplied by the Government of New Zealand, the amount of the subsidy 6.7 percent *ad valorem* on exports to the United States.

Critical Circumstance Determination

The petitioner alleged critical circumstances, under section 703(e) of the Act (19 U.S.C. 1671b(e)), due to massive imports of animal identification tags during a relatively short period. The petitioner provided United States sales figures for the period April 1, 1974 through March 31, 1980.

Section 303(b) of the Act, as amended (19 U.S.C. 1303(b)), provides, in effect, that the critical circumstance provision applies to duty-free merchandise from a country that is not a country under the Agreement. Therefore, section 703(e) applies to this case.

Imports of animal identification tags have increased substantially between 1977 and 1979. However, the rate of increase at which imports are penetrating the U.S. market appears to have been leveling off during the 18 months prior to June 1980. Moreover, while imports from New Zealand, have had an overwhelming share of the market of two-piece animal identification tags, U.S. producers have been capturing increasingly larger share of this subsector of the animal identification tag market.

"Critical circumstances" was introduced in the legislation to provide retroactive application of countervailing duties in cases where recent actions on the part of exporters or the exporting country led to a significant increase in exports in absolute terms or relative to the U.S. market share. We have not found such a situation in this case, nor have we found that such a situation is likely to develop.

Therefore, I preliminarily conclude that there have not been massive imports of animal identification tags from New Zealand over a relatively short period, within the meaning of section 703(e)(1)(B). Accordingly, liquidations will not be suspended retroactively, as provided in section 703(e)(2).

Administrative Procedures

In accordance with § 355.34 of the Commerce Department Regulations (19 CFR 355.34, 45 FR 4946), interested parties may submit information or written views concerning this proceeding to the address indicated above in at least 10 copies, not later than December 3, 1980.

The Department will afford interested parties an opportunity to present oral views in accordance with § 355.35 of the Commerce Department Regulations. This hearing is scheduled to be held, if requested, at the U.S. Department of Commerce, Room 3817, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 beginning at 10:00 a.m. on December 4, 1980. Interested parties who wish to have such a conference should submit a written request to the Office of Deputy Assistant Secretary for Import Administration, Room 2800 at the address shown above. These requests should contain (1) the name, address and telephone number of the requester (2) the number of participants and (3) a statement outlining the issues to be discussed. The Deputy Assistant Secretary for Import Administration must receive the requests no later than November 13, 1980.

Interested parties must submit pre-hearing briefs no later than November 28, 1980, to the Office of the Deputy Assistant Secretary at the address noted above. Oral presentations by persons submitting pre-hearing briefs will be limited to those issues raised in the briefs. All written views must be filed in accordance with § 355.34 of the Department of Commerce Regulations.

In accordance with section 703(d) of the Act (19 U.S.C. 1671b(d)), Customs officers will be advised to suspend liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise on or after the date of publication of this notice in the **Federal Register.** This suspension of liquidation shall remain in effect until further notice. The posting of a cash deposit, bond, or other security, in the amount of 6.7 percent *ad valorem,* will be required as of that date.

We will issue a final determination no later than January 8, 1981.

This determination is published in accordance with section 703(f) of the Act (19 U.S.C. 1671b(f)).

John D. Greenwald,

Deputy Assistant Secretary (Import Administration).

October 28, 1980.

[FR Doc. 80-34060 Filed 10-31-80; 8:45 am]

BILLING CODE 3510-25-M

APPENDIX C

U.S. DEPARTMENT OF COMMERCE FINAL SUBSIDY DETERMINATION

International Trade Administration

Plastic Animal Identification Tags From New Zealand; Final Affirmative Cuntervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Final affirmative countervailing duty determination.

SUMMARY: The U.S. Department of Commerce ("the Department") determines that the government of New Zealand makes available incentive programs that constitute bounties or grants within the meaning of the countervailing duty law; that the manufacturer, producer, and exporter of plastic animal identification tags utilize these programs and receive tax deductions, exemptions, and credits; and that critical circumstances do not exist in this case. Therefore the Department refers this case to the International Trade Commission for a determination regarding injury.

EFFECTIVE DATE: January 19, 1981.

FOR FURTHER INFORMATION CONTACT: Roland L. MacDonald, Jr., Import Administration Specialist, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230, (202) 377–4087.

SUPPLEMENTARY INFORMATION:

Procedural Background

On August 1, 1980, the Department received a petition in proper form from the Y-Tex Corporation in Cody, Wyoming. On behalf of U.S. producers of plastic animal identification tags, the petitioner alleged that the government of New Zealand provides to manufacturers, producers, and exporters of such tags certain benefits that are bounties or grants ("subsidies") within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Act").

In response, on August 25, 1980, the Department published a notice (45 FR 56380) stating that it was initiating a countervailing duty investigation of these imports. It added that because New Zealand is not a country under the Agreement within the meaning of section 701(b) of the Act (19 U.S.C. 1671(b)), section 303 of the Act applies to this investigation.

Although a determination of injury to a domestic industry usually is not required in investigations under section 303, it is required in investigations concerning nondutiable merchandise. Therefore, because animal identification tags are nondutiable, the International Trade Commission (ITC) also conducted an investigation. On September 25, 1980, the ITC issued a preliminary determination that there is a reasonable indication that imports of these tags from New Zealand are materially injuring, or are threatening to materially injure, a U.S. industry (45 FR 63573).

On November 3, 1980, the Department published a notice of "Preliminary Affirmative Countervailing Duty Determination" (45 FR 72727), finding that critical circumstances do not exist in this case; that the "tax credit" amount is $438,819 (all monetary references are in New Zealand dollars); that the "tax credit" was received under the Increased Export Taxation Incentive program, which is a subsidy within the meaning of the countervailing duty law; and that the amount of the subsidy on exports to the United States is 6.7 percent ad valorem.

Imports Investigated

Plastic animal identification tags are used for the temporary or permanent identification of animals, such as cattle, hogs, sheep, and goats. The tags vary between 1.75 and 7.5 square inches of surface area. Numbers stamped into the plastic tags are used for identification or information. All these tags are currently classifiable under the provision for "other" agricultural and horticultural machinery and implements, in item 666.00 of the Tariff Schedules of the United States.

A-60

Foreign Producer

In 1964, Delta Plastics, Ltd., was founded to market products to the

agricultural sector. In December 1979, Allflex Holdings, Ltd., was established in New Zealand as a publicly owned company, with Delta Plastics, Ltd., as a subsidiary operating company.

Delta's most successful product is the Allflex animal identification tags, where sales increased from $181,000 in 1971 to $5.1 million in 1979. As New Zealand's only exporter of these tags, Delta saw its tag exports grow from 29 percent of total sales in 1973 to 87 percent in 1979.

Delta is New Zealand's only exporter of animal identification tags. Approximately 50 percent of Delta's tag exports go to the United States. The four U.S. companies importing these tags are: Allflex Tag Co., in Culver City, California; G.C. Hanford Manufacturing Co., in Syracuse, New York; Vet Brand, Inc., in Torrance, California; and Diamond Shamrock Corp., in Cleveland, Ohio.

The Allflex Tag Co., a wholly owned subsidiary of Delta, acts as Delta's U.S. agent by conducting a retail mail order business for Allflex tags; helps Delta's two master agents, Vet Brand and G.C. Hanford, with various problems; and maintains a complete stamping operation for numbering and personalizing tags. In another U.S. operation, Delta and G.C. Hanford Manufacturing Co. began a joint venture in early 1980 called the Allflex Manufacturing Co., Inc., which is expected to supplement, rather than replace the imported tags.

U.S. Producers

Seven U.S. companies produce animal identification tags. Of those, three manufacture both one and two-piece tags, one manufactures two-piece tags only, and three manufacture one-piece tags only. In 1969 and 1970 the petitioner introduced a flexible two-piece tag but found no market for it at that time; in 1978 Y-Tex reintroduced the two-piece tag. The largest producer is Temple Tag Co., in Temple, Texas.

Programs Used by Delta and Found To Be Subsidies

Of the programs identified in the New Zealand's Income Tax Act 1976, we have determined that some are used by Delta and are subsidies within the meaning of the countervailing duty law. These programs appear in the form of special tax deductions, credits, and exemptions and are listed (except for Machinery for Export Production; Exemption from Sales Tax) in Part IV, Income Tax Act 1976, Deductions in Calculating Assessable or Nonassessable Income.

The programs providing a tax deduction are listed on the government of New Zealand's tax form as deductions from net profit and they are: Investment Allowance; Increased Exports of Goods; and Export of Goods to New Markets. Each program has its own methodology of converting expenditures, sales, and allowances into tax deductions. The deductions from each program are added together for a total deduction amount which is subtracted from Delta's taxable income after normal deductions are taken. Delta used the special deductions provided in part IV of the Income Tax Act of 1976 to offset net taxable income and eliminate its 1980 income tax liability. As a result Delta did not pay taxes on its 1980 net profit.

In addition, since special deductions exceeded net income after normal tax deductions, Delta established a prescribed (paper) loss for which it received tax credits. Added to the Income Tax Act 1976 by section 17 of the 1978 Income Tax Amendment, the program Credit in Relation to Export of Goods (section 157A) provides the methodology for converting the prescribed loss into a tax credit. A "tax credit" is a cash payment from the government of New Zealand to the taxpayer. The "tax credit" (cash payment) amount is obtained by multiplying the prescribed loss by 45 percent.

Therefore, these programs provided Delta with two separate benefits: (1) The deductions completely offset net taxable income, thereby eliminating its income tax liability; and (2) the conversion of the prescribed loss to tax credits provides a cash payment from the government of New Zealand to Delta. Since all these programs provide special benefits to ear tag exporters and most (except for one regional aid program) are direct incentives to and benefits on exports, they are all subsidies, and most are export subsidies, within the meaning of the countervailing duty law.

Delta used the following programs to offset net income and to obtain a prescribed loss: (We have identified the net effect each program has on the total subsidy amount).

1. Investment Allowances. Sections 118 through 123 of th Income Tax Act 1976 cover investment allowances. Section 118, a general provision relating to investment allowances, defines an investment allowance as a deduction permitted under sections 119 to 123 of the Act. Allowable for new manufacturing plants and machinery purchased on or before July 30, 1976, the deduction is taken from net profit and is over and above the existing allowance for depreciation. The total investment allowance deduction is calculated by adding all the allowances used.

Delta used the following investment allowances during the investigation period:

A. Regional investment allowance on certain new plants an machinery (section 119, Income Tax Act 1976). The new manufacturing plant or machinery must be used in New Zealand in the production of assessable income. Delta's deduction is calculated by multiplying the percentage specified in the Sixth Schedule of the Act (5 percent) by the cost of the new plant or machinery. The percentage listed in the Sixth Schedule is based on the regional location of the new plant or machinery. Because this allowance is available in some, but not all regions, it is regarded as a domestic subsidy in its entirety.

Since this program is related to both domestic and export sales, we allocated the allowance over total sales of animal identification tags. On this basis we found a subsidy of 0.24 percent.

b. Investment allowance on new manufacturing plants and machinery used for export (section 120). The new manufacturing plant or machinery must be used in New Zealand in the production of assessable income. Delta had to develop an export performance plan or an export development plan to be eligible for this program. To calculate the allowance, Delta selected a method that provided an allowance of 20 percent of the expenditure. The allowance was allocated over total export sales of animal identification tags for a subsidy of 1.03 percent.

c. Investment allowances on new plants and machinery used in high-priority activity (section 121A). High-priority activity means any activity that is periodically recognized by the Minister of Finance and the Minister of Trade and Industry as having high priority. Although to qualify a corporation must meet certain domestic and export standards, the program is basically related to exports. Delta's allowance under this program was 15 percent of the expenditure. This allowance was allocated over total export sales of animal identification tags for a subsidy of 0.60 percent.

2. Increased Export of Goods (section 156). This program permits Delta a deduction when (a) there is an increase of export sales for the income tax year or (b) there are export sales for the income tax year and an increase in export sales for the preceding income tax year. For futher explanation of this program, refer to the "Preliminary Affirmative Countervailing Duty Determination" (45 FR 72727). For this

deduction we computed a subsidy of 10.84 percent.

3. Export of Goods to New Markets (section 157). "New market export goods" are export goods that the taxpayer has sold to a new market. Designed to encourage export sales to new markets, this program defines such markets as either existing markets to which a new product is exported or new markets for existing products. This deduction from net profit is based on the value of export sales to the approved new market (the Secretary of Trade and Industry determines whether the market is separate and distinct). For this deduction we computed a subsidy of .03 percent.

Machinery for Export Production: Exemption from Sales Tax. In this program, machinery and appliances used in the production of goods for export may be granted an exemption from sales tax. Delta obtained a subsidy amount of 0..44 percent from this program.

Program Not in Effect Or Not Currently Used by Delta

Listed in the Income Tax Amendment Act 1979, and the Income Tax Act 1976, Part IV Grants and Suspensory Loans, the following programs, were not in effect for the 1980 tax year or were in effect but not used by Delta. They appear in the form of tax deductions, grants, suspensory loans, and special import licensing provisions. A more detailed description of these programs is available in our public file of this case.

1. *Export Incentives* (Programs listed are amendments or alternatives to existing programs cited above under Programs Used by Delta and Found to be Subsidies. These programs apply to tax on income from April 1, 1980).

a. Export performance incentive for qualifying goods (section 156A).

b. Export performance incentive for qualifying services (section 156B).

c. Export performance incentive for qualifying overseas projects (section 156D).

d. Export market development and tourist promotion incentive (section 156F).

2. *Grants and Suspensory Loans* (These programs are in effect but not used by Delta).

a. Forestry encouragement grants (section 168).

b. Export market development grants (section 170).

c. Development grants for new markets (section 171).

(d) Export suspensory loans and rural exports suspensory loans (section 172).

e. Regional development suspensory loans (section 173).

f. Export programs grants scheme (EPGS).

3. Export Market Development and Tourist Promotion Expenditure (Section 154). This applies to expenditures (i.e. market research, advertising, and travel expenses) incurred primarily for the purpose of seeking opportunities for the export of goods that have been manufactured in New Zealand. Delta deducted 50 percent of its total promotion expenditures.

For the 1980 tax year, Delta has not yet received a benefit through this program as the New Zealand's Inland Revenue Department is reviewing its claims for sales and travel expenses. Therefore we have not calculated a subsidy amount under this program.

4. *Export Incentive Licensing.*

Verification

We verified the information used in reaching this determination by examining the government tax laws, corporate records, and tax returns; and by meeting with and consulting officials from Delta and the New Zealand and U.S. governments, who are familiar with specific programs at issue in this case.

Critical Circumstance Determination

We noted in our preliminary determination that the rate of increase at which imports were penetrating the U.S. market had been leveling off during the 18 months before June 1980. Further information shows that the trend has continued through September 1980. Therefore, pursuant to section 705(a)(2), I affirm the finding that there have not been massive imports of animal identification tags from New Zealand over a relatively short period. Accordingly, liquidations will not be suspended retroactively, as provided in section 703(e)(2).

Final Determination

I hereby determine that the government of New Zealand provides bounties or grants (subsidies) within the meaning of section 303 of the Tariff Act with respect to the manufacture, production, or exportation of animal identification tags. The aggregate net amount of these benefits equals 13.18 percent ad valorem on exports to the United States, consisting of the following subsidy amounts:

	Percent
Regional investment allowance on certain new plants and machinery	0.24
Investment allowance on new manufacturing plants and machinery used for export	1.03
Investment allowances on new plant and machinery used in high priority activity	0.60
Increased export taxation	10.84
Export of goods to new markets	0.03
Machinery for export production: Exemption from sales tax	0.44
Total	13.18

Although the Department offered Y-Tex and Delta an opportunity to present oral views in accordance with § 355.35 of the Commerce Department Regulations (19 CFR 355.35), neither party requested a hearing.

Customs officers are directed to continue until further notice the suspension of liquidation ordered in the preliminary determination. Effective January 1981, and until further notice, a cash deposit, bond or other security in the new amount of 13.18 percent ad valorem must be posted on all such tags entering the United States, or being withdrawn from warehouses, for consumption.

If the International Trade Commission makes an affirmative final determination concerning material injury to an industry in the United States, the Department will issue a Countervailing Duty Order.

This notice is published in accordance with sections 303 and 706 of the Act (19 U.S.C. 1303, 1671e), and § 355.36 of the Department of Commerce Regulations (19 CFR 355.36).

Robert E. Herzstein,

Under Secretary for International Trade.

January 12, 1981.

[FR Doc. 81-1725 Filed 1-16-81; 8:45 am]

BILLING CODE 3510-25-M

APPENDIX D

U.S. INTERNATIONAL TRADE COMMISSION NOTICE OF INSTITUTION
OF FINAL COUNTERVAILING DUTY INVESTIGATION

INTERNATIONAL TRADE COMMISSION

[Investigation No. 303-TA-14 (Final)]

Plastic Animal Identification Tags From New Zealand

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation.

SUMMARY: As a result of the affirmative preliminary determination on October 28, 1980, by the United States Department of Commerce that there is a reasonable basis to believe or suspect that benefits are granted by the Government of New Zealand with respect to the manufacture, production, or exportation of plastic animal identification tags which constitute a subsidy within the meaning of the countervailing duty law, the United States International Trade Commission (hereinafter "the Commission") hereby gives notice of the institution of investigation No. 303-TA-14 (Final) 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 of such merchandise. Since New Zealand is not a "country under the Agreement," within the meaning of section 701(b) of the Tariff Act of 1930 (hereinafter "the Act"), the Commission's investigation is being conducted pursuant to section 303 of the Act, as amended by section 103 of the Trade Agreements Act of 1979. For purposes of this investigation, the term "plastic animal identification tags" means plastic animal identification tags, provided for in item 666.00 of the Tariff Schedules of the United States (TSUS). This investigation will be conducted according to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 76457).

EFFECTIVE DATE: October 28, 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Case, Staff Investigator, Office of Investigations, U.S. International Trade Commission, Room 350, 701 E Street NW., Washington, D.C. 20436; telephone (202) 523-0339.

SUPPLEMENTARY INFORMATION: On September 15, 1980, the Commission unanimously determined, on the basis of the information developed during the course of investigation No. 303-TA-14 (Preliminary), that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of plastic animal identification tags from New Zealand, provided for in item 666.00 of the TSUS, upon which a subsidy is allegedly provided. As a result of the Commissions determination, the Department of Commerce (the administering authority) continued its investigation into the question of subsidized sales. Unless the investigation is extended, the final determination by the Department of Commerce of whether subsidies are being provided by the Government of New Zealand will be made not later than January 8, 1981.

WRITTEN SUBMISSIONS: Any person may submit to the Commission a written statement of information pertinent to the subject of this investigation. A signed original and nineteen (19) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, on or before January 27, 1981. All written submissions, except for confidential business data, will be available for public inspection.

Any submission of business information for which confidential treatment is desired shall be submitted separately from other documents. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

A staff report containing preliminary findings of fact will be available to all interested parties on January 12, 1981.

PUBLIC HEARING: The Commission will hold a public hearing in connection with this investigation on January 30, 1981, in the Hearing Room of the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.s.t.), January 12, 1981. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10:00 a.m., e.s.t., on January 14, 1981, in Room 117 at the U.S. International Trade Commission Building. Prehearing statements must be filed on or before January 27, 1981. For further information concerning the conduct of the investigation, hearing procedures, and rules of general applications, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR 207), and Part 201, Subparts A through E (19 CFR 201).

The Commission has waived Commission rule 201.12(d) as amended, "Submission of prepared statements," in connection with this investigation. This rule stated that "Copies of witnesses' prepared statements should be filed with the Office of the Secretary of the Commission not later than 3 business days prior to the hearing and submission of such statements shall comply with sections 201.6 and 201.8 of this subpart." It is nevertheless the Commission's request that parties submit copies of witnesses' prepared testimony as early as practicable before the hearing in order to permit Commission review.

This notice is published pursuant to § 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20, 44 FR 76458).

Issued: November 7, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-36105 Filed 11-18-80; 8:45 am]

BILLING CODE 7020-02-M

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: Plastic Animal Identification Tags from New Zealand

Inv. No.: 303-TA-14 (Final)

Date and time: January 30, 1981 - 10:00 a.m., e.s.t.

Sessions were held in connection with this investigation in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., in Washington.

Congressional appearance:

Boyd Hollingsworth, Legislative Assistant, on behalf of Honorable Alan K. Simpson, United States Senator, State of Wyoming

In support of the petition:

Lamb & Lerch--Counsel
New York, N. Y.
on behalf of

Y-TEX Corporation

Roger Heins, President

Jerry Payne, Treasurer

William Rohrbach, General Counsel

Ritchie Manufacturing Company

John Gwin, Vice President

Fearing Manufacturing Company

Steven Freis, Marketing Manager

David R. Ostheimer--OF COUNSEL

In opposition to the petition:

Bronz & Farrell--Counsel
Washington, D.C.
on behalf of

Delta Plastics, Ltd., of Palmerston North, New Zealand

William McPhail, Managing Director

Malcolm Cameron, Director

Vet Brand, Inc., Torrance, California

Cy Consani, President

G. C. Hanford Manufacturing Company, Syracuse, New York

George Hanford, President

Edward E. Martin, Consultant

Edward J. Farrell--OF COUNSEL

APPENDIX F

NOTICE OF ADJUSTMENT ASSISTANCE FOR FEARING MANUFACTURING CO.

04 JUN 1980
Announcement and Approval Date

JUN 06 Recd

Project Approval Notice

The Economic Development Administration, U.S. Department of Commerce, has approved the guarantee of $410,000 in trade adjustment assistance loans for a firm producing livestock identification tags and employing 21 workers in South St. Paul, Minnesota.

Fearing Manufacturing Company, Inc., 490 East Villaume Avenue, South St. Paul, applied for the Federal assistance. The firm produces identification tags for livestock to be sold at public auctions.

Included in the assistance are loans for $245,000 to purchase machinery and equipment and $165,000 to be used as working capital.

The firm reported that its sales had been adversely affected by imports and it was certified by the Commerce Department as eligible to apply for assistance under the Trade Act of 1974.

An adjustment program submitted with the application for assistance indicates the firm will introduce a new molding process to produce tags, and expand its marketing and sales activities.

Officials anticipate that the assistance will help maintain jobs for 21 workers and create seven new jobs as production increases.

EDA is guaranteeing 90 percent of the unpaid balance of the loans extended to the firm by the Drovers State Bank of South St. Paul. The $245,000 fixed asset loan is repayable in 11 years and the $165,000 working capital loan in five years.

06-44-00018-20
06-44-00019-10

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