

GLOVES AND GLOVE LININGS OF FUR ON THE SKIN FROM BRAZIL

**Determination of No Injury or
Likelihood Thereof in
Investigation No. 303-TA-8
Under Section 303(b) of the
Tariff Act of 1930,
as Amended, Together With
the Information Obtained
in the Investigation**

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

[303-TA-8]

CERTAIN GLOVES AND GLOVE LININGS OF FUR ON THE
SKIN FROM BRAZIL

Determination of No Injury or Likelihood Thereof

On the basis of information developed during the course of investigation No. 303-TA-8, undertaken by the United States International Trade Commission under section 303(b) of the Tariff Act of 1930, as amended, the Commission determines unanimously ^{1/} that an industry in the United States is not being injured, is not likely to be injured, and is not prevented from being established, by reason of the importation of gloves and glove linings of fur on the skin from Brazil, provided for in item 705.30 of the Tariff Schedules of the United States (TSUS), upon which the Department of the Treasury has determined that a bounty or grant is being paid within the meaning of section 303 of the Tariff Act of 1930, as amended.

On November 22, 1978, the U.S. International Trade Commission received advice from the Department of the Treasury that a bounty or grant is being paid with respect to gloves and glove linings of fur on the skin imported from Brazil that are entered under TSUS item 705.30. Accordingly, the Commission, on December 4, 1978, instituted investigation No. 303-TA-8 under section 303(b) of the Tariff Act of 1930, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

^{1/} Chairman Joseph O. Parker, Vice Chairman Bill Alberger and Commissioners George M. Moore, Catherine Bedell, and Paula Stern concurred in the negative determination.

Notice of institution of the investigation and public hearing was published in the Federal Register of December 13, 1978 (43 F.R. 58233). On January 9, 1979, a public hearing was held in Washington, D.C., at which any person interested in the proceeding was given the opportunity to appear by counsel or in person, to present information, and to be heard.

The Treasury investigation resulting in the countervailing duty determination was initiated as a result of a petition filed with the Treasury Department on November 7, 1977, by the Amalgamated Clothing and Textile Workers Union, Washington, D.C.

STATEMENT OF REASONS OF CHAIRMAN JOSEPH O. PARKER
AND COMMISSIONERS GEORGE M. MOORE
AND CATHERINE BEDELL

On November 22, 1978, the United States International Trade Commission received advice from the Department of the Treasury that a bounty or grant is being paid with respect to gloves and glove linings of fur on the skin imported from Brazil, entered under item 705.30 of the Tariff Schedules of the United States (TSUS) and accorded duty-free treatment under section 501 of Title V (Generalized System of Preferences (GSP)) of the Trade Act of 1974. Accordingly, on December 4, 1978, the Commission instituted investigation No. 303-TA-8 under section 303(b) to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Determination

On the basis of evidence developed during this investigation we determine that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of gloves and glove linings of fur on the skin from Brazil, entered under item 705.30 of the TSUS and accorded duty-free treatment under section 501 of the Trade Act of 1974, upon which Treasury has determined a bounty or grant is being paid within the meaning of section 303 of the Tariff Act of 1930, as amended.

The subject imports

The imports which are the subject of this investigation are gloves and glove linings of fur on the skin imported from Brazil under TSUS item 705.30 which entered duty-free under the GSP and upon which Treasury has determined a bounty or grant is being paid. Such gloves and glove linings of fur on the skin, however, have not been imported from Brazil for at least four years.

No domestic producer entered an appearance at the hearing held in conjunction with this investigation and the National Association of Glove Manufacturers, the Department of Commerce, and the U.S. Embassy in Brazil were unable to provide the Commission with any information regarding possible future exports of these items from Brazil. Indeed, the Commission has no information that these items are being or will be produced in Brazil.

The U.S. industry

At the time of the institution of the instant investigation, information available to the Commission indicated that gloves and glove linings of fur on the skin were not being produced in the United States. After contacting over 50 domestic dress glove producers, the National Association of Glove Manufacturers, the Department of Commerce, and several dress glove retailers, however, the Commission was able to locate six domestic producers of gloves and glove linings of fur on the skin. The Commission sent questionnaires to these six producers. Three questionnaires were completed and returned. The other three producers were contacted by telephone.

The domestic producers of glove linings of fur on the skin indicated that the domestic industry has been declining over the years because of competition from synthetic and other linings which are sturdier, warmer, and less bulky than fur linings. All fur lining in the United States are made from imported rabbit furskins. Domestic producers of fur gloves indicated that these gloves are fad items which are not now popular. The producers of gloves and glove linings of fur on the skin had no information about present or future imports from Brazil.

The petitioner in this investigation, the Amalgamated Clothing and Textile Workers Union, stated at the public hearing that imports from Brazil of gloves and glove linings of fur on the skin "do not cause a problem to the U.S. domestic industry." No witnesses appeared at the public hearing held in Washington, on January 9, 1979, and no briefs were filed in conjunction with this investigation. At the time of the institution of this investigation, the Union was unable to supply the Commission with information about the domestic industry or possible exports from Brazil. The domestic producers did not join the Union in the complaint.

VIEWS OF COMMISSIONERS ALBERGER AND STERN

In order for the Commission to make an affirmative determination in an investigation under Section 303(b) of the Tariff Act of 1930, as amended, it is necessary to find that an industry in the United States is being or is likely to be injured, or is prevented from being established,^{1/} and the injury or likelihood thereof must be by reason of the importation into the United States of duty-free merchandise found by the Department of the Treasury (Treasury) to be receiving a bounty or grant from the exporting country.

Determination

On the basis of information obtained in this investigation, we determine that an industry in the United States is not being and is not likely to be injured, by reason of the importation of gloves and glove linings of fur on the skin from Brazil, upon which Treasury has determined a bounty or grant is being paid by the government of Brazil.

The Product and the Domestic Industry

This investigation covers gloves and glove linings of fur on the skin. Six domestic firms are known to produce gloves and glove linings of fur on the skin. Five of these producers are located near Gloversville, New York, the center of the domestic dress-glove industry. All fur linings in the United States are made from imported rabbit furskins. Domestic producers of fur gloves indicated that these gloves are fad items which are not now popular.

^{1/} Prevention of establishment of an industry in this investigation is not in question and will not be discussed further in these views.

No Injury or Likelihood Thereof by
Reason of Subsidized Imports

For at least four years, there have been no imports of gloves or glove linings of fur on the skin from Brazil. Neither domestic producers, the National Association of Glove Manufacturers, the U.S. Department of Commerce, nor the U.S. Embassy in Brazil were able to provide the Commission with any information regarding possible future exports of these items from Brazil. The Commission has no information that these items are being or will be produced in Brazil. However, the domestic producers contacted by the Commission indicated that the domestic industry has been declining for several years due to competition from synthetic and other linings which are known to be sturdier, warmer, and less bulky than fur linings.

Furthermore, there appears to be no likelihood of future injury to the domestic industry from subsidized imports of gloves or glove linings of fur on the skin from Brazil, since the Commission found no tangible evidence that such an industry in Brazil is about to materialize. U.S. producers did indicate, however, that they would be threatened by such imports should competition of this sort actually develop.

This investigation resulted from a petition filed by the Amalgamated Clothing and Textile Workers Union covering men's and boys' wearing apparel and a multitude of textile mill products from eight countries, including Brazil. Apparently, Treasury listed the relevant products and corresponding TSUSA item numbers, but this list was not adequately researched to reflect the specific interest

of the petitioner. The petitioner in this investigation stated at the public hearing that gloves and glove linings of fur on the skin "do not cause a problem to the U.S. domestic industry." Further, no witnesses spoke at the public hearing and no briefs were filed in response to the petition. At the outset of this investigation, the Union was unable to supply the Commission with information about the domestic industry or exports from Brazil. The domestic producers did not join the Union in its petition.

Clearly, this investigation has been a significant loss of government time and taxpayers' money, and should not have occurred. Procedures must be established to avoid such waste in the future.

SUMMARY

Investigation No. 303-TA-8 was instituted by the U.S. International Trade Commission (Commission) on December 4, 1978, following notification from the Department of the Treasury that a bounty or a grant is being paid with respect to gloves and glove linings of fur on the skin imported from Brazil. Although Wolf & Co., on behalf of the Amalgamated Clothing & Textile Workers Union, filed a countervailing duty petition with Treasury concerning these items, Wolf & Co. has informed the Commission that its client has "no interest" in this investigation.

There have been no imports from Brazil of gloves and glove linings of fur on the skin for at least 4 years. For this reason the Commission's investigation focused on the likelihood of injury to the domestic industry.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On November 22, 1978, the United States International Trade Commission (Commission) received advice from the Department of the Treasury (Treasury) that a bounty or grant is being paid with respect to gloves and glove linings of fur on the skin, entered under item 705.30 of the Tariff Schedules of the United States (TSUS) and accorded duty-free treatment under section 501 of title V (Generalized System of Preferences (GSP)) of the Trade Act of 1974. 1/ Accordingly, on December 4, 1978 the Commission instituted investigation No. 303-TA-8 under section 303(b) of the Tariff Act of 1930, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established by reason of the importation of such merchandise into the United States. The statute directs that the Commission make its determination by February 22, 1979.

Notice of the institution of the investigation and of a 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 at the Commission's Office in New York City, and by publishing the notice in the Federal Register of December 13, 1978 (43 F.R. 58233). 2/ A prehearing conference was held on Friday, January 5, 1979 in Washington, D.C., and a public hearing was held on Tuesday, January 9, 1979.

1/ Treasury's letter to the Commission is presented in app. A.

2/ A copy of the Commission's Federal Register notice of investigation and hearing is presented in app. B.

Development of This Investigation

This investigation evolved from a countervailing duty petition regarding men's and boys' apparel and textile mill products from Brazil, which was filed with Treasury by Wolf & Co., an accounting and economic consulting firm, on behalf of the Amalgamated Clothing & Textile Workers Union. Treasury's notice of investigation was published in the Federal Register of January 30, 1978 (43 F.R. 3964). A notice of a preliminary determination that the Government of Brazil has given benefits which may constitute bounties or grants was published in the Federal Register of June 1, 1978 (43 F.R. 23783). A clarification of the description of the products subject to Treasury's countervailing duty investigation was published in the Federal Register of October 13, 1978 (43 F.R. 47340). Treasury's final countervailing duty determination and a waiver of countervailing duties were published in the Federal Register of November 16, 1978 (43 F.R. 53422 and 43 F.R. 53425). 1/

The gloves and glove linings of fur on the skin subject to Treasury's determination are entered duty free pursuant to the GSP. Section 303(a)(2) of the Tariff Act of 1930, as amended, provides that countervailing duties may not be imposed upon any article of merchandise which is free of duty in the absence of a determination by the Commission that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such article of merchandise into the United States. Accordingly, Treasury advised the Commission of its determination on November 22, 1978, and the liquidation of entries or withdrawals from warehouse, for consumption of gloves and glove linings of fur on the skin was suspended pending a determination by the Commission.

1/ A copy of Treasury's Federal Register notice of final determination is presented in app. C.

Focus on the Likelihood of Injury

An examination of import statistics published by the U.S. Department of Commerce and discussions with the National Association of Glove Manufacturers, domestic producers, the American Fur Merchants Association, the Department of Commerce, and the U.S. Customs House in New York have revealed that gloves and glove linings of fur on the skin have not been imported from Brazil for at least 4 years. For this reason, the Commission's investigation focuses on the issue of the likelihood of injury to the domestic industry. Notice of the focus of this investigation was published in the Federal Register of December 18, 1978 (43 F.R. 58873). 1/

Description and Uses

Imports under TSUS item 705.30, gloves and glove linings of fur on the skin, are:

- 1) glove and mitten linings made of fur on the skin, and
- 2) gloves and mittens made of fur on the skin.

Gloves, mittens, and their linings are determined to be made of fur on the skin if such fur exceeds in value each other single component material in the glove, mitten, or lining. In determining component materials in gloves and mittens (a) linings and applied cuffs shall be disregarded, and (b) any leather component shall be disregarded unless the area of such leather is more than 50 percent of the external surface area of the gloves and mittens exclusive of applied cuffs.

1/ A copy of the Commission's Federal Register notice on the focus of the investigation is presented in app. D.

Little girls' bunny mittens, and linings made of rabbit furskins for use in leather dress gloves make up the bulk of the imports under item 705.30.

U.S. Tariff Treatment

Gloves and glove linings of fur on the skin are dutiable under the provisions of item 705.30 of the TSUS. The column 1 (most-favored-nation) rate of duty is 10 percent ad valorem, and has been in effect since 1972, when the final stage of the concessions granted in the Kennedy round of trade negotiations became effective. The column 2 rate of duty is 50 percent ad valorem.

Title V of the Trade Act of 1974 authorized the President to extend duty-free treatment to eligible articles from designated beneficiary developing countries after consideration of (1) the effect such action will have on furthering the economic development of developing countries; (2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries; and (3) the anticipated impact of such action on U.S. producers of like or directly competitive products.

Gloves and glove linings of fur on the skin (TSUS item 705.30) were entitled to duty-free treatment from designated beneficiary developing countries after January 3, 1976. Although Brazil is a designated beneficiary developing country, it has not exported glove and glove linings of fur on the skin to the United States for at least 4 years. The Philippines is the only designated eligible country which is a significant supplier of these items.

Bounties and Grants

Treasury has determined that the Government of Brazil grants five types of export incentives to Brazilian manufacturers and exporters, which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended. These are described below:

1. Excessive rebate or remission for export transactions of Industrial Products Tax (IPI), a value-added tax, and the Goods Circulation Tax (ICM), a provincial value-added tax.
2. Preferential short-term financing for export transactions provided by the Government under resolution 398.
3. Remission of customs duties on imported capital equipment under Law 1189;
4. Exemption of export earnings from income taxes.
5. Reduction in IPI taxes and forgiveness of a prior import deposit of customs duties on imported machinery for eligible enterprises under the BEFIEX program.

Treasury has determined that the net amount of the bounty or grant on gloves and glove linings of fur on the skin to be 29.2 percent of the f.o.b. price for export to the United States. Treasury has informed the Commission, however, that it has no knowledge of Brazilian production or exportation of these items.

Treasury to Waive Countervailing Duties

At present, all imports of gloves and glove linings of fur on the skin under TSUS 705.30 from Brazil would be subject to countervailing duties if the Commission makes an affirmative decision in this case. However, section 303(b) of the Tariff Act of 1930, as amended, authorizes the Secretary of the Treasury to waive the imposition of countervailing duties if he determines that: (1) adequate steps have been taken to reduce substantially or eliminate

the adverse effect of a bounty or grant; (2) there is a reasonable prospect that under section 102 of the Trade Act successful trade agreements will be entered into with foreign countries or instrumentalities providing for the reduction or elimination of barriers to, or other distortions of, international trade; and (3) the imposition of the additional duty would most likely seriously jeopardize the satisfactory completion of such negotiations.

Accordingly, Treasury stated on November 8, 1978, that it would consider it appropriate to waive countervailing duties under section 303(d) of the Act should the determination of the Commission be affirmative. According to Treasury, the Government of Brazil is committed to the removal of the effective net bounty derived from the IPI/ICM credits, preferential financing under Resolution 398, and duty-free treatment of imported machinery under Law 1189. This action will be accomplished as follows: (1) A 25-percent reduction in the net bounty by the imposition of an equivalent export tax on or before November 7, 1978; (2) A further 25-percent reduction of the bounty on January 3, 1979; (3) The remaining net bounty or grant would be eliminated by no later than January 1, 1980.

In addition, Treasury has stated that the Government of Brazil has committed itself to active participation in the multilateral trade negotiations in Geneva, and has agreed on a number of principles that should be included in a code governing the use of subsidies and countervailing duties, and will endeavor, with the United States, to reach an agreement on the code during the negotiations in Geneva. In addition, according to Treasury, the Government of Brazil has agreed to make reductions in its overall export incentive program as a contribution to more discipline in international trade. Treasury has further determined that the imposition of countervailing duties on textiles from Brazil would be likely to seriously jeopardize the satisfactory completion of such negotiations.

However, should the Commission make an affirmative determination in this investigation and the Brazilian government fail to remove the bounty or grant, Treasury would be required to revoke its waiver and impose countervailing duties.

The Department of the Treasury's authority to waive the assessment and collection of countervailing duties, provided for under section 303 of the Tariff Act of 1930, as amended by the Trade Act of 1974, expired on January 3, 1979. Because of Treasury's expectation that legislation extending the waiver authority retroactive to January 3, 1979, will be enacted by the current session of Congress, the Department of the Treasury published in the Federal Register of January 2, 1979, a notice that liquidation of entries of merchandise, subject to waivers, are to be suspended until further notice, and that in lieu of requiring the deposit of estimated countervailing duties, the posting of bonds or irrevocable letters of credit in an amount sufficient to cover potential liability for countervailing duties will be considered sufficient to meet the obligations of the Secretary of the Treasury for protecting the revenue.

The Domestic Industry

According to Mr. James H. Casey, president of the National Association of Glove Manufacturers, there were approximately 30 domestic producers of gloves and glove linings of fur on the skin 10 years ago. In 1978 the Commission has been able to locate only six producers which still make these items. Five are located in or near Gloversville, N.Y., the center of the domestic dress-glove industry.

Four of these producers make glove linings of fur on the skin. Two of these glove lining producers are located in Gloversville, and each claims to be the "only" domestic producer of fur glove linings left in the United States.

The Commission has discovered two producers of fur gloves. One producer makes two or three pairs of fur gloves a year; with a total estimated value of \$100; the other producer plans to begin small-scale production in 1979.

Factors cited by glove manufacturers for the decline in the domestic fur glove and fur glove lining industry are as follows: (1) Synthetic and other linings are sturdier, warmer, cheaper, and less bulky; (2) Fur gloves, especially bunny mittens, are fad items which are not now popular; and (3) Most of the glove manufacturers that handled fur have ceased production leaving no one to take their place.

The domestic dress glove industry, in general, and the fur glove and fur glove lining industry, in particular, are labor-intensive, small enterprises employing a handful of workers.

Domestic producers of fur linings have told the Commission that domestic rabbit furskins are too tough to work with. As a consequence, all fur linings produced in this country are made from imported rabbit furskins.

U.S. Imports

For at least 4 years, no gloves or glove linings of fur on the skin (TSUS 705.30) have been imported into the United States from Brazil.

Imports of these items from all countries increased from approximately 40,000 dozen pairs in 1966 to 75,000 dozen pairs in 1969, representing an increase of about 90 percent in 3 years. Subsequently, imports steadily declined, reaching a low of about 3,000 dozen pairs in 1974 and 1975, or by more than 95 percent.

Since 1975, imports have increased slightly to 6,000 dozen pairs in 1977. Imports declined again in January-September 1978, compared with the quantity imported in the corresponding period of 1977.

Average unit values of imported gloves and glove linings of fur on the skin have increased unevenly since 1966. In 1966 the average unit value was \$9.69 a dozen pairs. In January-September 1978 the average unit value was \$51.95 a dozen pairs, representing an increase of more than 400 percent.

Gloves and glove linings of fur on the skin (TSUS item 705.30): U.S. imports for consumption, 1966-77, January-September 1977, and January-September 1978

Period	Quantity	Value	Unit value ^{1/}
	<u>1,000 dozen</u>	<u>1,000</u>	<u>Per dozen pairs</u>
	<u>pairs</u>	<u>dollars</u>	
1966-----	41.1	398	\$9.69
1967-----	49.0	488	9.96
1968-----	62.0	457	7.36
1969-----	75.6	629	8.32
1970-----	57.4	511	8.90
1971-----	24.8	259	10.44
1972-----	10.1	174	17.33
1973-----	9.3	196	21.17
1974-----	3.3	64	19.39
1975-----	2.8	57	20.23
1976-----	3.8	91	23.78
1977-----	5.9	134	22.86
January-September--			
1977-----	3.7	91	21.19
1978-----	2.4	127	51.95

^{1/} Calculated from the unrounded figures.

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

An examination of the official statistics published by the Department of Commerce reveals no information that imports of rabbit furskins, the principal raw material in these items, have not been substituted for imports of gloves and glove linings of fur on the skin. As shown in figures 1 and 2 imports of rabbit furskins have declined irregularly since 1966.

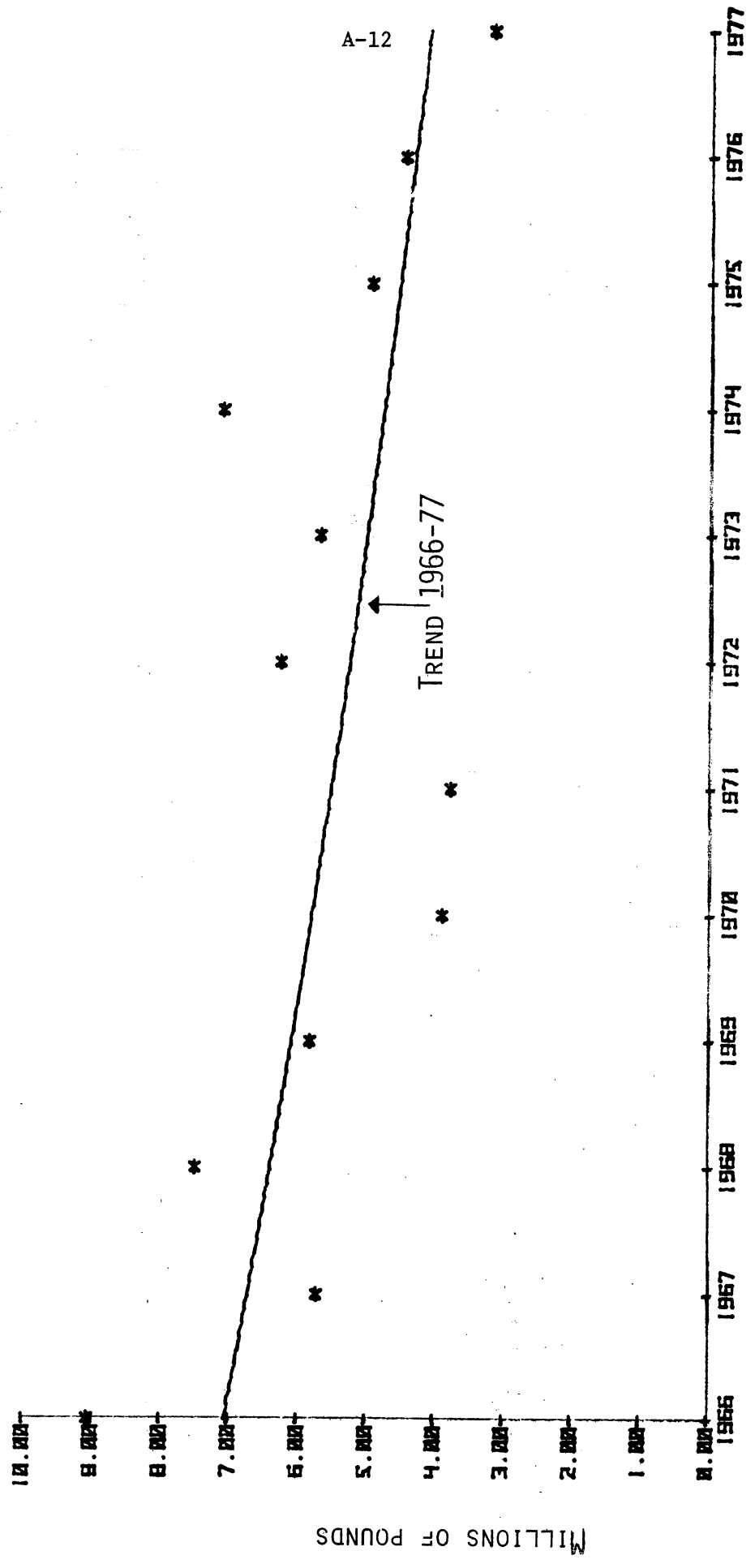
Similarly, the trend in the importation of lined leather dress gloves follows closely the general trend in the importation of gloves and glove linings of fur on the skin. Lined leather dress gloves include fur lined leather dress gloves and are the end products of glove linings of fur on the skin. As shown in figure 3, imports of lined leather dress gloves increased by nearly 40 percent between 1966 and 1969. These imports decreased by 80 percent from 1969 to 1975. Since 1975 these imports have increased slightly.

Imports of glove and glove linings of fur on the skin have declined for many of the same reasons that domestic production has declined. Changes in fashion and skyrocketing costs, combined with cheaper and warmer linings made other materials have contributed to the demise of the fur glove and fur lining industry world wide.

U.S. Consumption

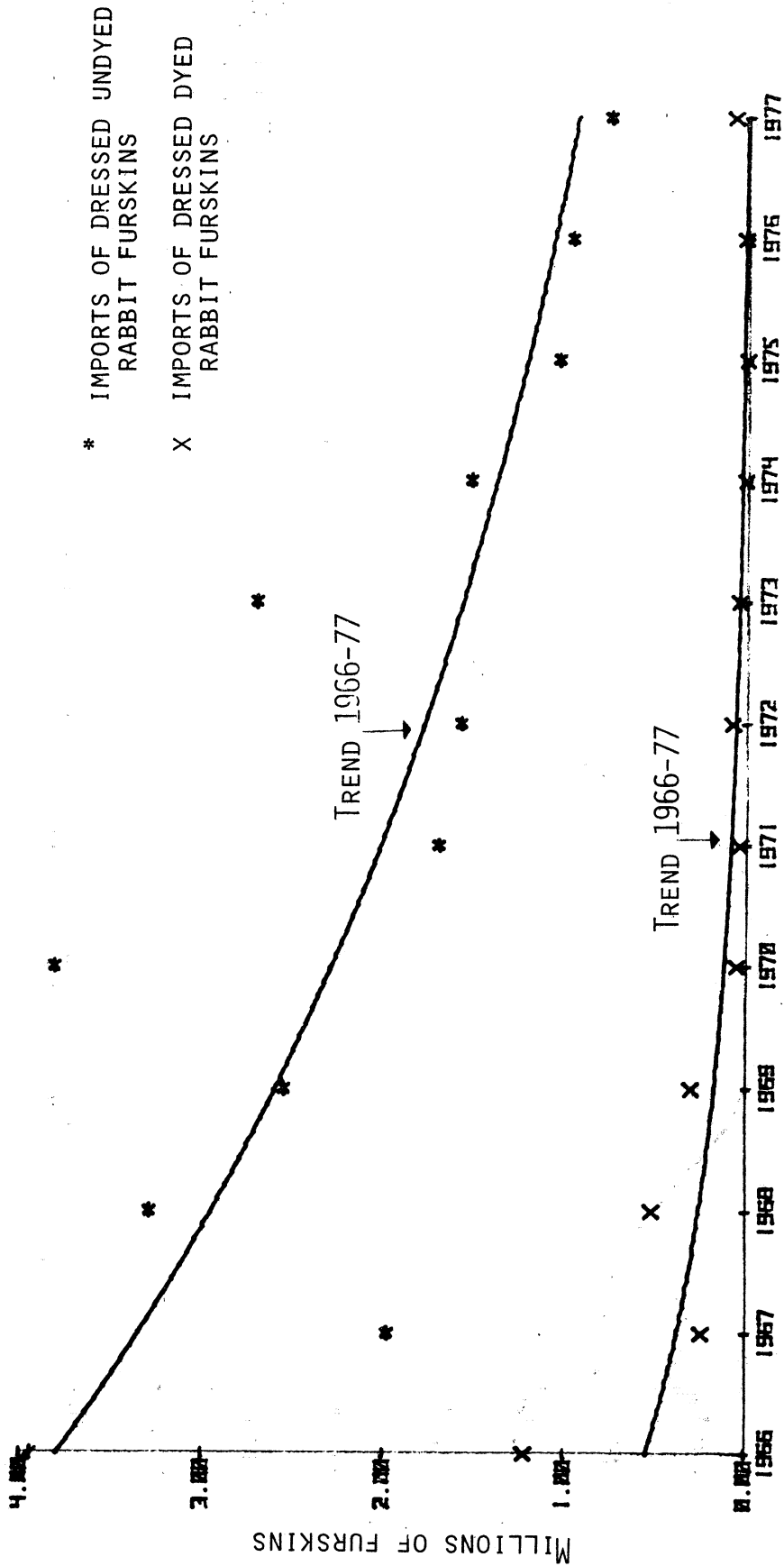
The curve in figure 4 representing U.S. imports of gloves and glove linings of fur on the skin is probably the most accurate indicator available of the overall trend in the domestic consumption of these items.

FIGURE 1. --RAW OR UNDRRESSED WHOLE RABBIT FURSKINS (TSUS ITEM 124.1040): U.S. IMPORTS FOR CONSUMPTION, 1966-77.



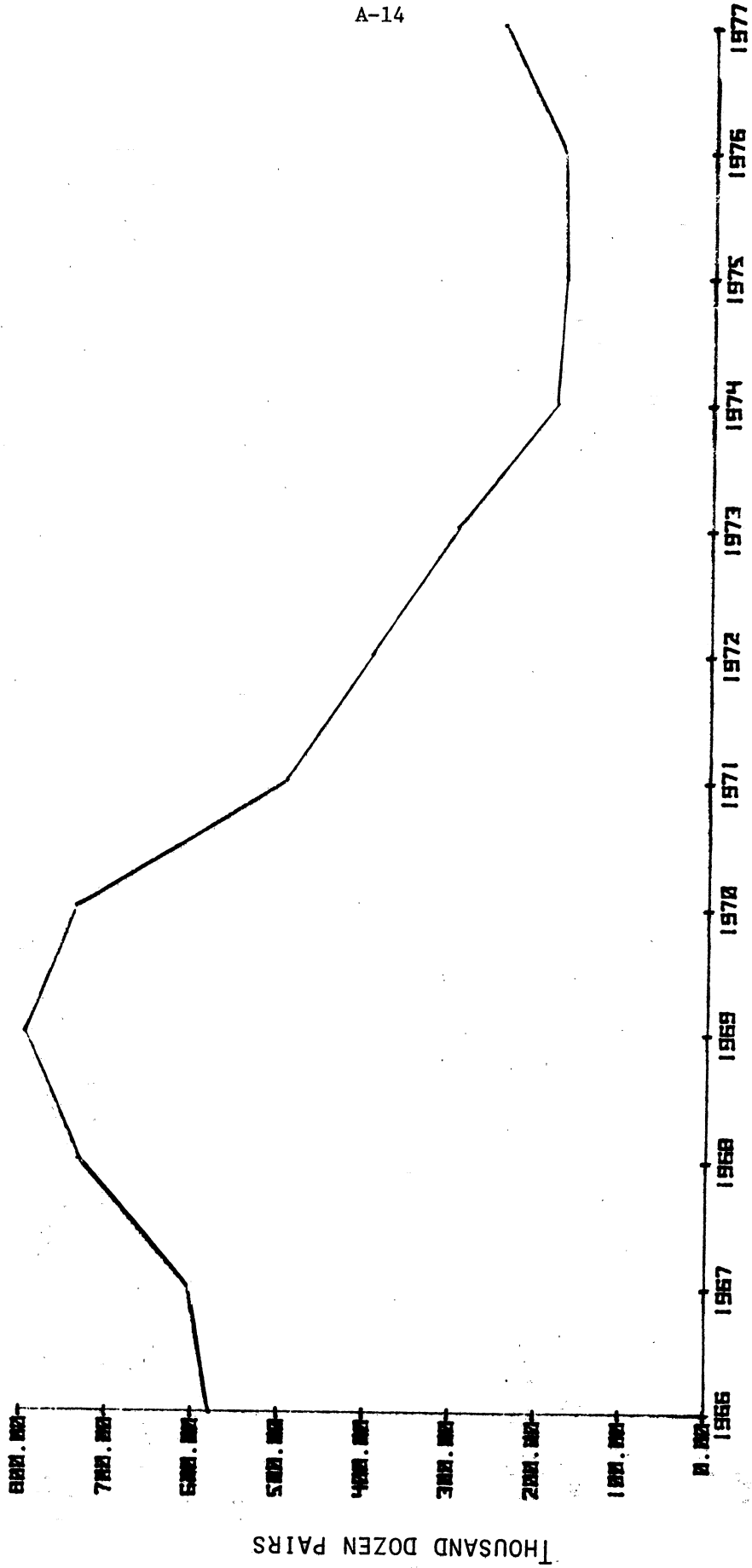
SOURCE: OFFICIAL STATISTICS OF THE U.S. DEPARTMENT OF COMMERCE.

FIGURE 2.--DRESSED RABBIT FURSKINS: U.S. IMPORTS FOR CONSUMPTION, 1966-77.



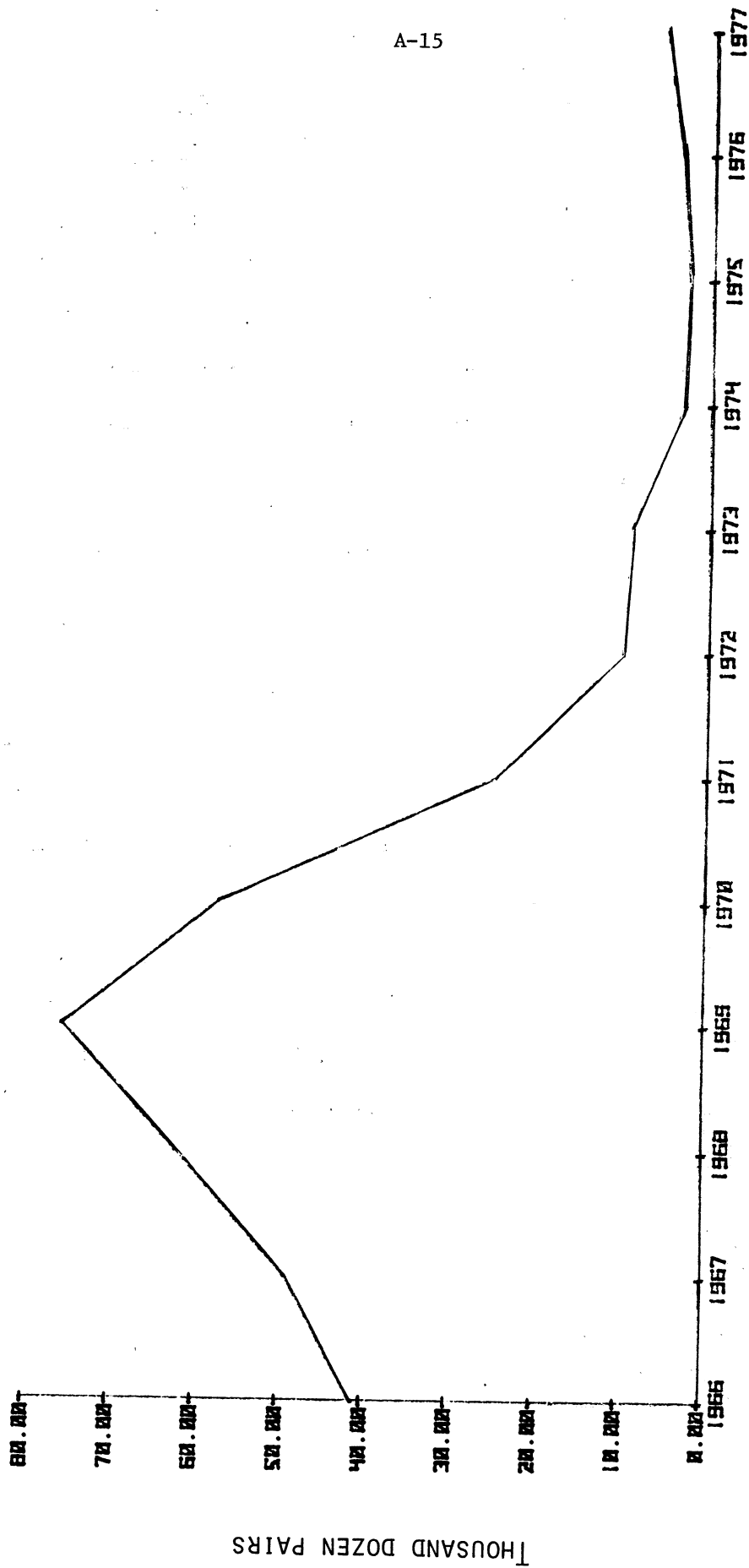
SOURCE: OFFICIAL STATISTICS OF THE U.S. DEPARTMENT OF COMMERCE.

FIGURE 3.--LINED LEATHER DRESS GLOVES: U.S. IMPORTS FOR CONSUMPTION, 1966-77.



SOURCE: OFFICIAL STATISTICS OF THE U.S. DEPARTMENT OF COMMERCE.

FIGURE 4.--GLOVE AND GLOVE LININGS OF FUR ON THE SKIN: U.S. IMPORTS FOR CONSUMPTION, 1966-77.



SOURCE: OFFICIAL STATISTICS OF THE U.S. DEPARTMENT OF COMMERCE.

No Interest in this Investigation

Mr. Bernard Blakenheimer of Wolf & Co. has informed the Commission's staff that his client, the Amalgamated Clothing Workers Union, which was the petitioner before Treasury, has "no interest" in this investigation. The Union was unable to supply the Commission with any information about the domestic industry or about possible exports from Brazil. In addition, no witnesses came forward at the public hearing, and no briefs were filed.

The Question of the Likelihood of Injury

Questionnaires which focus on the question of the likelihood of injury have been sent to all known domestic producers of gloves and glove linings of fur on the skin. According to these questionnaires and discussion with other producers not responding to the questionnaires, domestic producers do not know of present and do not anticipate future exports of these items from Brazil. They do feel threatened, however, by competition from Brazil, if it should develop.

A telegram has been sent to the Commercial Attaché of the American Embassy in Brasilia requesting information about Brazilian production and exportation of these items but, no information has been received.

APPENDIX A .

U.S. DEPARTMENT OF THE TREASURY'S LETTER TO THE
U.S. INTERNATIONAL TRADE COMMISSION ADVISING
THE COMMISSION OF ITS COUNTERVAILING
DUTY DETERMINATION



DOCKET NUMBER

546

THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

Office of the Secretary
Int'l Trade Commission

DOCKET FILE

Distb. Comm. Staff,
Div. *Schwartz*
Coyler

NOV 20 1978

NOV 22 AM 11 50

Dear Mr. Chairman:

In accordance with section 303(b) of the Tariff Act of 1930, as amended, you are hereby advised that a bounty of grant is being paid with respect to certain textiles and textile products imported from Brazil and entered under TSUS item numbers 307.60, 705.30 and 791.76, which merchandise from said country is accorded duty-free treatment.

The U.S. Customs Service will make available to the U.S. International Trade Commission as promptly as possible its files on the instant bounties being paid or bestowed for the Commission's use in the investigation as to whether an industry in the U.S. is being, or likely to be injured, or is prevented from being established, by reason of the importation of this merchandise into the United States.

In this connection, your attention is drawn to a statement on page 6 in the attached notice indicating the Treasury's belief that it is appropriate to waive countervailing duties on these items under section 303(d) in the event the Commission's decision is affirmative. Extensive conversations were held with Brazilian officials which led to the substantial reduction of their subsidy programs and a commitment to actively participate in the Multilateral Trade Negotiations. On the basis of these actions, the Treasury is waiving countervailing duties on imports of certain dutiable textiles and textile products from Brazil which were the object of a parallel countervailing duty investigation by the Treasury. We are of the opinion that these actions provide a basis to waive for duty-free textile and textile products.

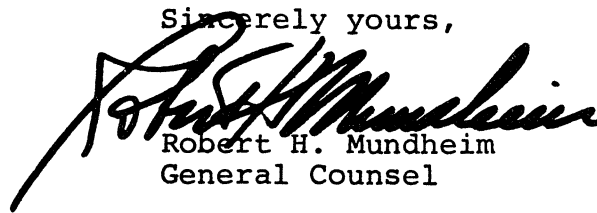
Since some of the data in this file is regarded by the Customs Service to be of a confidential nature, it is requested that the U.S. International Trade Commission

DOCKET FILE

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consider all information therein contained for the official use of the International Trade Commission only, and not to be disclosed to others without prior clearance with Customs.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Robert H. Mundheim". The signature is written in a cursive style with a large initial "R".

Robert H. Mundheim
General Counsel

The Honorable
Joseph O. Parker
Chairman, U.S. International
Trade Commission
Washington, D. C. 20436

Attachment

APPENDIX B

U.S. INTERNATIONAL TRADE COMMISSION'S NOTICE OF
INVESTIGATION AND HEARING AS PUBLISHED
IN THE FEDERAL REGISTER

43 F.R. 58233
December 13, 1978

[7000-02-M]
[303-TA-4 and 5]
**CERTAIN YARNS OF WOOL FROM URUGUAY
AND BRAZIL**

[303-TA-6 and 7]
**CERTAIN LEATHER WEARING APPAREL FROM
COLOMBIA AND BRAZIL**

[303-TA-8]
**CERTAIN GLOVES AND GLOVE LININGS FROM
BRAZIL**

Investigations and Hearing

Having received advice from the Department of the Treasury on November 22, 1978, that a bounty or grant is being paid with respect to—

- (1) Yarns of wool imported from Uruguay and Brazil, provided for in item 307.60 of the Tariff Schedules of the United State (TSUS);
- (2) Wearing apparel, of leather, for men and boys, or of types commonly worn by both sexes, from Colombia and Brazil, provided for in item 791.76 of the TSUS; and
- (3) Gloves and glove linings, of fur on the skin, from Brazil, provided for in item 705.30 of the TSUS—

which merchandise from said countries is accorded duty-free treatment, the United States International Trade Commission on December 4, 1978, instituted investigations Nos. 303-TA-4 through 8, inclusive, under section 303(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(b)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing in connection with the investigations will be held in the Commission's Hearing Room, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t., on Tuesday, January 9, 1979. All persons shall have the right to appear at the public hearing shall be filed with the Secretary of the Commission at his office in Washington, D.C. not later than noon, Thursday, January 4, 1979.

There will be a prehearing conference in connection with these investigations which will be held in Washington, D.C. at 10:00 a.m., e.s.t., on Friday, January 5, 1979, in Room 117, U.S. International Trade Commission Building, 701 E Street, NW.

By order of the Commission.
Issued: December 8, 1978.
KENNETH R. MASON,
Secretary.

APPENDIX C

U.S. DEPARTMENT OF THE TREASURY'S NOTICE OF FINAL DETERMINATION
AS PUBLISHED IN THE FEDERAL REGISTER

43 F.R. 53422
November 16, 1978

[4810-22-M]

PART 159—LIQUIDATION OF DUTIES

Countervailing Duties—Certain Textiles and Textile Products From Brazil

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Final countervailing duty determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a determination that the Government of Brazil has given benefits which constitute bounties or grants under the countervailing duty law on the manufacture, production, or exportation of certain textiles and textile products from Brazil. Both dutiable and duty-

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free merchandise are included in this determination. The case involving the duty-free merchandise is being referred to the International Trade Commission for an injury determination. Countervailing duties on dutiable items are being waived based on actions by the Brazilian Government to reduce their adverse effect.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard B. Self, Director, Office of Tariff Affairs, Department of Treasury, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220, 202-566-8585.

SUPPLEMENTARY INFORMATION:

On June 1, 1978, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (43 FR 23783). The notice stated that it had been preliminarily determined that benefits had been received by Brazilian manufacturers/exporters of men's and boys' apparel and textile mill products of cotton, wool, and man-made fiber which may constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

For purposes of this notice "textile mill products" include yarns (except cotton yarn, item numbers 300.60 through 302.98 TSUSA, which was the subject of a previous countervailing duty investigation), fabrics, household textiles, miscellaneous products of textile mills, and certified handloomed and folklore products, made of cotton, wool and manmade fibers, as specified in U.S. bilateral textile agreements and described by the Tariff Schedules of the United States Annotated (TSUSA) item numbers set forth in the Appendix to the FEDERAL REGISTER notice published on October 13, 1978 (43 FR 47340). "Men's and boys' apparel" includes those items described by TSUSA item numbers in the Appendix to the above-cited FEDERAL REGISTER notice.

The men's and boys' apparel and textile mill products from Brazil which are classified under items 307.60, 705.30 and 791.76 are free of duty.

The preliminary determination stated that the programs under which benefits were conferred include the following:

1. Certificates granted by the Brazilian Government in the amount of the IPI/ICM tax which are in addition to the ordinary exemption on export of the value added tax.

2. Preferential financing for exports under Resolution 398.

3. Tax relief on equipment and earnings, in addition to grants to certain

new industries and industries located in economically depressed areas under Law 1137.

4. Partial exemption from payment of IPI and import duties on machinery purchases.

5. Cash assistance given to certain enterprises under BEFIEEX, a government agency.

Programs preliminarily determined not to be bounties or grants within the meaning of the Act included the following:

1. Exemption from the Industrial Products Tax (IPI), a value added tax, and the ICM tax, a provincial value added tax, on export transactions. The Department has consistently held that the nonexcessive rebate or remission of indirect taxes, directly related to an exported product, does not constitute a bounty or grant within the meaning of the law.

2. Exemption from the payment of import duties and the IPI tax on imports that are incorporated in finished products for export. This follows internationally recognized principles of drawback.

The notice offered interested parties an opportunity to submit any relevant data, views, or arguments in writing with respect to the preliminary determination on or before July 1, 1978.

Subsequent information derived from submission by the Government of Brazil revealed the following:

(1) Short-term financing provided by the Government under Resolution 398 resulted in a weighted average bounty of 6 percent based on a survey of those firms comprising a majority of Brazil's exports. The bounty is the difference in terms provided by the Government loans as compared to those available commercially.

(2) The duty-free treatment of imported machinery under Law 1189 is considered as a bounty or grant since the concept of drawback cannot be applied to imported capital items that subsequently would not be exported. The bounty derived from this benefit is computed by taking the amount of the duty saved over the useful life of the imported capital item.

(3) Only one of the exporters investigated was an eligible enterprise under the BEFIEEX program. Benefits included the reduction in IPI taxes, as well as the forgiveness of a prior import deposit of customs duties on imported machinery. The benefit was calculated in a manner similar to that under Law 1189.

(4) None of the companies investigated were the recipient of tax breaks for locating facilities in specifically designated geographic areas of Brazil.

(5) While export earnings are exempted from the payment of income taxes and therefore a bounty, the possible benefits derived there-

from were not computed into the final bounty in view of the uncertainty of the overall tax effect of the IPI/ICM credits, which themselves are treated as income.

(6) The benefit derived from the IPI/ICM credits was computed by taking the total credits utilized by the firms representing a majority of Brazil's textile exports with the final amount of 30.3 percent reflecting a weighted average based on the firms' sales. It should be noted that all credits cannot be utilized to the extent that domestic tax obligations, for which these credits are used, have been exhausted by the end of a business year.

After consideration of all information received, it is hereby determined that textiles and textile mill products which are the subject of this investigation from Brazil are subject to bounties or grants within the meaning of section 303 of the Act. The bounties or grants are in the form of the IPI/ICM credits, preferential financing under resolution 398, remission of customs duties on imported capital equipment under Law 1189, and benefits received under the BEFIEEX program. The net amount of the bounty or grant has been ascertained and determined to be 37.2 percent of the f.o.b. price for export to the United States of textiles and textile mill products from Brazil. The net bounty for leather wearing apparel has been ascertained and determined to be 34.8 percent of the f.o.b. price.

Effective on or after November 16, 1978, and until further notice, upon the entry, or withdrawal from warehouse, for consumption of such dutiable textile products imported directly or indirectly from Brazil, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of textiles and textile mill products from Brazil are benefitting from a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this Order shall be deemed to have benefitted from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacturer, production, or exportation of textiles and textile mill products from Brazil.

Notwithstanding the above, a "notice of waiver of countervailing

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duties" is being published concurrently with this Order which covers textiles and textile mill products from Brazil subject to this investigation in accordance with section 303(d) of the Act. At such time as the waiver ceases to be effective, in whole or in part, a notice will be published setting forth the deposit of estimated countervailing duties which will be required at the time of entry, or withdrawal from warehouse, for consumption of each product then subject to the payment of countervailing duties.

Further, the textiles and textile mill products subject to this determination which are classified under item 307.60, 791.76 and 705.30 of the Tariff Schedules of the United States, Annotated (TSUSA), are entered duty-free pursuant to the U.S. Generalized System of Preferences, authorized by Title V of the Trade Act of 1974 (19 U.S.C. 2461-2465, 88 Stat. 2066-2071).

In accordance with section 303(a)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), countervailing duties may not be imposed upon any article of merchandise which is free of duty in the absence of a determination by the U.S. International Trade Commission that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such article or merchandise into the United States.

Accordingly, the U.S. International Trade Commission is being advised of this determination and the liquidation of entries, or withdrawals from warehouse, for consumption of the duty-free items subject to this investigation will be suspended pending the determination of the Commission.

Should the determination of the Commission be affirmative, the Treasury would consider it appropriate to waive countervailing duties under section 303(d) of the Act. The Government of Brazil is committed toward the removal of the effective net bounty derived from the IPI/ICM credits, preferential financing under resolution 398, and duty-free treatment of imported machinery under Law 1189. This action will be accomplished as follows:

- (1) A 25 percent reduction in the net bounty of 37.2 percent by the imposition of an equivalent export tax on or before November 7, 1978;
- (2) A further 25 percent reduction of the bounty on January 3, 1979;
- (3) The remaining net bounty or grant of 18.6 percent would be eliminated by no later than January 1, 1980.

In addition the Government of Brazil has committed itself to active participation in the multilateral trade negotiations in Geneva, has agreed on a number of principles that should be

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included in a code governing the use of subsidies and countervailing duties and will endeavor, with the United States, to reach an agreement on that code during the negotiations in Geneva this month. In addition the Government of Brazil has agreed to make reductions in its overall export incentive program as a contribution to more discipline in international trade.

Effective on or after November 16, 1978, and until further notice, upon the entry for consumption of withdrawal from warehouse for consumption of such duty-free textile products, liquidation will be suspended pending the determination of the U.S. International Trade Commission.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting under the column headed "country", the name "Brazil", and inserting the words "durable textile products", in the column headed "commodity", the number of this Treasury Decision in the column headed "Treasury Decision", and the words "bounty declared-rate" in the column headed "action".

(R.S. 251, as amended, secs. 303, 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303), as amended, 1624).

Pursuant to Reorganization Plan #26 of 1950 and Treasury Department Order 190 (revision 15), March 16, 1978, and the provisions of the Treasury Department Order #165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
*General Counsel
of the Treasury.*

NOVEMBER 8, 1978.

[FR Doc. 78-32182 Filed 11-15-78; 8:45 am]

APPENDIX D

U.S. INTERNATIONAL TRADE COMMISSION'S NOTICE
ON THE FOCUS OF INVESTIGATION
AS PUBLISHED IN THE FEDERAL REGISTER

43 F.R. 58873
December 18, 1978

[7020-02-M]

**INTERNATIONAL TRADE
COMMISSION**

[303-TA-8]

**CERTAIN GLOVES AND GLOVE LININGS FROM
BRAZIL**

**Supplementary Information for Scheduled
Public Hearing**

On December 13, 1978, notice of institution of the Commission's investigation, Certain Gloves and Glove Linings from Brazil, 303-TA-8, and the time and place of the public hearing was published in the **FEDERAL REGISTER** (43 FR 58233). That notice announced that a public hearing in connection with this investigation will be held beginning at 10:00 a.m., e.s.t., on Tuesday, January 9, 1979, in the Commission's Hearing Room, United States International Trade Commission, 701 E Street, NW., Washington, D.C.

An examination of import statistics published by the U.S. Department of Commerce has revealed that these gloves and glove linings, imported under Tariff Schedule of the United States (TSUS) item No. 705.30, have not been imported from Brazil for at least the past four years. The Commission has no other information that these items have been imported from Brazil. For this reason, the Commission's investigation will focus on the issue of the likelihood of injury to the domestic industry. If any person has information that may be of interest to the Commission on this matter, please address it to the Secretary of the Commission, at his office in Washington, D.C.

By order of the Commission.

Issued: December 13, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc.78-35098 Filed 12-15-78; 8:45 am]

