

UNITED STATES TARIFF COMMISSION

CAST IRON SOIL PIPE FROM POLAND

**Determination of Injury
in Investigation No. AA1921-50
Under the Antidumping Act,
1921, As Amended**



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UNITED STATES TARIFF COMMISSION

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UNITED STATES TARIFF COMMISSION
Washington

[AA1921 - 50]

September 5, 1967

CAST IRON SOIL PIPE FROM POLAND

Determination of Injury

On June 5, 1967, the Tariff Commission received advice from the Treasury Department that cast iron soil pipe from Poland is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Accordingly, on June 6, 1967, the Commission instituted Investigation No. AA1921 - 50 under section 201(a) of that Act 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.

Public notices of the institution of the investigation and of a public hearing to be held in connection therewith were published in the Federal Register (32 F.R. 8396 and 32 F.R. 9596). The hearing was held on August 4, 1967.

In arriving at a determination in this case, due consideration was given by the Commission to all written submissions from interested parties, all testimony adduced at the hearing, and all information obtained by the Commission's staff.

On the basis of the investigation, the Commission has determined that an industry in the United States is being injured by

reason of the importation of cast iron soil pipe from Poland sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. ^{1/}

It is the Commission's function in this investigation under the Antidumping Act, 1921, as amended, to determine whether "an industry" is being or is likely to be injured, or is prevented from being established by reason of the sale, or likelihood of the sale, of cast iron soil pipe from Poland at less than fair value. The appropriate industry to be considered in this case consists of all domestic producers of cast iron soil pipe.

The complainant in this case claimed that both cast iron soil pipe and fittings from Poland were being sold at less than fair value. The Treasury Department tentatively determined that such fittings were being sold at less than fair value. However, because the exporter adjusted his prices to a fair value level, the Treasury Department made a determination of no sales or likelihood of sales of such fittings at less than fair value. Thus, the Tariff Commission is technically precluded from considering the injurious effect, if any, that such imports are having on any domestic industry.

^{1/} Commissioners Sutton and Clubb determined there was injury and Commissioners Culliton and Thunberg determined there was no injury. Pursuant to section 201(a) of the Antidumping Act, the Commission is deemed to have made an affirmative determination when the Commissioners voting are equally divided.

Statement of Reasons for Affirmative Determination
of Commissioner Sutton

All imports of cast iron soil pipe from Poland appear to have been purchased at less than fair value. It is apparent that some of the imports have been sold in various sectors of the United States but that virtually all of the sales have been concentrated in two large competitive market areas of the United States, namely, the Los Angeles area and the northeastern area of the United States which consists of the territory situated around and between Philadelphia and New York City. These two markets constitute approximately one-fifth of the total U.S. market for cast iron soil pipe; the northeastern market is by far the greater of the two.

Due to the bulk and relatively low unit value of cast iron soil pipe, transportation costs tend to limit the competitive market areas of producers. However, information before the Commission indicates that some producers, to at least a limited degree, make sales of pipe destined to virtually all markets of the continental United States.

Imports of the Polish pipe began in 1963 and ceased in early 1967. One large importer stopped such imports as soon as customs officers were instructed to withhold appraisements of entries covering such pipe (less than fair value imports covered by

unappraised entries are subject to a special dumping duty when the Commission makes an affirmative determination under the Anti-dumping Act). The subject imports throughout the period of importation have generally been sold in the U.S. markets by the importers at prices lower than the prices for comparable domestic pipe. The importers' purchase prices of such pipe at levels below the fair values for such pipe have been the factor which enabled them to undersell the domestic producers of the similar pipe.

U.S. producers' prices are generally quoted in the form of chain discounts from a published list price for the industry, f.o.b. foundry or Birmingham, Alabama. The delivered price, therefore, usually approximates the foundry price plus freight from Birmingham, except in the northeastern area where it has become appreciably less. Domestic producers generally chose not to meet the offered price of Polish pipe. Prices for domestically produced pipe in the northeastern market have been diverse and unstable during the period that Polish pipe has been sold at less than fair value. The presence of the Polish pipe caused pressure to be brought against domestic producers. The smaller producers located within the market area where comparatively little transportation must be borne on deliveries, priced their products somewhat below that of producers more remotely located (principally in Alabama and other southern states) but did not choose to meet the Polish price. This in itself caused price instability in the

area. In addition, however, another concern located within the northeastern market began to produce and market cast iron soil pipe during the period since Polish imports began; this concern chose to sell its initial shipments of pipe at a price competitive with that offered on Polish pipe. Its price was thus below that of other domestic producers serving the area regardless of location.

The net foundry return for 5-foot pipe (pipe comparable to that imported from Poland at less than fair value) is less today than it was in 1963, before Polish imports began. On the other hand, the net foundry return for 10-foot pipe (none of which has been imported from Poland) is higher than it was in 1963. This difference is attributable, at least in part, to price instability in the northeastern area where much of the 5-foot pipe is sold. Prices in Chicago, a market area not affected by Polish imports, were much more stable than in the northeastern area. It is my opinion that the price instability in the northeastern market area would not have occurred had it not been for the presence of Polish cast iron soil pipe sold at less than fair value. It is further noted that the newcomer, noted above, recorded a net loss during the only full year since soil pipe was introduced into its line of products. It would appear likely that if other domestic suppliers to the area chose to meet the prices for Polish pipe, they, too, would have experienced a net loss on their sales in the area.

There are at least 31 foundries producing cast iron soil pipe in the United States, some of which sell their pipe throughout most of the states. Analysis of the sales data shows that during the period 1963 to 1967 the prices of various sizes of cast iron soil pipe have generally been moderately rising each year except in the two market areas in which most of the subject imports are being sold. The sale of Polish pipe in the Los Angeles market caused prices in one popular size to flutter and fall below prevailing price levels until the sales of Polish imports diminished. The sale of Polish pipe in the northeastern market caused a depression in the prices of comparable pipe shortly after their entry into the market and most sharply in 1964. The depressed prices still continue with respect to the most popular imported size and the prices of other competitive sizes have not risen to the normal level that could be expected were the imported pipe not underselling the comparable domestic pipe.

One domestic producer has found it expedient to purchase imported Polish cast iron soil pipe to supplement his domestic production. His prices are generally lower than the normal price for domestic pipe.

The word "injury" in the Antidumping Act has been construed by the Commission as meaning "material injury". Any injury which is more than de minimis is material injury. When the Congress

used the word "injury" in the Act without qualification of degree the only exception that one might reasonably apply to the word is the old legal maxim that "the law does not concern itself with trifles". Argument has been advanced in this case that the volume of the subject imports amounted to less than one-half of one percent of U.S. consumption of comparable pipe and that, therefore, there could be no injury within the meaning of the Antidumping Act. Such argument, standing alone, is untenable. The Antidumping Act contemplates possible affirmative determinations in situations where there have been no imports. When importers undersell domestic producers by means of less than fair value imports and thereby disrupt market patterns and depress prices, injury to an industry is not to be equated solely on the market penetration of such imports nor on the number of lost customers.

A further contention has been made that since the complaining industry is experiencing a rising sales volume, a rising average price, and a rising income for overall shipments of cast iron soil pipe, that no material injury can result from the less than fair value imports. In the laws of unfair trade practice, of which the Antidumping Act is a part, there appears to be no prevailing precedent that relief be denied because the producers, despite the unfair act, may manage to make what appears to be a reasonable level of profit. Continuing profit levels may be maintained by lowering wages, suspending market and product research,

reducing advertising, and other activities which have adverse long range implications.

Based upon the foregoing considerations, I determine that imported cast iron soil pipe from Poland is causing material injury to the nation-wide domestic industry that produces comparable pipe in that it has suffered a substantial depression in prices in one of its large markets described above as the northeastern market area.

Views of Commissioner Clubb

I concur in the finding of Vice Chairman Sutton since it is my view that the injury requirement of the Antidumping Act is satisfied by a showing of any injury which is more than de minimis and that such injury is shown in this case, but a fuller statement may be desirable.

In order for dumping duties to be applied, the statute requires that there must be a finding of (1) sales at less than fair value and (2) resulting injury to an industry in the United States.^{1/} The Secretary of the Treasury has already found that

1/ 19 U. S. C., s. 160(a) "Whenever the Secretary of the Treasury . . . determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States or elsewhere at less than its fair value, he shall so advise the United States Tariff Commission, and the said Commission shall determine within three months thereafter whether an industry in the United States is being or is likely to be injured . . . by reason of the importation of such merchandise into the United States . * * *".

cast iron soil pipe from Poland is being imported at less than fair value, and this finding is binding on us here. Accordingly, the only issue before us is whether the sales at less than fair value found by the Secretary have caused injury to an industry in the United States.

During the early years of this century there were widespread fears that large, well-financed trusts and cartels were selling their products at lower prices in foreign markets than at home in order to dispose of excess stocks or to lower their unit costs.^{2/} At times this practice merely resulted in the consumers of the importing countries receiving goods at bargain prices, but it was recognized that where a competing domestic industry was involved, it could have serious disruptive effects. Moreover, it was feared that sometimes this practice had the effect, perhaps intended, of driving smaller, less well-financed domestic concerns out of business. As a result of this fear, anti-dumping statutes were enacted in Canada in 1904, Australia in 1906, South Africa in 1914, and in the United States in 1916. All of these statutes were aimed at preventing certain types of dumping, i.e., the sale of imported goods at less than fair market value.^{3/}

^{2/} For background information on dumping and these statutes, see Tariff Commission, Information Concerning Dumping and Unfair Competition in the United States and Canada's Anti-Dumping Law (1919).

^{3/} Id.

Unlike the present Antidumping Act, the 1916 United States law was a criminal antitrust-type statute which provided substantial penalties.^{4/} It prohibited a predatory type of dumping, i.e., the systematic sale of imported articles at a substantially lower price than they were sold in the producing country with the intent of injuring an industry in the United States, or of restraining or monopolizing commerce. This statute did not work well as a deterrent to dumping generally, first because it was limited only to predatory dumping, and second because its criminal nature and uncertain language made proving a violation almost impossible.^{5/}

^{4/} The law provides for a \$5,000 fine, or imprisonment not exceeding one year, or both; in addition injured parties may sue for treble damages. There has been only one reported case under this statute and it did not involve a substantive determination. The law has not been repealed. Revenue Act of 1916, S. 801; 39 Stat. 798 (1916); 15 U. S. C., s. 72 (1964).

^{5/} The difficulties of the 1916 Act were explained in the Tariff Commission Report, supra, note 1 at 33.

The anti-dumping law enacted by Congress on September 8, 1916, invites special comment. Some brief but substantial criticism of its effectiveness will be found among complaints presented to the commission and summarized in this report. As a criminal statute that act must be strictly construed. It is wanting in certainty in providing, as a condition precedent of the conviction of offenders, that the sale of articles in the United States must be at a price "substantially less" than the actual market value or wholesale price abroad. It apparently fails, where the Canadian law succeeds, in not contemplating in reasonable cases the prohibition of sporadic dumping, since its penalties

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After the failure of the 1916 Act became apparent, the Tariff Commission was requested to report to the Ways and Means Committee "on the so-called Canadian anti-dumping law and its operation." The Canadian Act provided in effect for the virtual automatic assessment of dumping duties on any import at less than fair market value if a comparable article was produced in Canada,^{6/} thus prohibiting dumping of any kind, whether predatory or not, in competition with domestic goods. The Commission reported that in Canada every importation was examined for violations, and that, on the whole, the Act was believed to have successfully operated as a check on dumping.^{7/}

5/ Cont'd.

apply only to persons who "commonly and systematically import" foreign articles, and in providing that such importation must be made with intent to injure, destroy, or prevent the establishment of an industry in this country, or to monopolize trade or commerce in the imported articles. Evidently, for the most part, the language of the act makes difficult, if not impossible, the conviction of offenders and, for that reason, the enforcement of its purpose.

6/ Statute quoted in Tariff Commission Report, supra, note 1 at 25-26.

7/ The Commission questioned, however, whether the same enforcement procedures would work for the United States. Canadian antidumping legislation was aimed largely at U. S. firms, and Canadian authorities had succeeded in developing dependable sources of information in the United States. The United States, on the other hand, was faced with dumping by countries in Europe and the Orient, where systems differed, and information regarding prices and costs might not be so easy to come by. Tariff Commission Report, supra, note 1 at 28, 30-31.

In 1921 a new antidumping bill was passed by the House and referred to the Senate Finance Committee. Like the Canadian law the new bill would have prohibited any kind of dumping in competition with a domestic industry. The House bill did not contain an injury requirement. Dumping duties were to be imposed if the imported goods were competitive with articles produced in the United States and were sold at less than fair value.

The injury requirement was written into the bill in the Senate, and the proceedings before the Finance Committee and the Committee report indicate that it was included in order to facilitate administration of the Act, not to restrict its operation. The injury requirement was first suggested to the Finance Committee by a representative of the Legislative Drafting Service which submitted a draft provision containing the injury requirement.^{8/} This provision was supported by a representative of the Customs Service who noted that it would be impossible to enforce the House bill with their present staff, because it would require that every importation be checked for dumping,^{9/} and this in turn would

^{8/} Hearings on H. R. 2435 Before the Senate Committee on Finance, 67th Cong., 1st Sess., pt. 1 (1921).

^{9/} On this point the Customs official, Mr. Davis, said:

Mr. Davis. The bill throws the burden upon the examining officers of ascertaining in every instance the class or kind of merchandise in the United States that is comparable with the imported merchandise; in

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require that the home market value of every importation be checked in the exporting country.^{10/} The Customs officer suggested that it would be more feasible for the Secretary of the Treasury to investigate only those cases where a domestic industry complained.^{11/}

9/ Cont'd.

other words, the customs examiner will have to look for dumping on every importation. There is very little dumping going on at the present time. Most of the values to the United States are higher than the values in the foreign country. Id. at 36.

10/ In this connection Mr. Davis stated in part:

Mr. Davis. * * * We haven't many facilities for finding the foreign market value. We have one officer in Germany--only one--and he is six months behind in his investigations.

Senator Calder. Why has he not got help?

Mr. Davis. There is not enough money to hire any other men; the appropriation is not sufficient. We have only six men in the entire world.

Senator McLean. It seems to me the operation of your antidumping law is going to be nil unless you have the administrative features supported as they should be.

Mr. Davis. Absolutely. * * *

Id. at 39-40.

11/ The suggestion was made at the urging of the Committee Chairman.

The Chairman. Now, Mr. Davis, I would like to ask you one question. I am familiar with the interest you have taken in this particular legislation, and the intelligent contributions you have made to it, and I would be interested in knowing, from your examination

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Shortly thereafter the Committee reported out a bill including the injury determination amendment suggested by the Customs Service and the Legislative Drafting Service. In its report the Committee noted that the amendment was made in order to relieve the Customs

11/ Cont'd.

of this bill, whether you have any suggestion to make relative to any changes, in your opinion, which should be made in the so-called antidumping clause.

Mr. Davis. I think that in putting the antidumping measure into effect it should be limited to the instances where dumping is taking place, and I think that the Secretary of the Treasury should ascertain this. It would come to him probably through the American manufacturer. That would prevent the Government examiner from looking for antidumping in regard to every importation.

Senator Smoot. It would relieve him.

Mr. Davis. It would relieve him, otherwise it would become everybody's business and I am afraid in actual practice but little attention would be paid to the measure.

The Chairman. They would wait until a charge was brought.

Mr. Davis. They would probably wait.

The Chairman. Then an investigation would be had and, if necessary, the rule would be enforced.

Mr. Davis. Then the rule would be enforced. I think that is the most practical plan, with the right of appeal by the importer to the Board of United States General Appraisers.

Senator McCumber. Under the bill as it now stands, you are assuming that the department would be looking for something in every invoice.

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Service of the necessity of examining every importation for possible violation of the statute.^{12/} In conference the House agreed to the amendment, and the act was passed.

11/ Cont'd.

Mr. Davis. Under the bill as it now stands, the appraisers would have to look for something in every invoice.

The Chairman. You would have to conduct an investigation in every instance.

Mr. Davis. Yes, sir.

The Chairman. That occurs to me as an important suggestion. * * *

Id. at 41-42.

12/ The Finance Committee stated:

The House bill made it necessary for the appraising officers to look for dumping in the case of each importation of merchandise and in the case of merchandise procured otherwise than by purchase required a bond of the importer that would obligate him to furnish the collector upon the sale of the merchandise the selling price of the merchandise and to pay additional dumping duties that might be found due. It is the opinion of your committee that the House provision is too drastic and places too great a burden upon the administrative officers of the customs service and upon the importer. It is also the opinion of your committee that it is unnecessary to make each appraising officer look for dumping in the case of every importation and that it is unreasonable to require the various appraising officers to determine the comparability of each class of merchandise together with the foreign market value and the purchase price in each case, regardless of whether or not an industry is being injured or is likely to be injured by such importation. It is believed that the dumping of merchandise into the United States can

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In treating with the foregoing legislative history our reviewing court in Orlowitz Co. v. United States, 47 Cust. Ct. 583, 590 (1961), aff'd. 50 C. C. P. A. 36 (1963), stated:

There was no suggestion, as we read the Senate proposal and proceedings, of intention either to limit or enlarge the concept of "injury" intended in the House bill, where the mandate was to each individual appraising officer in his own district. Mere intention to improve administration is not persuasive of an intention to change the scope of the law. The clearly expressed intention was to facilitate administration, and no intention was expressed other than to do that. This is persuasive of a legislative intention that the basic objectives were not to be changed.

12/ Cont'd.

be prevented by imposing the dumping duties upon merchandise in cases in which the Secretary, after due investigation, has instructed the appraising officers to apply the antidumping provisions.

The antidumping title of the proposed amendment is so drafted that it will apply only in cases in which the Secretary of the Treasury, through such agency or agencies as he may designate, determines that the importation of dutiable or free foreign merchandise is injuring or is likely to injure an industry in the United States or is preventing an industry from being established in the United States and that such foreign merchandise is being sold or is likely to be sold in the United States or elsewhere at less than its fair value. It is manifest that the determination of whether or not an industry is being injured or is likely to be injured should not be placed in the hands of the individual appraising officers at the various ports of entry. S. Rep. No. 16, 67th Cong., 1st Sess. 10 (1921).

It thus seems clear that the injury requirement was included for administrative reasons and the standard to be applied in any case was whether the degree of injury involved justified setting the governmental machinery in motion to correct it.

The subsequent history of the Act tends to confirm that dumping duties are to be applied in response to anything more than trifling injury. In 1951 the Administration sponsored a bill (H. R. 5505) which, if enacted, would have required a finding that a domestic industry was being "materially injured," rather than merely "injured." This provision was stricken by the House Ways and Means Committee which noted in its report that,

The Antidumping Act now provides for imposition of antidumping duties when American industries are being "injured" by certain imports, section 2 as introduced in H. R. 1535 [H. R. 5505 was introduced as a clean bill] would have changed "injured" to "materially injured." The Committee decided not to include this change in the pending bill in order to avoid the possibility that the addition of the word "materially" might be interpreted to require proof of a greater degree of injury than is required under existing law for imposition of antidumping duties. The committee decision is not intended to require imposition of anti-dumping duties upon a showing of frivolous, inconsequential, or immaterial injury. [H. R. Rep. No. 1089, 82nd Cong., 1st Sess. 7 (1951).]

The refusal to legislate in 1951 ^{13/} left intact the original injury standard developed thirty years earlier--frivolous, inconsequential,

^{13/} H. R. 5505, 82nd Cong., 1st Sess. (1951), passed the House and was referred to Senate Committee on Finance where no further action was taken.

or immaterial injury would not call for application of dumping duties, but anything greater would: ^{1b/}

The conclusion to be drawn from the history of the Act is that the Congress has determined that sales at less than fair value will not be permitted to disrupt the normal, healthy, and vigorous competition between imported and domestic goods in our markets. Congress first attacked the problem by making the most disruptive form of dumping, i. e., the predatory variety, a criminal offense, but the narrow applicability of the statute, and the difficulty of proving a violation made it ineffective as a deterrent to dumping. Accordingly, Congress determined to prevent injurious dumping in all its forms by use of administrative rather than judicial processes. In order to relieve the Customs Bureau of the necessity of examining every importation for possible violation, the

^{14/} The Commission has at various times referred to "significant injury" (Bicycles from Hungary, AA 1921-44 at 2 [March 8, 1965/]) or "material injury" (Titanium Dioxide from France, AA 1921-31 at 3, 28 Fed. Reg. 10467 [Sept. 24, 1963/]); see, Hearings on H. R. 9476 Before the House Committee on Ways and Means, 83rd Cong., 2nd Sess. 34 (1954), to express the degree of injury required in order to bring the sanctions of the Antidumping Act into operation. The statutory terminology is "injury", but since the law will not deal with trifles something more than de minimis injury must be shown (Titanium Dioxide from Japan, AA 1921-47, at 4 [May 18, 1966/]; Titanium Dioxide from West Germany, AA 1921-46, at 4 [April 12, 1966/]; White Portland Cement from Japan, AA 1921-38, at 4; 29 Fed. Reg. 9636 [1964/]). In this context the terms "material" and "significant" merely indicate something more than de minimis.

injury test was included. Congress thus made clear that it did not intend that every import sold at less than fair value should be subjected to dumping duties. If a competitive article is not produced in the United States, or if the imported article competes only peripherally in the same geographic or product market, Congress has provided for the consumer to benefit from the lower prices, rather than the domestic producer from peripheral protection. But where the competition is direct, and the price is unfair, Congress has insisted that the dumping duties be imposed.

Is the necessary degree of injury present in this case? The facts brought out in the Commission's investigation indicate that the Polish soil pipe in issue was sold in competition with the domestic product, and that it was a significant competitive factor. The domestic producers could offer a full line of pipe and fittings, and a shorter delivery time; while the importers of Polish pipe could offer a smaller variety of pipe and fittings, and longer delivery time, but a substantially lower price. The evidence is clear that imports of Polish soil pipe were growing at a rapid rate in the three years (1963-1965) in which it was imported undisturbed by the prospect of dumping duties, and accounted for up to 4% of the sales in the New York-Philadelphia market. At least in part to prevent further inroads by the Polish pipe sold at less than fair value, the domestic producers kept their prices in that market fluctuating around the same level during this period in the face of rising costs and increasing prices in other markets.

The Tariff Commission described just such a situation in its Report on Dumping in 1919, where the Commission said:

Insofar as the dumped merchandise is not made or produced in the country of sale, the transaction is one to which the latter country is not ordinarily disposed to object. The problem arises from the competitive pressure of these reduced prices when the dumped goods are similar to those domestically produced. Dumping, from this standpoint, is a form of competition having extreme, and unpredictable manifestations. As such, it departs, in a measure, from the ordinary conditions of domestic supply and demand and introduces elements which are met, if at all, with apprehension and difficulty. The dumping of goods may have the effect of forcing domestic manufacturers to sell their entire output at a small margin of profit, or even at a loss. Moreover, even the quotation of dumping prices, though no sales in fact be made, may occasionally result in compelling merchants with established trade to cut their prices in order to hold their business against threats of dumping competition. Tariff Commission Report, supra, note 1, at 20.

The problem of dumping thus apprehended by the Commission in 1919 is precisely the situation before us in this case. The domestic manufacturers are forced to choose between losing sales, or lowering their prices to meet the unfair price. It was this that the Antidumping Act was designed to prevent.

It might be noted in conclusion that the imposition of dumping duties here as provided in the Antidumping Act is consistent with the liberal trade policy of the United States. When the sales at less than fair value have stopped, the dumping finding can be revoked. Thus, the domestic industry is not being protected against the ingenuity or the natural advantages of the foreign producer. Rather, it is being protected from the effects of a trade practice which Congress has found to be unfair and injurious.

Statement of Reasons for Negative Determination

Sales of the subject imports were concentrated virtually in two geographic areas in the United States as indicated in our colleagues' affirmative determination. We take no position on whether or not the "market area" concept of our colleagues is valid or appropriate because we find that even using the narrowest measure of the markets affected the economic effects traceable to the Polish imports were trifling.

In the Los Angeles area the domestic producers did not try to meet the prices of the Polish pipe. Injury can thus be measured mainly in terms of loss of sales or customers. But sales of the subject Polish pipe constituted only a very small share of the total sales in that market and, therefore, losses in our opinion were inconsequential in volume and the injury de minimis.

As to the designated northeastern area, we would note that in contrast with any other large domestic "market", a diversity of prices exists and that the condition preexisted the entry of Polish pipe into the area. This condition is attributable to price competition peculiar to the area. No other "market area" is serviced by as many local as well as distant producers of varying capacities. The local producers having lesser transportation costs are given to keener pricing practices which, by upsetting the neat operation of the basing-point pricing system, contribute to the diverse prices in the area. Moreover, some of the local producers make only a limited line and are thus more competitive in the line they produce. In our opinion the evidence is

conclusive that the price volatility in this area is primarily attributable to the peculiar competitive conditions that exist there. The coincidental entry of the subject imported pipe has had no appreciable effect on the already unstable price pattern.

In the circumstances, we determine that an industry in the United States is not being, nor is it likely to be, injured or prevented from being established by reason of the importation of such merchandise into the United States.

