CERTAIN LEATHER WEARING APPAREL FROM COLOMBIA AND BRAZIL

Determinations of No Injury or Likelihood Thereof in Investigations Nos. 303-TA-6 and 303-TA-7 Under Section 303(b) of the Tariff Act of 1930, as Amended, Together With the Information Obtained in the Investigations

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

[303-TA-6 and 7]

CERTAIN LEATHER WEARING APPAREL FROM COLOMBIA AND BRAZIL

Determinations of No Injury or Likelihood of Injury

On November 22, 1978, the United States International Trade Commission received advice from the Department of the Treasury (Treasury) that a bounty or grant is being paid with respect to certain leather wearing apparel imported from Colombia and Brazil, entered under item 791.76 of the Tariff Schedules of the United States (TSUS) and accorded duty-free treatment. Accordingly, the Commission, on December 4, 1978, instituted investigations Nos. 303-TA-6 and 7, 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. Notice of the institution of the investigations and of the public hearing to be held in connection therewith 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 time all interested persons were provided the opportunity to appear in person or by counsel.

On the basis of its investigations Nos. 303-TA-6 and 303-TA-7, the Commission determined (Chairman Parker and Commissioner Bedell dissenting) 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 certain duty-free leather wearing apparel from Colombia or from Brazil, 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.

In arriving at its determinations, the Commission gave due consideration to written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

STATEMENT OF REASONS OF COMMISSIONERS BILL ALBERGER
AND GEORGE M. MOORE

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 the information obtained in these investigations, 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 certain leather wearing apparel from Colombia or Brazil which the Department of the Treasury has determined is receiving a bounty or grant from the Governments of Colombia and Brazil.

The Product and the Domestic Industry

These investigations cover virtually all leather wearing apparel for men and boys, and types commonly worn by both sexes,2/ other than articles of reptile leather, footwear, gloves, headwear, apparel belts, and watch straps, or wearing apparel in chief value of fur or chief weight of cotton,

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

2/ U.S. production and imports of articles that might be classified as "unisex" are relatively insignificant. Hence, reference will be made only to men's and boys' apparel.

wool, or manmade fibers, or any combination thereof. Various styles of men's and boys' coats and jackets account for the bulk of U.S. shipments and imports of this leather wearing apparel.

Most firms in the United States which produce leather and sheep-lined clothing operate a single establishment and few are subsidiaries of other firms. A number of firms produce textile apparel as well as leather apparel. In addition, many firms contract part of their production to contractors who cut and/or sew the garments, especially during peak selling periods. Although some firms produce leather wearing apparel for both men and women, producers usually concentrate on the production of either men's and boys' or women's apparel.

We consider the relevant U. S. industry to consist of the U.S. facilities used in the production of the types of men's and boys' leather wearing apparel described above. There were approximately 75 U.S. firms producing such apparel in 1978.

<u>The bounties or grants</u>

The U.S. Department of the Treasury determined that the Government of Colombia gives two types of bounties or grants to Colombian manufacturers and exporters which amount to a net benefit of 6.18 percent of the value of the export merchandise. The major bounty or grant is the payment of negotiable tax credit certificates at a fixed percentage of the value of the export transactions. Treasury determined that five types of bounties or grants were provided by the Government of Brazil. As of January 31, 1979 they amounted, in the aggregate, to 13.2 percent of the f.o.b. price of the merchandise. The major item in the Brazilian system is certificates granted by the Brazilian Government in the amount of the IPI/ICM tax (federal and state value-added taxes) which are in addition to the ordinary exemption on export of the value-added tax.

No injury or likelihood thereof by reason of subsidized imports

While it is apparent that the domestic industry is suffering injury, we have not detailed those indicators as it is clear to us that such injury is not by reason of imports from Colombia or Brazil. Between 1975 and 1977, imports into the United States from countries other than Colombia and Brazil increased in value from $62.5 million to $94.5 million, and increased further to $123.7 million in the first 11 months of 1978. The magnitude of these imports from countries other than Brazil and Colombia is so much larger than the value of imports from Brazil and Colombia, a mere $5.3 million and $1.3 million, respectively in the first 11 months of 1978, that imports from these countries cannot be considered the cause of any injury being suffered by the domestic industry. In 1978, imports from Brazil and Colombia accounted for only 4.0 percent and 1.1 percent, respectively, of the value of all imports and only 2.1 percent and 0.6 percent, respectively, of the value of apparent U.S. consumption of certain leather wearing apparel. Several retail buyers advised that their purchases of Brazilian imports were primarily displacing Far Eastern imports.

In this investigation, the Commission sent questionnaires to 75 U.S. producers. Of those, 18 responded and from that number only two domestic producers supplied the names of customers whose accounts were lost allegedly to imports from Brazil and Colombia. The three firms mentioned as lost accounts were contacted and all denied buying Colombian leather wearing apparel in 1977 and 1978. One of the three had also stopped buying Brazilian apparel, in preference for articles from the Far East. The other two firms did purchase Brazilian articles, but said they bought articles from the Far East in greater amounts, along with some U.S. produced articles. It seems clear that imports from Colombia or Brazil primarily displace other imports, not domestic products.

Furthermore, there is no evidence of likelihood of injury to the domestic industry from subsidized imports of leather wearing apparel from Brazil or Colombia. The Government of Brazil has agreed to eliminate completely the principal bounties at issue, and by January 31, 1979, had reduced the level of subsidy from around 35 percent to 13.2 percent. The subsidy on Colombian leather exports is small (6.2 percent) and imports from Colombia have never accounted for more than 0.6 percent of apparent U.S. consumption. In addition the Colombian industry is operating at a near capacity level and apparently does not have the capability of significantly increasing its exports to the United States.

Conclusion

Any injury to the domestic industry is not by reason of subsidized exports from Colombia or Brazil to the United States.

STATEMENT OF REASONS OF COMMISSIONER PAULA STERN

Having considered all of the information before me in these investigations, I determine, pursuant to Section 303(b) of the Tariff Act of 1930, as amended, that with respect to Investigations No. 303-TA-6 and 303-TA-7, 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 into the United States of certain duty-free leather wearing apparel from Colombia or Brazil, which was determined by Treasury as subject to bounties or grants from the governments of Colombia and Brazil. I found that the domestic industry manufacturing certain leather wearing apparel is unquestionably injured. However, it is my opinion that a causal relationship between this injury and subsidized imports from Colombia and Brazil does not exist.

The Domestic Industry

The domestic industry which is the subject of these investigations manufactures certain leather wearing apparel for men and boys, including coats and jackets (accounting for the vast bulk of U.S. shipments of these apparel items), and pants, vests, shirts and shorts. The industry is characterized by a high level of imports which have been increasing during the period of our review (1975 through 1978). The market for leather wearing apparel is subject to rapid changes in consumer preferences for styles ranging from work-type and protective clothing, which dominated the market through the 1950's, to more fashionable leather items in the 1960's and 1970's. The industry is highly competitive, uses contractors extensively during peak seasons and has low start-up costs. These characteristics are among the major factors which allow fluid entry into and exit from the industry each year. The industry consists of approximately seventy-five domestic producers, ranging in size from large manufacturing firms to small shops. The small shops account for over fifty percent of total production. Today, the industry also faces constant increases in the price of hides, the major element in the cost of production.

Due primarily to the number of small firms which do not maintain adequate records, and the rapid entry into and exit of firms from the industry, the Commission found that it was not possible to obtain detailed responses to many of its questionnaires.

Imports

Imports from all sources of certain leather wearing apparel have steadily increased as a share of total U.S. consumption, from 34.3 percent in 1975 to 51.4 percent in 1978. Korea and Taiwan, the two largest exporters of these items to the United States, together account for over half of overall imports.

Brazil is the seventh largest source of U.S. imports. Its exports to the U.S., increasing from $2.8 million in 1975 to $5.6 million in 1978, have remained relatively stable as a share of total imports at around 4.0 percent. In its peak year of 1978, Brazil's share of U.S. consumption was 2.1 percent.

Imports from Colombia, the fourteenth largest source of U.S. imports, show a similar pattern. Colombian exports to the United States increased from $0.6 million in 1975 to $1.5 million in 1978, but remained approximately one percent of total U.S. imports. As a share of U.S. consumption, Colombian exports reached a peak of 0.6 percent in 1978.

Standard of Determination

The Trade Act of 1974 amended Section 303(b) of the Tariff Act of 1930 to establish for the first time an injury requirement in countervailing duty cases involving non-dutiable items. The legislative history of the amendment indicates that the causal link between subsidies and injury under Section 303(b) of the Tariff Act of 1930 is similar to the causal connection between less than fair value sales and injury under the Antidumping Act. Thus, the Report of the House Ways and Means Committee reported that "/t/he relevant language regarding injury determinations by the Tariff Commission was derived verbatim from the Antidumping Act, 1921, and is intended to have the same meaning."

The Commission, in its first countervailing duty case (Investigation No. 303-TA-1, Certain Zoris from the Republic of China (Taiwan), noted this legislative history in interpreting the amendment. It stated:

In making its determination set out above, the Commission has interpreted the relevant operative words of section 303(b) --

> "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 . . ."

in the same way it has interpreted identical language under section 201(a) of the Antidumping Act, 1921, as amended. This was clearly the intent of Congress in using identical language. Thus, Commission determinations under the Antidumping Act provide guidance for the Commission's determination in this investigation.

As in Antidumping cases, the Commission has considerable discretion in making its determination, and two conditions must be met before an affirmative determination can be made. First, the Commission must determine that an industry is being or is likely to be injured. This determination is based upon an analysis of certain economic indicators -- consumption, production, capacity changes and utilization, shipments, inventory levels, employment and profits. Second, the Commission must determine that the injury is, to an extent, "by reason of" the importation of subsidized merchandise into the United States. The second determination is based upon an analysis of such factors as market penetration by subsidized imports, documented lost sales of domestic manufacturers to subsidized imports, and price depression or suppression of the impacted products. As for likelihood of injury, foreign capacity to produce for export is also considered. Of course, these indicators are merely illustrative, since a definitive set of factors for all cases is not possible.

If the Commission finds that either condition has not been satisfied, its determination must be negative, and it need not consider factors relevant to determining the other condition.

Injury

As I noted at the outset, the domestic industry is unquestionably suffering injury. While U.S. consumption has increased, the domestic producers' share of that consumption has decreased significantly; U.S. production, quantities of U.S. producers' shipments, capacity utilization and number of production workers have all also shown declines. At the same time, inventories have irregularly increased. More importantly, industry profits, traditionally low, have fallen dramatically, and prices have not kept pace with the rapid rise of material costs.[1/]

However, this injury is not by reason of subsidized imports from Colombia and Brazil. In the case of Colombia, as previously noted, imports represented only 0.6 percent of apparent U.S. consumption in 1978. Further, information received by the Commission in response to its questionnaires do not show one instance of lost sales to Colombian imports during the period 1976 through 1978. Consequently, any injury which may have occurred by reason of Colombian imports would be *de minimus* and, therefore, not justify a remedy under the countervailing duty statute.

1/ From 1975-1978, the price of the leather wearing apparel for men and boys increased 25 percent. This increase is virtually the same as the rate of inflation. However, in the same period, the price of hides, over half the cost of production, increased 55 to 100 percent, depending on the types and quality of the hides.

In the case of Brazil, imports represented only 2.1 percent of apparent U.S. consumption at its peak year, 1978. Further, only three instances of lost sales to Brazilian imports were even alleged in responses to the Commission's questionnaire. The Commission reviewed each of these three allegations. However, in one instance, the customer no longer purchases Brazilian leather goods. In the other instances, the purchasers suggested that there was no information of specific lost sales. In fact, if Brazilian leather wearing apparel were unavailable, they would have most likely purchased lower-cost leather wearing apparel from the Far East. In view of the relatively small market share of imports from Brazil and the absence of any evidence of sales of U.S.-produced goods specifically lost to these imports, I am unable to find that the domestic industry is being injured by reason of these imports.

Finally, I have determined that there is no likelihood of future injury by reason of subsidized imports from Brazil and Colombia. With respect to Colombia, the Commission received information that the Colombian leather industry was operating at a high level of capacity and no substantial expansion of the industry is contemplated. With respect to Brazil, no information was received which suggests that Brazil has the capacity or interest to expand its exports to the United States. On the contrary, exports from Colombia and Brazil are likely to be limited in the future, since there is a paucity of good quality hides suitable for the U.S. market. In addition, the

Brazilian government has already taken steps to eliminate subsidies on certain leather wearing apparel.[1/]

Conclusion

Imports of certain leather wearing apparel from all sources presently satisfy more than fifty percent of apparent domestic consumption. However, with respect to Brazil and Colombia, the level of subsidized imports is relatively low and there was no evidence of lost sales due to the imports in question. Consequently, the facts in these investigations do not support an affirmative finding of injury under the countervailing duty statute.

1/ During the course of its investigation, Treasury found that bounties or grants on certain leather wearing apparel exported to the United States from Brazil dropped from 34.8 percent to 13.2 percent of the value of the export merchandise.

STATEMENT OF REASONS OF CHAIRMAN JOSEPH O. PARKER
AND COMMISSIONER 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 certain leather wearing apparel imported from Colombia and Brazil. Accordingly, on December 4, 1978, the Commission instituted investigations Nos. 303-TA-6 and 303-TA-7 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, 1/ by reason of the importation of such merchandise into the United States. Both the legislative history of the amendments to section 303 2/ and past Commission determinations under this section, as amended, 3/ confirm that this section was derived from and is intended to be interpreted in the same manner as the identical language in section 201 of the Antidumping Act. In making our determination, we have interpreted the criteria of section 303 as being the same as those in section 201 of the Antidumping Act.

Determination

On the basis of the information obtained in these investigations, we determine that an industry in the United States is being injured by reason of the importation of certain leather wearing apparel from Colombia and Brazil which the Department of the Treasury has determined is receiving a bounty or grant from the Governments of Colombia and Brazil.

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

2/ U.S. House of Representatives, Trade Reform Act of 1973: Report of the Committee on Ways and Means . . ., H. Rept. No. 93-571 (93d Cong., 1st sess.), 1973, p. 74.

3/ E.g., Certain Zoris From the Republic of China (Taiwan): Determination of No Injury or Likelihood Thereof or Prevention of Establishment in Investigation No. 303-TA-1 . . ., USITC Publication 787, 1976.

The product

The leather wearing apparel which is the subject of these investigations includes virtually all leather wearing apparel for men and boys, and types commonly worn by both sexes, 1/ other than articles of reptile leather, footwear, gloves, headwear, apparel belts, and watch straps, or wearing apparel in chief value of fur or in chief weight of cotton, wool, or manmade fibers, or any combination thereof. Various styles of men's and boys' coats and jackets account for the bulk of the apparel which is the subject of these investigations. Treasury determined that, with respect to the leather wearing apparel exported to the United States from Colombia, bounties or grants amounting to 6.18 percent of the export value of the merchandise are being received. With respect to Brazil, Treasury determined that bounties or grants amounting to 13.2 percent of the export value of the merchandise are being received.

Previous investigation

The Commission recently completed another investigation under section 303 involving leather wearing apparel from Uruguay which Treasury determined was subsidized by the Government of Uruguay. In that investigation, the Commission made a unanimous affirmative determination 2/ that the domestic industry producing men's and boys' and women's leather wearing apparel was being injured.

The condition of the domestic industry

There are approximately 75 firms producing the leather wearing apparel which is the subject of these investigations. The information obtained in the present Commission investigations confirms the findings

1/ U.S. production and imports of articles that might be classified as "unisex" are relatively insignificant. Hence, reference will be made only to men's and boys' apparel.

2/ Leather Wearing Apparel from Uruguay: Determination of Injury in Investigation No. 303-TA-2 . . ., USITC Publication 883, 1978.

of the previous investigation: the number of firms producing such apparel is diminishing and those firms remaining in the industry are suffering injury. The estimated value of U.S. producers' shipments of the types of leather wearing apparel under investigation increased from $127 million in 1975 to $148 million in 1976 and then declined to about $135 million in both 1977 and 1978. Responses to Commission questionnaires show that domestic producers' shipments of coats and jackets in 1978 were 25 percent below 1976 levels. They also indicate that the domestic industry's rate of capacity utilization has been declining.

In reference to employment in the industry, those firms responding to the questionnaires stated that the average number of workers declined by about one-third from 1976 to 1978; the man-hours worked showed a similar decline.

There are also indications that domestic producers' inventories are increasing. U.S. producers' inventories of men's and boys' leather coats and jackets were equal to about 9 percent of shipments at the end of 1975 and about 14 percent at the end of 1978.

The profit-and-loss data received by the Commission indicate a decline in profit in 1977 and 1978 from the already low 1976 level.

It is clear from the information obtained in the investigation that the domestic industry is suffering more than "frivolous" or "inconsequential" 1/ injury, which is necessary for an affirmative determination.

Causation

Since both section 303(a)(1), under which these investigations were made, and section 201 of the Antidumping Act require the Commission to

1/ U.S. Senate, Trade Reform Act of 1974: Report of the Committee on Finance . . ., S. Rept. No. 93-1298 (93d Cong., 2d sess.), 1974, p. 180.

determine if the requisite injury is "by reason" of the subject imports, and these provisions are to be interpreted in a similar manner, the legislative history of the amendments to the Antidumping Act provide guidance to the meaning of this phrase. In its report on the amendments to the Antidumping Act, the Senate Finance Committee stated as follows:

> The words "by reason of" express a causation link but do not mean that dumped imports must be a (or the) principal cause, a (or the) major cause, or a (or the) substantial cause of injury caused by all factors contributing to overall injury to an industry.
>
> In short, the Committee does not view injury caused by unfair competition, such as dumping, to require as strong a causation link to imports as would be re quired for determining the existence if injury under fair trade conditions. 1/

In our judgment, the information obtained in these investigations establishes the requisite injury "by reason of" imports which Treasury has found are benefiting from subsidies paid by the Governments of Colombia and Brazil.

Imports from Colombia of the types of leather wearing apparel covered by these investigations more than doubled from 1977 to 1978 and almost tripled from 1976 to 1978. The value of such imports from Brazil nearly doubled from 1977 to 1978. For the purpose of these specific investigations, we think it is more objective to measure the impact of imports by comparing them to domestic producers' shipments. Cheaper, lower quality imports from other foreign sources make up more than half of domestic consumption of all such articles. Therefore, comparing imports to consumption, which includes that part of comestic consumption supplied by all imports, would distort and dilute the impact of subsidized imports from Colombia and Brazil. It is more useful and gives a more accurate competitive picture to compare imports with domestic production.

1/ Ibid.

By this measure, the value of imports from Brazil and Colombia in 1978 were the equivalent of more than 5 percent of domestic producers' shipments. (This is probably understated since it is based on the export price which does not include transportation, duties and incidential handling costs.) A 5 percent penetration of the market exceeds that which the Commission has found sufficient for an affirmative decision in numerous antidumping cases. 1/

Information obtained during the investigation indicates that one reason for this increasing penetration of the U.S. market is price. Pricing information obtained with respect to a specified type of men's leather jacket indicates that, while domestic prices continue to rise as costs increase (particularly the cost of cow hides), the price of such articles from both Colombia and Brazil was below domestic producers' prices and, in the case of Brazil, was actually declining. Moreover, the products from these two countries are of a higher quality than other imports and, therefore, are more competitive with domestic products. At least one national retailing firm which is a large importer of these apparel items reported to the Commission that price was the primary consideration on such purchases.

In our judgment, these investigations have clearly established the level of injury and causation linkage required by the criteria of the statute.

1/ E.g., Rayon Staple Fiber from France and Finalnd: Determination of Injury in Investigations Nos. AA1921-190 and AA1921-191 . . ., USITC Publication 938, 1979.

Summary

Investigations Nos. 303-TA-6 and 303-TA-7 were instituted by the U.S. International Trade Commission (Commission) on December 4, 1978, following notification from the Department of the Treasury that bounties or grants are being paid with respect to certain leather wearing apparel imported from Colombia and Brazil. The investigations evolved from a series of countervailing duty petitions filed with Treasury by Wolf & Co., a Washington economic consulting firm, on behalf of the Amalgamated Clothing & Textile Workers Union. A public hearing was held in connection with the investigations on January 9, 1979, in Washington, D.C.

Because of actions by the Brazilian Government to reduce the adverse effects of the subsidies of the items under investigation, Treasury published in the Federal Register of November 16, 1978, a waiver of countervailing duties on items from Brazil. No such waiver was published for the products from Colombia.

Certain leather wearing apparel includes items of leather wearing apparel for men and boys, and types commonly worn by both sexes, other than those items made from reptile leather or those items which contain 50 percent or more by weight of cotton, wool, or manmade fibers, or any combination thereof. Certain leather wearing apparel is made from a variety of leathers. Various styles of men's and boys' coats and jackets account for the bulk of U.S. shipments and imports of these items.

Approximately 75 firms in the United States produce the leather wearing apparel which is the subject of these investigations. The industry is diffuse, with the largest 10 firms accounting for less than 50 percent of total production.

The estimated value of U.S. producers' shipments of certain leather wearing apparel rose from $127.3 million in 1975 to $147.6 million in 1976, before falling to $135.2 million in 1977. The value of shipments increased slightly to $135.9 million in 1978. The estimated value of exports were small during 1975-77, valued at less than $3 million in each year. Exports increased to $3.7 million in 1978. The value of apparent U.S. consumption of certain leather wearing apparel rose from $191.9 million in 1975 to $239.4 million in 1976, before dropping to $231.7 million in 1977. The value of consumption increased to $272 million in 1978, as imports increased their share of the U.S. market from 42 percent in 1977 to 51 percent in 1978.

The value of U.S. imports of certain leather wearing apparel increased substantially during 1975-78. Brazil was the 7th largest exporter of this merchandise to the United States in 1978 and Colombia was the 14th largest supplier. Imports from Brazil rose from $2.8 million in 1975 to $3.0 million in 1977, before rising dramatically to $5.6 million in 1978. Imports from Brazil accounted for approximately 1.3 percent of apparent U.S. consumption in 1975-77 and for 2.1 percent in 1978. Imports from Colombia rose from $0.6 million in 1975 to $0.7 million in 1977 and continued to increase to $1.5 million in 1978. Imports from Colombia accounted for approximately 0.3 percent of apparent U.S. consumption in 1975-77 and for 0.6 percent in 1978.

The percentage of U.S. capacity utilized in the production of men's and boys' leather coats and jackets increased from 68 percent in 1975 to 78 percent in 1976, but then fell to 66 percent in 1977 and to 58 percent in 1978. Employment in the industry followed a similar pattern, with both the number of production and related workers employed and the man-hours worked by them rising from 1975 to 1976 and then declining in 1977 and 1978. Inventories rose from 1975 to 1976, then fell in 1977. In 1978 inventories increased 13 percent over those reported in 1977.

Profit-and-loss data were provided by 10 U.S. producers of certain leather wearing apparel for the accounting years 1975 through 1977, and by 7 producers for January-September 1978. Net sales, net operating profits, and net profits before taxes all rose from 1975 to 1976, then fell in 1977. The incomplete data obtained for 1978 were inconclusive as to profit trends in 1978.

Introduction

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 certain leather wearing apparel imported from Colombia and Brazil, entered under item 791.76 of the Tariff Schedules of the United States Annotated (1978) (TSUSA), 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 investigations Nos. 303-TA-6 and 303-TA-7 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 within 3 months of its receipt of advice from Treasury or in these cases by February 22, 1978.

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

Development of the Instant Case

Investigations Nos. 303-TA-6 and 303-TA-7 evolved from a series of countervailing duty petitions filed with the Department of the Treasury in November 1977, by Wolf & Co., a Washington economic consulting firm, on behalf of the Amalgamated Clothing & Textile Workers Union. These petitions alleged that a wide variety of dutiable and duty-free textile products, including certain leather wearing apparel, from Uruguay, Brazil, Argentina, Colombia, India, the Philippines, The Republic of Korea (Korea), and Taiwan were subject to bounties and grants. Treasury's notices of initiation of the investigations were published in the Federal Register of January 30, 1978 (43 F.R. 3968 for Colombia; 43 F.R. 3964 for Brazil). These notices stated that satisfactory petitions had been received and that countervailing duty investigations had been started to determine if benefits are being paid by the Governments of Colombia and Brazil to manufacturers or exporters of textile products which constitute the payment of bounties or grants within the meaning of the U.S. Countervailing Duty Law.

On June 1, 1978, notices of preliminary countervailing duty determinations pursuant to the investigations of the two countries were published by Treasury in the Federal Register (43 F.R. 23786 for Colombia; 43 F.R. 23783 for Brazil). These notices stated that the investigations had resulted in preliminary determinations that the Governments of Colombia and Brazil had

1/ Copies of the Treasury Department's letters to the Commission are presented in app. A.

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

given benefits which might constitute bounties or grants on the manufacture or exportation of men's and boys' apparel and textile mill products of cotton, wool, and manmade fiber.

On October 13, 1978, a notice clarifying the description of the products subject to Treasury's countervailing duty investigations was published in the Federal Register (43 F.R. 47340). Treasury limited its investigation of leather wearing apparel to articles for men and boys, and to articles which can be used by either sex; it excluded from its investigation articles identifiable as being intended exclusively for women.

On November 16, 1978, the Treasury Department published notices of final countervailing duty determinations in the Federal Register (43 F.R. 53525 for Colombia; 43 F.R. 53422 for Brazil). These notices stated that the countervailing duty investigations had resulted in determinations that the Governments of Colombia and Brazil had given benefits which constituted bounties or grants under the countervailing duty law on the manufacture, production, or exportation of certain textiles and textile products, including certain leather wearing apparel, from Brazil; and on the manufacture, production, or exportation of certain leather wearing apparel from Colombia.

The articles of leather wearing apparel which Treasury found to benefit from bounties or grants are entered duty free pursuant to the GSP. Section 303(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1303(a)(2)), 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 articles or merchandise into the United States. Accordingly, the Treasury Department advised the Commission of its determinations on November 22, 1978, and ordered that the liquidations of entries or of withdrawals from warehouses for consumption of the articles in question be suspended pending an injury determinaton by the Commission.

Due to actions by the Brazilian Government to reduce the adverse effects of the subsidies of the items under investigation, Treasury concurrent with its final determination on November 16, 1978, published in the Federal Register a waiver of countervailing duties on the items from Brazil (43 F.R. 53425). The waiver expired on January 4, 1979. In the case of an affirmative finding by the Commission, countervailing duties would be assessable on those articles imported from Brazil. However, because Treasury expects that legislation extending the waiver authority retroactive to January 3, 1979, will be enacted early in the current session of Congress, Treasury published in the Federal Register of January 2, 1979, a notice stating that liquidation of entries of merchandise subject to waivers 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 would be considered sufficient to meet the obligation of the Secretary of the Treasury for protecting the revenue.

Other Recent U. S. International Trade Commission Investigations Concerning Leather Wearing Apparel

The instant case is the third investigation the Commission has conducted with respect to leather wearing apparel. On September 14, 1976, the President requested the Commission, pursuant to section 332 (g) of the Tariff Act of 1930, to conduct an investigation and report on the current employment and production conditions in the domestic leather wearing apparel industry. This request resulted from an executive branch review of the operation of the GSP in which the Trade Policy Staff Committee (TPSC) needed additional information in order to make a decision on a petition from domestic producers to remove this product from the list of articles eligible for duty-free treatment under the GSP (TPSC GSP case No. 76-2). The data obtained from the Commission's investigation (No. 332-79(3)) were transmitted to the President on November 10, 1976. The TPSC recommended to the President that leather wearing apparel not be removed from the list of eligible articles.

On January 24, 1978, the Commission received advice from the Secretary of the Treasury that a bounty or grant was being paid by the Government of Uruguay on leather wearing apparel exported to the United States. Treasury made its investigation which led to this determination in response to a petition filed on behalf of the National Outerwear & Sportswear Association, a trade association representing some of the largest domestic producers of leather wearing apparel. On April 24, 1978, the Commission unanimously determined (Commissioner Italo H. Ablondi not participating) that an industry in the United States was being injured by reason of the importation of leather wearing apparel from Uruguay.

Description and Uses

The term certain leather wearing apparel as used in this investigation includes items of leather wearing apparel for men and boys, and types commonly worn by both sexes (so-called unisex styles) 1/ other than those items made from reptile leather or those items which contain 50 percent or more by weight of cotton, wool, or manmade fibers, or any combination thereof. The great bulk of the apparel which is the subject of this investigation consists of men's and boys' leather jackets and coats. Other articles include shirts, vests, pants, and shorts. 2/

1/ Staff interviews with domestic producers and importers of the articles from Colombia and Brazil revealed that as a general rule, the articles of apparel were clearly identifiable as being intended for either masculine or feminine use. U.S. production and imports of articles that might be classified as "unisex" are believed to be relatively insignificant.

2/ Certain leather wearing apparel does not include hats, belts, watch straps, gloves, or footwear in chief value of leather, or wearing apparel in chief value of fur. These articles are separately provided for in the TSUS. Wearing apparel of sheep or lamb with the wool on the inside of the garment is considered to be wearing apparel of leather, whereas when the wool is on the outside, it is classified as wearing apparel of fur.

Leather wearing apparel is made from a variety of leathers, of which cowhide, calf, deer and elk (buckskin), and sheep and lamb are the most commonly used. Raw hides (rawstock) are first tanned, a curing and chemical treatment process, to impart suppleness, durability, color, or other qualities specific to their end use. Tanneries then sell the processed hides to garment manufacturers, who employ cutters to hand cut, shape, and style the leather. Trimmings (pockets, belts, zippers, buttons) are then added, and linings of textile material are usually sewn into the garment, which is then finished, pressed, and prepared for shipment to retail clothing outlets. The entire process, from cutting the processed hides through fashioning and sewing the garment, is accomplished by individual operators working with simple machines, and is thus an extremely labor-intensive process.

U.S. Tariff Treatment

The articles of certain leather wearing apparel which are the subject of these investigations are classified for tariff purposes under item 791.76 of the Tariff Schedules of the United States (TSUS). The rates of duty applicable to articles entered under this item are 6 percent ad valorem (col. 1) and 35 percent ad valorem (col. 2). These rates have been in effect since January 1, 1972.

Before March 1, 1977, these articles were provided for under TSUS item 791.75. Effective March 1, 1977, TSUS item 791.75 was deleted and new TSUS items 791.74 and 791.76 were established. TSUS item 791.74 covers leather wearing apparel in chief weight of cotton, wool, or manmade fibers, or any combination thereof. Such articles are subject to the quota provisions of the Multifiber Agreement (MFA), whereas leather wearing apparel articles entered under TSUS item 791.76 are not.

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. Duty-free treatment may not be applied to certain categories of import-sensitive articles including textile and apparel articles which are considered import-sensitive in the context of GSP.

The leather wearing apparel which is the subject of these investigations has been entitled to duty-free treatment under GSP since January 1, 1976. Designated eligible countries which are suppliers of certain leather wearing apparel to the U.S. market are (in descending order of volume of imports by value): Korea, Taiwan, Mexico, Argentina, Hong Kong, Uruguay, Brazil, Israel, Turkey, and Colombia. Korea lost preferential treatment under the GSP for these articles in 1976 and Taiwan lost preferential treatment in 1977, after their exports to the United States exceeded the value limitations for GSP-eligible articles as set down in section 504(c) of the Trade Act.

Nature and Extent of the Bounties or Grants Being Paid or Bestowed

Colombian export incentives

Treasury determined that the Government of Colombia grants two types of export incentives to Colombian 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. Payment of negotiable tax credit certificates (CAT's) at a fixed percentage of the value of the export transactions. The value of the CAT's for certain leather wearing apparel was determined to be 12 percent.

2. Custom duty exemptions on equipment used in production for export of major products, including men's and boys' wearing apparel. The ad valorem benefit to Colombian manufacturers and exporters under this program was calculated to be 0.01 percent on certain leather wearing apparel.

Treasury determined that with respect to certain leather wearing apparel exported to the United States, net benefits amounting to 5.94 percent of the value of the exported merchandise are being received. On January 17, 1979, Treasury published a notice in the Federal Register (44 F.R. 3600) revising the net benefits figure to 6.18 percent.

Brazilian export incentives

Treasury 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. Certificates granted by the Brazilian Government in the amount of the IPI/ICM tax (Federal and State value-added taxes) which are in addition to the ordinary exemption on exports of the value-added tax.

2. Preferential financing of exports.

3. Tax relief on equipment and earnings, in addition to grants to certain new industries located in economically depressed areas.

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

5. Cash assistance given to certain enterprises under BEFIEX, a government agency. Only one of the exporters investigated by Treasury was an eligible enterprise under the BEFIEX program.

On November 16, 1978, Treasury determined that the net amount of the bounties or grants on exports to the United States of certain leather wearing apparel was 34.8 percent of the f.o.b. price. On January 12, 1979, Treasury advised the Commission that it was revising the amount of the subsidy to 29.2 percent of the f.o.b. price. 1/. Treasury further revised the amount of subsidy to 13.2 percent on January 31, 1979 (44 F.R. 6242).

Volume of goods subject to countervailing duties

At present, all imports of certain leather wearing apparel from Brazil would be subject to countervailing duties if the Commission makes an affirmative decision in this case. However, section 303(d) 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 of 1974, a successful trade agreement 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 be likely to seriously jeopardize the satisfactory completion of such negotiations.

Accordingly, Treasury has stated that it would consider it appropriate to waive countervailing duties under section 303(d) of the Act, as a result of the Brazilian Government's commitment to do the following: (1) Effect 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, Treasury has stated that the Government of Brazil has committed itself to active participation in the multilateral trade negotiations in Geneva, and that the imposition of countervailing duties on certain items from Brazil would be likely to seriously jeopardize the satisfactory completion of such negotiations. No such waiver by Treasury is contemplated in the case of certain leather wearing apparel from Colombia.

U.S. Producers

Approximately 75 firms in the United States produce men's and boys' leather wearing apparel of the type which is the subject of these investigations. Geographically, producing facilities are scattered throughout the country, although there is a concentration of facilities in the Northeast United States, particularly in the New York City metropolitan area.

The domestic producers of certain leather wearing apparel range from large apparel manufacturing firms, employing several hundred people, to small firms producing leather wearing apparel exclusively and employing less than

1/ The Treasury Department's letter to the Commission revising the amount of the subsidy is presented in app. A.

10 people. Although facilities and labor used in the production of men's and boys' leather apparel can be readily adapted to produce apparel for women, there are significant barriers to such shifts. Although some firms produce leather wearing apparel for both men and women, producers usually concentrate on the production of either men's and boys' or women's apparel. Of the 18 U.S. producers which responded to the Commission's questionnaires in these investigations, only 2 reported significant production of women's leather wearing apparel.

Of the 75 or so domestic producers, 1/ it is estimated by industry sources that the largest 10 firms account for less than 50 percent of total production. The bulk of production is accounted for by the smaller firms, which exhibit great variety in types, styles, and quantity of goods produced from season to season. At the Commission's hearing and in posthearing briefs, the petitioner submitted a list of 66 companies producing leather wearing apparel which failed or were liquidated between 1975 and 1978, and a list of 38 companies which have switched from being primarily producers to importers of leather wearing apparel. Of the firms named on that list, the Commission has identified seven producers of men's and boy's apparel as having gone out of business since 1975, while five others have switched from being primarily domestic producers to importers of the articles.

U.S. Market

Before the 1950's leather wearing apparel was largely confined to work-type and protective clothing. Due to technological advances in the tanning industry, which resulted in the greater use of cowhide and the ability to color and make supple tanned leather, production of both men's and women's leather wearing apparel increased substantially in the 1960's. This trend continued in the 1970's, as consumer preferences turned toward the "natural" look in apparel. The result of these developments along with refinement in styling resulted in strong demand for leather wearing apparel.

Since hides and skins are a byproduct of slaughtering operations, the supply of most hides and skins does not respond to the demand for leather but to the demand for meat. The use of leather in finished products is heavily influenced by the availability of hides and skins at stable prices. The supply of leather in the U.S. market has been affected by the practice of many developing countries of restricting exports of raw hides and skins or tanned leather and exporting finished leather goods instead. As some countries' apparel industries have outstripped their capacity to produce their own rawstock, they have become net importers of hides, skins, and tanned leather,

1/ The approximation of the number of producers should be emphasized. Because of the highly competitive nature of the industry, the relatively low startup costs and other barriers to entry, the use of contractors during peak seasons, and the fluidity associated with an industry which must keep abreast of constantly changing consumer preferences in materials and styling, it is impossible to gauge exactly the number of firms producing the leather wearing apparel that is the subject of these investigations, or those firms entering or leaving the domestic industry.

which in turn has led to increased U.S. exports of these products. The result has been reduced availability of hides, skins, and tanned leather for domestic producers, and a concomitant rise in the price of these items. Approximately 60 percent ($582.9 million) of U.S. production of rawstock and tanned leather was exported in 1977; 0.1 percent of these exports went to Brazil, and less than 0.1 percent to Colombia.

Channels of Distribution

Mail-order chains, mass merchandisers, department stores, and speciality stores are the principal buyers and retailers of both domestic and imported leather wearing apparel. In recent years, some domestic producers have ceased production in the United States and begun importing apparel to be sold under their label. The desired styles and patterns are transmitted to foreign producers and the resulting garments are imported and sold under the producers' brand names.

It has been relatively simple for domestic producers to switch from producing to importing because they do not have significant amounts of fixed assets tied up in production facilities. The manufacture of leather wearing apparel is primarily a cutting and sewing operation performed by individual operators. On the other hand, these switches have adversely affected employment in this labor-intensive industry.

Retailers are also shifting buying habits. Rather than buying from domestic producers or importers, many major mail-order chains, mass merchandisers, and department stores have begun to import leather wearing apparel directly. These large retailers send buyers to foreign producers, who specify styles and patterns for the leather garments to be produced and shipped to their stores or warehouses in the United States.

Consideration of Injury

U.S. imports

The estimated value of U.S. imports of certain leather wearing apparel 1/ increased 49 percent between 1975 and 1977, from $65.9 million to $98.2 million (see the following table). Imports increased again in the first 11 months of 1978, rising to $130.3 million, an increase of 33 percent over that reported in 1977. Imports from Korea, the principal source of these articles, rose from $12.1 million in 1975 to $37.7 million in 1977 and continued to increase rapidly in 1978.

Brazil 2/ was the seventh largest exporter of certain leather wearing apparel to the United States in 1978. Imports from Brazil rose from $2.8 million in 1975 to $3.1 million in 1976, before declining to $3.0 million in 1977. Imports from Brazil rose dramatically in 1978, to $5.6 million, 3/ an 87 percent increase over the value of imports from that source in 1977.

1/ Import data prior to Jan. 1, 1978, have been adjusted to exclude those articles of certain leather wearing apparel with a chief weight of textile fabric, which are not eligible articles under the GSP. The data were adjusted by combining import data for TSUS items 791.74 and 791.76 for July-December 1977, calculating the percentage of the combined total accounted for by the two items (TSUS item 791.74--15 percent; 791.76--85 percent), and applying those percentages to the imports entered under TSUS item 791.75 in previous years. Unless otherwise specified, all import data in this report have been adjusted in this manner.

Import data were also adjusted to eliminate imports of apparel intended exclusively for women. It was estimated that the same share of the total imports, by country, entered under item 791.76 which were intended exclusively for women in 1978, were also intended exclusively for women in 1975-77. That percentage of total imports under item 791.76 was excluded from the import data presented in this report.

2/ Virtually all imports of these items from Brazil entered the United States duty free under the GSP, 1976-78.

3/ Data for the value of 1978 imports from Brazil are actual figures. Data for the value of imports from all countries for calendar year 1978 were not available as of this writing.

Table 1.--Certain leather wearing apparel: Estimated U.S. imports for consumption, 1975-77 and January-November 1978 1/

(In thousands of dollars)

Item	1975	1976	1977	Jan.-Nov. 1978
Korea	12,057	31,415	37,719	51,412
Taiwan	11,331	15,045	13,935	18,068
Mexico	4,882	5,910	6,598	9,616
Argentina	621	2,073	3,918	8,661
Hong Kong	6,696	6,891	7,414	8,361
Uruguay	1,718	3,609	4,921	6,646
Brazil	2,755	3,082	2,953	5,322
Spain	6,772	7,522	4,139	5,073
Canada	6,633	5,847	4,906	4,317
Italy	2,144	2,491	2,494	2,915
Israel	2,736	2,578	2,252	2,282
Turkey	1.246	2,894	1,615	1,652
United Kingdom	1,375	1,381	1,397	1,406
Colombia	585	547	733	1,297
All other	4,352	3,237	3,190	3,222
Total	65,903	94,522	98,184	130,250

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

Imports of certain leather wearing apparel from Brazil were 4.2 percent of total U.S. imports in 1975. The ratio of imports from Brazil to total U.S. imports dropped to 3.0 percent in 1977, before rising to 4.0 percent in 1978.

The value of imports of certain leather wearing apparel from Colombia 2/ increased from $0.6 million in 1975 to $0.7 million in 1977, before rising to $1.5 million 3/ in 1978, an increase of 110 percent over imports from that country in 1977. As a share of total imports, imports from Colombia decreased from 0.9 percent of the total in 1975 to 0.8 percent in 1977, before rising to 1.1 percent of total imports in 1978.

U.S. producers' shipments and exports

The estimated value of U.S. producers' shipments of certain leather wearing apparel increased from $127 million in 1975 to $148 million in 1976, before falling off to $135 million in 1977 and $136 million in 1978, according

1/ See footnote 1 on page A-11 for the methodology used in estimating imports.

2/ Virtually all imports of these items from Colombia entered the United States duty free under the GSP, 1976-78.

3/ Data for the value of 1978 imports from Colombia are actual figures. Data for the value of imports from all countries for calendar year 1978 were not available as of this writing.

to figures derived from official statistics of the U.S. Department of Commerce. These data are presented in the tabulation below:

Year	U.S. producers' shipments (1,000 dollars)
1975	127,300
1976	147,600
1977	135,200
1978	135,900

Responses to Commission questionnaires were received from 18 firms whose combined shipments represented approximately 45 percent of the estimated value of total shipments in 1976, the peak year of the period. Coats and jackets accounted for virtually all of these producers' shipments of certain leather wearing apparel between 1975 and 1978. Other products of leather wearing apparel for men and boys were manufactured by only two respondents, and accounted for less than 0.5 percent of the total value of shipments of certain leather wearing apparel in 1975-78. Responses to Commission questionnaires were tabulated and are presented in table 2.

Table 2.--Men's, boys', and unisex style leather coats and jackets: U.S. producers' shipments, 1975-78

Year	Quantity	Value	Unit value
	Units	1,000 dollars	
1975	996,193	57,631	$57.85
1976	1,109,701	66,797	60.19
1977	948,865	61,101	64.39
1978	824,090	61,386	74.49

Source: Compiled from data submitted by 18 U.S. producers which account for approximately 45 percent of total U.S. production in 1976 in response to questionnaires of the U.S. International Trade Commission.

Shipments data submitted by respondents to Commission questionnaires show the quantity of coats and jackets shipped rising by 11.4 percent from 1975 to 1976 before falling 14.5 percent in 1977. Shipments continued to decline in 1978, decreasing 25.7 percent from what they were in the peak year of 1976 and 13.1 percent from 1977. The value of U.S. producers' shipments of coats and jackets followed a different pattern in 1978. After closely tracking fluctuations in quantity, the value of U.S. producers' shipments increased slightly from 1977 to 1978, even though the quantity of shipments fell by 13.1 percent. The modest increase resulted in a sharp increase in the unit value of shipments in 1978, as shown in table 2. The chief cause of the increase in the unit value of shipments in 1978 was the cost of leather, the principal raw material utilized in the production of leather wearing apparel. According to a representative of the U.S. Tanners' Council of America, Inc., a trade association of U.S. leather manufacturers, the cost of leather comprises approximately 54 percent of the cost of manufacturing an article of leather wearing apparel. 1/ Prices of domestic tanned leather rose sharply from 1975 to 1978, according to official statistics of the U.S. Department of Commerce as shown in the following tabulation of the wholesale price index of tanned leather (1967=100):.

	Annual average	Fourth quarter
1975----------------	151.5	160.1
1976----------------	188.1	192.1
1977----------------	200.5	199.6
1978----------------	234.9	275.9

Exports of certain leather wearing apparel have been small, accounting for less than 2 percent of domestic shipments from 1975 to 1978. Sales to Japan and Canada accounted for approximately 55 percent of total U.S. exports in 1977. Estimates of U.S. exports of certain leather wearing apparel, derived from official statistics of the U.S. Department of Commerce, are as follows:

	U.S. exports (1,000 dollars)
1975----------------------------	1,350
1976----------------------------	2,700
1977----------------------------	1,700
1978----------------------------	3,700

Capacity utilization

As part of its consideration of injury to the domestic industry, the Commission asked U.S. producers of certain leather wearing apparel to report their annual capacities to produce such items in their domestic facilities. Capacity was defined as the maximum sustainable production, at one 8-hour shift a day, 5 days a week, 50 weeks a year. Responses to the questionnaires show that the domestic industry's rate of capacity utilization rose from 1975 to 1976, but then declined sharply in 1977, and again in 1978, as shown in the following table.

1/ Transcript of the hearing, p. 63.

Table 3.--Men's and boys' leather coats and jackets: U.S. production, capacity, and capacity utilization, 1975-78

Year	Production	Capacity	Capacity utilization
	1,000 units	1,000 units	Percent
1975	1,029	1,520	67.7
1976	1,194	1,524	78.3
1977	1,012	1,534	66.0
1978	899	1,548	58.1

Source: Compiled from data submitted by 17 producers in response to questionnaires of the U.S. International Trade Commission.

The decline in capacity utilization from 78.3 percent in 1976 to 58.1 percent in 1978 is attributable to declines in the number of units produced, and not to increases in capacity. The decline in production of men's and boys' leather coats and jackets in 1977 and 1978 was an industry-wide phenomenon, rather than the experience of a few firms, as shown in the following tabulation:

	1975-76	1976-77	1977-78
Firms reporting increases in production	11	6	5
Firms reporting decreases in production	5	10	11
Firms in which production remained the same	1	1	1
Total of firms responding	17	17	17

The absolute level of capacity utilization of the domestic industry producing men's and boys' leather coats and jackets does not necessarily correlate to the health of the industry. The men's and boys' leather coat and jacket industry as well as the entire apparel sector of the economy is characterized by above-average mobility of the factors of production. 1/ Relatively labor intensive, and utilizing plant and equipment capable of producing a multi-product mix, workers and machinery are more easily shifted from the production of one item to another than in most industries.

Employment and hours worked

The Commission received complete employment data from 13 U.S. producers of certain leather wearing apparel, representing approximately 30 percent of

1/ See transcript of the hearing, pp. 93-95.

total employment of production and related workers in this industry. Data showing the average number of production and related workers and man-hours worked by them are given in the following table.

Table 4.--Average number of production and related workers producing certain leather wearing apparel, and man-hours worked by them, 1975-78

Item	1975	1976	1977	1978
Average number of production and related workers	1,475	1,558	1,381	1,062
Man-hours worked by production and related workers	2,470	2,703	2,332	2,155
Average weekly hours per worker	33.5	34.7	33.7	40.9

Source: Compiled from data submitted by 13 producers in response to questionnaires of the U.S. International Trade Commission.

Both employment of production and related workers and man-hours worked rose from 1975 to 1976, then dropped off in 1977 and 1978. The average number of hours worked per week remained within a narrow range from 1975 to 1977, but then rose significantly in 1978 to over 40 hours per worker per week, indicating a paring of the work force disproportionate to the reduction in the number of man-hours worked.

A representative of the Amalgamated Clothing & Textile Workers Union characterized the bulk of the labor force producing leather wearing apparel as unskilled, and having a lower level of education and income than most other manufacturing workers in the United States. Employees of 16 men's and boys' leather wearing apparel producers have applied to the U.S. Department of Labor for trade adjustment assistance since 1975. Of the 14 petitions on which decisions had been reached by the Labor Department as of January 11, 1979, 10 petitions involving 427 workers were certified as eligible for trade adjustment assistance, while 4 petitions involving 135 workers were denied.

Inventories

The Commission received complete inventory data from 13 U.S. producers of certain leather wearing apparel. Data showing the quantity of inventories of men's and boys' coats and jackets held by these respondents are given in the following table.

Table 5.--Men's and boys' leather coats and jackets: U.S. producers' end-of-period inventories, 1975-78

Year	Producers' inventories	Producers' shipments	Ratio of inventories to shipments
	Units	Units	Percent
1975	49,513	529,856	9.3
1976	66,673	562,449	11.9
1977	57,344	493,463	11.6
1978	64,699	455,925	14.2

Source: Compiled from data submitted by 13 U.S. producers in response to questionnaires of the U. S. International Trade Commission.

The above data show inventories increased irregularly from 49,500 units in 1975 to 64,700 units in 1978. The ratio of inventories to shipments followed a similar pattern. Shipments from 13 U.S. producers decreased 12 percent from 1976 to 1977, but producers were able to liquidate inventories also, as shown by the 14 percent decrease in inventories held. Thus the inventory/shipments ratio actually decreased slightly in 1977. But as the industry underwent its second consecutive off year in 1978 and shipments declined even further, producers were unable to continue to liquidate inventories in the slumping market. Inventories increased by 13 percent, while shipments declined by 8 percent. The result was a significant increase in the inventory/shipments ratio, which rose from 11.6 percent in 1977 to 14.2 percent in 1978.

Profit-and-loss experience

The Commission received usable profit-and-loss data from 10 firms representing an estimated 27 percent of the value of total industry shipments of men's and boys' leather wearing apparel for accounting years 1975-77. Only seven firms representing approximately 21 percent of industry shipments were able to provide data for January-September 1978.

Net sales of the respondent firms rose from $50.9 million in 1975 to 56.0 million in 1976, before dropping to $53.9 million in 1977. Net operating profits and net profits before taxes closely tracked the fluctuation in net sales, rising from 1975 to 1976, before declining noticeably in 1977. Two respondent firms reported net operating losses in 1975 and 1976, and three firms reported such losses in 1977.

Profit-and-loss data for January-September 1978 are not comparable with that reported for prior periods because only 7 firms provided data for January-September 1978, compared with 10 firms for 1975-77, and because the leather apparel industry is characterized by a heavy seasonal factor. It is estimated that 40 to 50 percent of annual sales are made from October to December in any given year. The profit-and-loss experience of the respondent firms is presented in the following table.

Table 6.--Profit-and-loss experience of 10 U.S. producers on their certain leather wearing apparel operations, accounting years 1975-77, and January-September 1978 1/

Item	1975	1976	1977	Jan.-Sept. 1978
Net sales-----------1,000 dollars--	50,924	56,039	53,922	33,374
Cost of goods sold-----------do----	41,238	44,638	43,326	27,203
Gross profit-----------------do----	2/ 9,689	11,400	10,596	6,171
General, selling, and administrative expenses-----1,000 dollars--	7,175	8,352	9,040	5,217
Net operating profit---------do----	2,514	3,049	1,556	955
Net profit before taxes------do----	2,145	2,724	1,196	690
Ratio of net operating profit to net sales---------------percent--	4.9	5.4	2.9	2.9
Number of firms reporting operating losses-------------Number--	2	2	3	2
Range of individual firms' sales:				
High--------------1,000 dollars--	***	***	***	***
Low-----------------------do----	300	449	229	528
Range of individual firms' net operating profit or (loss):				
High--------------1,000 dollars--	***	***	***	***
Low-----------------------do----	(128)	(55.7)	(168)	(148)

1/ 1978 data compiled from 7 respondents.
2/ Because of rounding, figures may not add to the totals shown.

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

Consideration of the Causal Relationship Between Imports From Colombia and Brazil and the Alleged Injury

Market penetration of imports from Brazil and Colombia

The value of imports of certain leather wearing apparel from Brazil as a share of apparent U.S. consumption remained at about 1.3 percent during 1975-77, but rose sharply to 2.1 percent in 1978, as imports for Brazil almost doubled in that year. Imports of these products from Colombia followed a similar pattern, averaging about 0.3 percent of consumption from 1975 to 1977, and rising to 0.6 percent in 1978, as the value of imports from Colombia more than doubled in that year. Data on apparent U.S. consumption of certain leather wearing apparel and the share of imports from Brazil and Colombia to apparent U.S. consumption during 1975-78 are presented in the following table.

Table 7.--Certain leather wearing apparel: U.S. producers' shipments, exports, imports, and apparent consumption, 1975-78

Year	U.S. producers' shipments	Exports	Imports	Apparent consumption	Imports from Brazil	Imports from Colombia	Ratio of imports to consumption	Ratio of imports from Brazil to consumption	Ratio of imports from Colombia to consumption
	1,000 dollars						Percent		
1975	127,300	1,350	65,900	191,850	2,755	585	34.3	1.4	0.3
1976	147,600	2,700	94,500	239,400	3,082	547	39.5	1.3	0.2
1977	135,200	1,700	98,200	231,700	2,953	733	42.4	1.3	0.3
1978	135,900	1/ 3,700	139,800	272,000	5,608	1,539	51.4	2.1	0.6

1/ Data for January-November 1978 annualized.

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

A representative for the petitioner stated at the hearing and in a post-hearing brief that the Commission should consider facilities producing all leather wearing apparel as the industry being injured by imports from Colombia and Brazil. Data showing U.S. producers' shipments, exports, and imports of all leather wearing apparel (men's and boys' and women's combined) are presented in the following table.

Table 8.--All leather wearing apparel: U.S. producers' shipments, exports, imports, and apparent U.S. consumption, 1975-78

Year	U.S. producers' ship-ments	Exports	Imports	Apparent con-sumption	Ratio of imports to con-sumption	Ratio of total imports from Brazil to con-sumption	Ratio of total imports from Colombia to con-sumption
	1,000 dollars	1,000 dollars	1,000 dollars	1,000 dollars	Percent		
1975	259,000	2,200	130,400	387,200	33.7	1.1	0.2
1976	246,000	4,500	199,900	441,400	45.3	1.1	.1
1977	260,000	2,800	220,400	477,600	46.1	1.0	.2
1978	270,000	1/ 5,400	318,300	582,900	54.6	1.5	.3

1/ Data for January-November 1978 annualized.

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

As shown in tables 7 and 8, imports of leather wearing apparel from Colombia and Brazil account for a much smaller share of apparent U.S. consumption of all leather wearing apparel than of certain leather wearing apparel, because the great bulk of imports from these two countries consist of men's and boys' products.

Loss of sales

Domestic producers were requested to supply evidence of sales lost to Brazilian and Colombian imports. Two firms responded by giving the names of three customers whose accounts they allegedly lost to imports from Brazil and Colombia. The three firms mentioned as lost accounts were contacted. One firm (* * *) said it had stopped purchasing Brazilian apparel. Two firms purchased leather coats from Brazil; they also purchased domestically produced leather apparel and greater quantities of apparel produced in the Far East. One firm (* * *) said it purchased goods from Brazil because it considered the market volatile and wanted an alternative source. The other firm (* * *)

said its primary consideration was price, and second, good relations with the Brazilian manufacturer. * * * also stated that the domestic leather industry had limited styling, and hence bought Brazilian goods to complete its product line. * * * stated that it stopped buying Brazilian merchandise because of uneven quality, and currently bought largely from the Far East.

Retail sales outlets stocking Brazilian leather wearing apparel were telephoned to find out the primary reasons why Brazilian merchandise was purchased. Four of the seven firms contacted mentioned price, two mentioned quality, and one mentioned an alternative source. Discussions with the retail outlets disclosed that the price of domestic leather wearing apparel has been rising more rapidly than the price of Brazilian merchandise. The Brazilian leather coats were reported (with one exception) to be of very high quality but lower in price. Buyers also advised that the coats from the Far East are usually lower in both quality and price than those made in Brazil or the United States. One buyer stated that he was discontinuing his purchases of imports from the Far East, and another stated that he was going to discontinue Brazilian imports because of Brazilian Government restrictions.

One domestic producer provided the Commission with specific lost sales information on imports from Colombia. This lost sales information was verified. The purchaser stated that he purchased certain leather wearing apparel from Colombia in 1974 and 1975 owing to * * * of the Colombian goods over corresponding U.S.-made items. These purchases were terminated in 1976 because of * * *.

None of the retailers thought they would lose leather sales to much lower priced cloth coats or to imitation leather coats (which seem to have gone down in popularity). Hence, the retailers left the impression that Brazilian leather coats are displacing both Far Eastern imports and domestic leather coats, with imitation leather coats declining in popularity and cloth coats not affecting leather sales.

Prices of certain leather wearing apparel

Domestic producers, purchasers, and importers were asked to supply price data for several years for a specified type and style of a men's and boys' leather jacket produced in the United States, Brazil, Colombia, and other countries. Only two importers supplied price data on Brazilian coats, none supplied information on the Colombian article, and only nine domestic producers supplied data on the U.S. product. Through extensive telephone calls, a price was obtained for the Colombian jacket for 1978 only.

Because the prices varied so much in the small sample, both weighted average prices and also price indexes were calculated, with the price trends perhaps being more representative than the absolute magnitude of the weighted prices. The weighted prices and price indexes are shown in table 9 on the following page.

Table 9.--Average weighted prices and price indexes for men's and boy's leather wearing apparel, 1/ by specified periods, 1975-78

Item	1975		1976		1977		1978	
	Jan.-June	July-Dec.	Jan.-June	July-Dec.	Jan.-June	July-Dec.	Jan.-June	July-Dec.
Average weighted prices for apparel:								
U.S-made	$47.55	$48.23	$48.81	$50.22	$53.17	$54.64	$57.82	$59.49
Imported from Brazil	2/	2/	50.00	51.75	51.75	52.50	48.75	47.25
Imported from Colombia	2/	2/	2/	2/	2/	2/	2/	50.00
Price indexes for apparel:								
U.S.-made (Jan.-June 1975=100)	100.00	101.85	102.92	107.03	111.15	115.26	120.88	125.32
U.S.-made (July-Dec. 1976=100)	93.38	95.07	96.24	100.00	103.23	107.02	112.79	116.56
Imported from Brazil (July-Dec. 1976=100)	2/	2/	2/	100.00	100.00	102.38	94.76	92.14
Imported from Colombia (July-Dec. 1976=100)	2/	2/	2/	2/	2/	2/	2/	2/

1/ The specific item for which prices were requested was men's jacket of soft grain cowhide, of full grained (not corrected) leather, approximately 25 inches in length, pigment finish, self collar, zipper front, unbelted, untrimmed, rayon lining, with 2 pockets.

2/ Not available.

The weighted prices and price indexes of the domestic jacket rose faster than the prices of the Brazilian jacket through 1977; in 1978 the domestic jacket continued to rise in price while the Brazilian jacket fell in price. The average price of the Brazilian article was 2.7 percent above the average price of the U.S. article in 1976, but 18.2 percent below it in 1978. The one reported price of $50 for the Colombian jacket was 16 percent below the average weighted price of the U.S.-made jacket in the last half of 1978.

In telephone conversations with buyers representing several retail outlets, most stated that Brazilian leather wearing apparel was of similar quality to the U.S. product, but lower in price. The Far Eastern product is apparently even lower in price but also lower in quality. However, one major buyer disputed this, saying Brazilian leather wearing apparel was of uneven quality with high quality articles available but hard to find. This buyer went on to state that leather wearing apparel from the Far East was of good quality if it consisted of U.S. or European leather.

Late submissions from counsel representing the Colombian exporter of the subject articles revealed that the articles are imported by * * * U.S. firms-- * * *. The current landed cost of the model leather jacket imported from Colombia ranged from * * * per unit to * * * per unit. * * * which is responsible for the bulk of U.S. imports of these items from Colombian stated that the lower price of the Colombian articles was the chief reason for its decision to purchase such items over the comparable U.S.-made product.

Appendix A

Treasury Department Letters to the Commission Concerning Certain Leather Wearing Apparel From Colombia and Brazil

DOCKET FILE

A-26

THE GENERAL COUNSEL OF THE TREASURY

WASHINGTON, D.C. 20220

NOV 20 1978

NUMBER

77-5-45

Office of the Secretary Int'l Trade Commission

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 Colombia and entered under TSUS item number 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.

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 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,

Robert H. Mundheim

Robert H. Mundheim

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

DOCKET FILE

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

NOV 20 1978

Distb. Comm. Staff.
Div. Schwartz
Clayton

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

-2-

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,

Robert H. Mundheim
General Counsel

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

Attachment

NOV 20 1978

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 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,

(signed) Robert H. Mundheim

Robert H. Mundheim
General Counsel

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

Attachment

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

JAN 12 1979

DOCKET FILE

Dear Mr. Chairman:

I am writing in reference to the enclosed letter of November 20, 1978, in which we referred to you the case involving duty-free imports of certain textile and wearing apparel items from Brazil. That letter was accompanied by the Treasury Department's Final Countervailing Duty Determination in that case which declared the rates of subsidy found.

Further information has come to our attention since that time which partially modifies the rates of subsidy paid to Brazilian exporters and/or manufacturers of the subject merchandise. The TSUSA item numbers and corresponding final subsidy rates for each of the duty-free items in the case involving Brazil are now calculated to have been as follows on the date of our previous letter:

TSUSA#	Rate of Subsidy (in terms of f.o.b. export price to the U.S.)
307.60	37.2%
705.30	29.2%
791.76	29.2%

These rates of subsidy, in accordance with our agreement with the Brazilians before granting a waiver on dutiable items involved in the same investigation, have been reduced by 50 percent as of January 3, 1979.

I present these revised figures for your consideration in making a final injury determination on the subject items.

Sincerely,

Robert H. Mundheim

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

Enclosure

U-303-TA-5

Appendix B

U.S. International Trade Commission Notice of Investigation and Hearing Concerning Investigations Nos. 303-TA-6 and 7, Certain Leather Wearing Apparel From Colombia and Brazil

[7020-02-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.

[FR Doc. 78-34696 Filed 12-12-78; 8:45 am]