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UNITED STATES TARIFF COMMISSION

**WOMEN'S DRESS SHOES:
BERNIE SHOE CO.
HAVERHILL, MASS.**

**Report to the President
Firm Investigation No. TEA-F-20
Under Section 301 (c)(1) of the Trade Expansion Act of 1962**



**TC Publication 388
Washington, D. C.
April 1971**

UNITED STATES TARIFF COMMISSION

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Note.--The whole of the Commission's report to the President may not be made public since it contains certain information the publication of which would result in the disclosure of the operation of an individual firm. This published report is the same as the report to the President, except that the above-mentioned information has been omitted. Such omissions are indicated by asterisks.

REPORT TO THE PRESIDENT

U.S. Tariff Commission,
April 19, 1971.

To the President:

In accordance with section 301(f)(1) of the Trade Expansion Act of 1962 (76 Stat.885), the U.S. Tariff Commission herein reports the results of an investigation made under section 301(c)(1) of that act, in response to a petition filed by a firm.

On February 18, 1971, Mr. Leslie Brindis, treasurer of the Bernie Shoe Co., of Haverhill, Mass., filed a petition for determination of its eligibility to apply for adjustment assistance. The Commission, accordingly, on March 4, 1971, instituted an investigation to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with women's dress shoes produced by the aforementioned firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

Public notice of the receipt of the petition and of the institution of the investigation was given by publication in the Federal Register of March 10, 1971 (36 F.R. 4639). No public hearing was requested and none was held.

The information in this report was obtained principally from the officials of the petitioning firm and from the Commission's files.

Finding of the Commission

On the basis of its investigation, the Commission 1/ finds unanimously that articles like or directly competitive with women's dress shoes produced by Bernie Shoe Company, Haverhill, Mass., are not, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause serious injury to the company.

1/ Commissioner Young did not participate in the decision.

Views of Commissioners Sutton and Leonard

Our determination in the instant case is negative because the increase in imports of any footwear like or directly competitive with that produced by the Bernie Shoe Company, Haverhill, Mass., is not the result in major part of concessions granted under trade agreements. Our reasoning in support of this determination is set forth in the separate statements of our views in the Commission's report on non-rubber footwear submitted to the President on January 16, 1971. 1/

1/ Nonrubber Footwear: Report to the President on Investigation No. TEA-I-18 . . . , TC Publication 359, 1971, pp. 25-47.

Views of Commissioners Clubb and Moore

This investigation relates to a petition filed by the Bernie Shoe Company of Haverhill, Mass., under section 301(a)(2) of the Trade Expansion Act of 1962 for a determination of its eligibility to apply for adjustment assistance. For the reasons set out below, we have made a negative determination.

The Bernie Shoe Company produces mainly women's dress shoes of cement construction. Since 1966 the firm's output has consisted of shoes with vinyl uppers, the bulk of which retail in the \$10 to \$11 price range. In 1968, the firm began to sell imported shoes.

Under section 301(c)(1) of the Trade Expansion Act, the following four requirements must be met in order for the Commission to make an affirmative determination:

- (1) Imports of a product like or directly competitive with an article produced by the firm must be increasing;
- (2) The increased imports must be a result in major part of concessions granted under trade agreements;
- (3) The firm must be seriously injured, or threatened with serious injury; and,
- (4) The increased imports resulting from trade-agreement concessions must be the major factor causing or threatening to cause the serious injury.

If any of these four requirements is not met, then a negative determination is necessary. In this case we have determined that the third requirement has not been met.

Increased imports in major part a result of trade-agreement concessions

The footwear produced by the Bernie Shoe Company is similar in type, construction, and price to that involved in other recent investigations conducted by the Commission. We concluded in those investigations that, within the meaning of the statute, like or directly competitive footwear was being imported in increased quantities and that the increased imports were in major part the result of trade-agreement concessions. For the reasons set forth in those investigations, 1/ we reach a similar conclusion in the instant case. Thus, the first two requirements of the statute have been met.

Serious injury or threat of serious injury

The third requirement of the Act is that the firm must be suffering serious injury or be threatened with serious injury. We have interpreted serious injury to mean

"an important, crippling, or mortal injury; one having permanent or lasting consequences. Such injuries are distinguished from the less important and temporary injuries which domestic concerns are expected to absorb without governmental assistance." 2/

* * * * *

1/ Women's and Misses' Dress Shoes with Leather, Vinyl, or Fabric Uppers . . . , TC Publication 323, 1970, at 11-14, and Nonrubber Footwear: Report to the President on Investigation No. TEA-I-18 . . . , TC Publication 359, 1971, at 12-13 and 17-19; Women's Dress Shoes: Louis Shoe Co., Inc. . . . , TC Publication 379, 1971, at 4.

2/ Pianos and Parts Thereof: Report to the President on Investigation No. TEA-I-14 . . . , TC Publication 309, 1969.

The company's financial experience, here briefly described, does not meet the test of serious injury. We also conclude that Bernie Shoe Company is not threatened with serious injury. Thus, the third requirement of the statute has not been met and we are compelled to make a negative determination in the instant case. We would note, however, that under the Trade Expansion Act, Bernie Shoe Company may file a new petition with the Tariff Commission at a future date should the company's condition deteriorate.

INFORMATION OBTAINED IN THE INVESTIGATION

Description of Articles Under Investigation

In recent years the output of the Bernie Shoe Co., which is still in operation, has consisted almost entirely of women's dress shoes, 1/ mostly with uppers of vinyl, made by the cement process (a small quantity of women's boots has also been produced at this plant). The company's production of women's dress shoes are sold at retail prices ranging from \$10 to \$15 per pair; however, about 75 percent of the output retails in the price range of \$10 to \$11 per pair.

The principal features of women's shoes that determine the activities for which a particular pair is suitable--and thus the trade designations such as "dress," "casual," and "slippers"--are the cut of the uppers, the style and height of the heels, the material used for the uppers, the kind of ornamentation, and the material and construction of the sole. In general or commercial usage, however, these descriptive terms for footwear may have various meanings. Some of them are specifically defined for tariff purposes in the headnotes (including the statistical headnotes) to part 1A of schedule 7 of the Tariff Schedules of the United States (TSUS). 2/

1/ In this report, as in the Tariff Schedules of the United States (TSUS), the terms "women" and "misses" are used to differentiate size categories of footwear, not age of wearer, as follows: "women" refers to American women's sizes 4 and larger, and "misses" refers to American misses' sizes 12-1/2 and larger but not as large as American women's size 4.

2/ Some of the definitions for tariff purposes of descriptive terms (e.g., "slippers" and "casuals"), however, apply to only a small portion of the footwear for which such terms are currently used in retail outlets; see U.S. Tariff Commission, Nonrubber Footwear: Report to the President on Investigation No. TEA-I-18 . . ., TC Publication 359, 1971, pp. A-2 to A-5.

In terms of U.S. retail sales, so-called dress shoes (a term not defined in the TSUS) are more important than any other type of footwear for women and misses. The term "dress shoes," originally limited only to shoes worn on formal occasions, is now used to describe footwear of the types generally worn for street wear, and for business and social activities. Women's shoes intended for formal wear, which are also regarded here as dress shoes, are now frequently referred to as evening shoes, slippers, or sandals. Generally the term "dress shoes" does not refer to footwear especially made for athletic, occupational, and leisure activities.

For many years the principal type of dress shoe worn by women in the United States was the classic pump--a closed-toe, closed-back, slip-on shoe without fasteners, with lightweight soles, and with heels of 2 inches or higher. Depending upon fashion changes, dress shoes may be open- or closed-heeled shoes with straps, laces, or tongues over the instep and include high-heeled sandals with open toes, open heels, and uppers of narrow strips of leather or other material.

Women's lower heeled footwear for casual wear, not considered dress shoes, include low-heeled sandals and wedge-heeled shoes, loafers, desert boots, moccasins, and sneakers.

The range of styles and qualities of footwear increased greatly during the 1960's as a result of new materials, technological developments in production, and new fashions in wearing apparel. Simultaneously, consumer interest in this wide variety of footwear

as well as clothing, also increased, reflecting the changing age structure of the population, increasing per capita income, and a growth in time for leisure activities. Following these developments the distinction between dress and casual shoes and attire diminished.

The materials used for the uppers of dress shoes are usually finer (i.e., less sturdy), and the soles lighter in weight, than those of footwear intended for athletic and certain occupational and leisure use. Uppers may be calf, kid, or reptile leathers, and silk, rayon, linen, or metallic fabrics--such as peau de soie, satin, brocade, or velvet--or supported vinyls or other plastics. Soles are of leather or plastics.

For several decades the principal method of attaching the outsole to women's shoes has been the cement process whereby the outsole (or midsole, if any) is affixed to the upper by an adhesive without sewing. An estimated 80 percent of total U.S. output of women's and misses' shoes in recent years (and probably an even higher percentage of the output of domestic dress shoes) has been made by the cement process. The cement process permits narrow edges on the outside to give a trim appearance and produces a lighter and more flexible shoe than other processes except the turn (or turned) process. In the turn process, which is currently used in very minor degree in the United States to produce dress shoes, 1/ the footwear is initially lasted inside out and then turned right side out for the finishing operations.

1/ The turn process has been used in the United States in recent years principally to produce footwear of the types reported in official U.S. production statistics as slippers for housewear (SIC product code 3142). Slippers are also produced by the cement process.

Depending on the materials used, the method of construction, price line, and/or style, most imported women's dress shoes are entered under four TSUS items--700.20, 700.43, 700.45, and 700.55--as discussed briefly in the following paragraphs.

Imported footwear that closely resembles (in appearance, method of construction and price lines) the women's dress shoes produced at the Bernie Shoe Co. plant is classified for duty purposes under TSUS item 700.45 and to a lesser extent, under item 700.43. Imports entered under the former TSUS item, which provides for footwear having a foreign (export) value of over \$2.50 a pair, as well as those entered under TSUS item 700.43, which provides for footwear valued not over \$2.50 a pair, consist predominantly of women's footwear in a wide range of styles, types, and prices. In terms of quantity, about half of the combined imports under these two items in 1968 and 1969 consisted of women's sandals having a selling price at retail in the range of \$1.99 to \$6.99 a pair; the remainder probably consisted predominantly of women's cement-process dress shoes of moderate prices (i.e., in the retail price range of \$8 to \$20 a pair) but included sturdy types with vulcanized or injection-molded soles, lightweight slippers suitable principally for housewear, and expensive high-fashion types (including boots) for leisure wear as well as formal and other dress wear.

Imported women's leather footwear made by the turn or turned process and dutiable under TSUS item 700.20 does not differ significantly in appearance or price from the leather dress shoes formerly made by the cement process in the plant here under review. Imported

shoes with uppers of peau de soie, velvet, and other kinds of fabrics used to make dress shoes for women--a type of footwear produced in negligible quantities in recent years--have been admitted under TSUS item 700.68. 1/ U.S. imports of such footwear, which have been negligible, have consisted predominantly of high-fashion styles selling at retail for \$30 or more a pair.

Women's footwear with supported vinyl uppers that has entered under TSUS item 700.55 in recent years had consisted predominantly of two groups of footwear: (1) Street shoes of sturdy construction, produced in a single width for each particular length, for sale mostly at \$3 to \$6 a pair at self-service counters in variety stores, discount stores, and department store basements and (2) folding slippers and sandals, usually selling at retail for less than \$1 a pair. It is believed that before 1970 only a negligible portion of the annual imports of women's dress shoes and boots admitted under item 700.55 retailed at more than \$10 a pair. It is estimated that in 1970, however, imports of such footwear retailing at more than \$10 a pair totaled about 1 million pairs.

U.S. Tariff Treatment

In the Tariff Act of 1930, women's footwear of the types produced at the Bernie Shoe Co. was originally dutiable under paragraph 1530(e) at 20 percent ad valorem if in chief value of leather (except if having fiber uppers) and at 35 percent ad valorem if having fiber uppers.

1/ TSUS item 700.68 provides for women's and misses' leather-soled footwear with uppers of fibers and having a foreign (export) value of over \$2.50 a pair.

Supported vinyl was not used for uppers until the late 1940's or early 1950's. During the period before the TSUS became effective on August 31, 1963, footwear with supported vinyl uppers, which is now dutiable under TSUS item 700.55, was generally dutiable, by virtue of the similitude provisions of paragraph 1559, at a rate provided for "similar" leather footwear in paragraph 1530(e), principally 20 percent. In the TSUS, effective August 31, 1963, a rate of 12.5 percent ad valorem was established for item 700.55 as the trade-agreement rate to replace the wide range of rates previously applicable to the various types of footwear provided for in this item.

Table 1 in the appendix shows for footwear of the types now dutiable under items 700.20, 700.43, 700.45, and 700.55 the reductions in rates of duty resulting from trade-agreement concessions granted under the GATT.

Table 2 in the appendix shows, for the years 1965-70, estimated U.S. imports of women's shoes admitted under the TSUS items mentioned above and the applicable rates of duty.

U.S. consumption, production, and imports

During the period 1965-70, total apparent annual domestic consumption of women's dress shoes is estimated to have followed an irregular trend; it rose from about 204 million pairs in 1965 to about 231 million pairs in 1968 but declined to 197 million in 1970. As imports of women's dress shoes rose from an estimated 4 million pairs in 1965 to 32 million pairs in 1970, the share of apparent annual U.S. consumption of such footwear supplied by imports increased from 2 percent to 16 percent, as shown in the following table.

Dress shoes for women: U.S. production, imports for consumption,
and apparent consumption, 1965-70

Year	Production	Imports	Apparent consump- tion ^{1/}	Ratio of imports to apparent consumption
	<u>Million pairs</u>	<u>Million pairs</u>	<u>Million pairs</u>	<u>Percent</u>
1965-----	200	4	204	2
1966-----	206	7	213	3
1967-----	188	11	199	6
1968-----	210	21	231	9
1969-----	177	28	205	14
1970-----	165	32	197	16

^{1/} Data represent estimated production plus estimated imports without an allowance for exports, which in 1970 amounted to less than 1 million pairs.

Source: Estimates of the U.S. Tariff Commission based on official statistics of the U.S. Department of Commerce.

The variation in annual consumption of women's dress shoes in recent years is explained by several factors but is attributable largely to changes in the mode of dressing discussed in the section of this report on description of articles under investigation. Thus, the use of loafers, sandals, clogs, desert boots, and other boots in lieu of dress shoes has increased. Apparent annual U.S. consumption of all women's nonrubber footwear in 1965-70 is shown in the following table.

Nonrubber footwear for women: U.S. production, imports for consumption, and apparent consumption, 1965-70

Year	Pro- duction <u>1/</u>	Im- ports <u>2/</u>	Apparent consump- tion <u>3/</u>	Ratio of imports to apparent consumption
	<u>Million</u> <u>pairs</u>	<u>Million</u> <u>pairs</u>	<u>Million</u> <u>pairs</u>	<u>Percent</u>
1965-----	316	67	383	17
1966-----	320	70	390	18
1967-----	286	96	382	25
1968-----	317	133	450	30
1969-----	267	139	406	34
1970-----	251	165	416	40

1/ Production represents the output for industry No. 3141 (footwear, except house slippers and rubber footwear) as reported by the U.S. Bureau of the Census.

2/ Partly estimated from the official statistics for footwear of the kinds described in part 1A of schedule 7 of the TSUS except imports described in items 700.32, 700.51, 700.52, 700.53, and 700.60 and except zoris (very inexpensive thonged sandals of rubber or plastics), dutiable under item 700.55. Includes imports of misses' footwear, which have been negligible compared with those of women's.

3/ Apparent consumption represents U.S. production plus imports without an allowance for exports, which in 1970 amounted to about 1 million pairs; for the years 1965-69 the figures are the same as those shown in table 5 (column labeled "For women and misses") in Nonrubber Footwear: Report to the President on Investigation No. TEA-I-18 . . ., TC Publication 359, 1971.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

U.S. imports of women's footwear under TSUS items 700.20, 700.43, 700.45, and 700.55, shown in table 2 in the appendix, in the aggregate accounted for 92 percent of the 1970 imports in the table above.

Prices in the U.S. market

Nonrubber footwear is often produced and marketed with a specific retail price in mind. A given shoe will be wholesaled at a price that will give the retailer a certain percentage markup if retailed at a projected price--for example, \$8 per pair. Conforming to this general practice, the Bernie Shoe Co. produces women's dress shoes to retail principally in the price range of \$10 to \$11 per pair.

In 1966-70 the average unit value of the shoes produced by Bernie Shoe ranged from \$3.99 to \$5.66 per pair.

In the course of its recent investigation on nonrubber footwear, 1/ the Commission obtained by questionnaire data on prices from domestic producers and importers. The percentage distribution of domestic producers' and importers' sales of nonrubber footwear for women and misses, by types and price ranges, is given for 1969 in the following two tables.

1/ Nonrubber footwear: Report to the President on Investigation
No. TEA-I-18 . . . , TC Publication 359, 1971.

Nonrubber footwear: Percentage distribution of U.S. producers' sales of footwear for women and misses, by types and price ranges, 1969

Manufacturers' selling price per pair, f.o.b. plant or warehouse	Women's			Misses'	women's and misses'
	Wedge heel, any height, or open toe, not over 8/8 inch heel	Other			
Less than \$1.81----	1	2		5	2
\$1.81 to \$2.40----	2	5		3	4
\$2.41 to \$3.00----	4	3		5	4
\$3.01 to \$4.20----	41	24		48	33
\$4.21 to \$6.00----	29	13		16	17
\$6.01 to \$7.80----	9	15		23	15
\$7.81 to \$10.20----	5	28		-	17
\$10.21 and over----	9	10		-	8
Total-----	100	100		100	100

Source: Compiled from data supplied by producers in connection with Tariff Commission Investigation No. TEA-I-18.

Nonrubber footwear: Percentage distribution of U.S. importers' sales of footwear for women and misses, by types and price ranges, 1969

Importers' selling price per pair f.o.b. point of shipment	Footwear of leather		Footwear of plastics ^{1/}	
	Sandals	Other	Sandals	Other
Less than \$1.21-----	1	<u>2/</u>	67	35
\$1.21 to \$1.80-----	11	<u>2/</u>	30	35
\$1.81 to \$2.40-----	39	1	2	22
\$2.41 to \$3.00-----	12	2	<u>2/</u>	4
\$3.01 to \$4.20-----	16	8	<u>2/</u>	1
\$4.21 to \$6.00-----	12	44	<u>2/</u>	3
\$6.01 to \$7.80-----	6	10	<u>2/</u>	1
\$7.81 to \$10.20-----	3	20	-	<u>2/</u>
\$10.21 and over-----	<u>2/</u>	15	-	<u>2/</u>
Total-----	100	100	100	100

^{1/} Does not include "packables," footwear with pliant soles and uppers that are generally sold folded in a polyvinyl bag.

^{2/} Less than 0.5 percent.

Source: Compiled from data supplied by importers in connection with Tariff Commission Investigation No. TEA-I-18.

Price data by type of upper (leather or plastics) were obtained for sales by importers, but such information was not available for sales by domestic producers. More than 90 percent of the imported dress footwear of plastics for women and misses was priced under \$2.40 but 75 percent of the imported dress footwear of leather was sold in the price range between \$4.20 and \$10.20. Four-fifths of domestic producers' sales of women's dress shoes were in the price range between \$3.00 and \$10.20, but footwear with plastic uppers probably accounted for most sales in the lower end of this price range.

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Data Relating to the Bernie Shoe Co.

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STATISTICAL APPENDIX



Table 1.--U.S. rates of duty applicable to women's and misses' footwear of types provided for in specified TSUS items, July 1, 1934, and GATT concessions

TSUS item no.	Abbreviated description	Rate of duty		
		July 1, 1934 ^{1/}	GATT concessions ^{2/}	
		Rate	Effective dates	
		Percent ad val.	Percent ad val.	
700.20	Leather footwear: Turn or turned-----	10% ^{3/}	5%	May 30, 1950-Dec. 31, 1967.
			4%	Jan. 1, 1968-Dec. 31, 1969.
			3%	Jan. 1, 1970-Dec. 31, 1971.
			2.5%	Jan. 1, 1972.
700.43	"Other" (including cement process) Valued not over \$2.50 per pair-----	20%	19%	Jan. 1-Dec. 31, 1968.
			18%	Jan. 1-Dec. 31, 1969.
			17%	Jan. 1-Dec. 31, 1970.
			16%	Jan. 1-Dec. 31, 1971.
			15%	Jan. 1, 1972.
700.45	Valued over \$2.50 per pair-----	20%	18%	Jan. 1-Dec. 31, 1968.
			16%	Jan. 1-Dec. 31, 1969.
			14%	Jan. 1-Dec. 31, 1970.
			12%	Jan. 1-Dec. 31, 1971.
			10%	Jan. 1, 1972.
700.55	Footwear having uppers of supported vinyl-----	Princi-	12.5% ^{5/}	Aug. 31, 1963-Dec. 31, 1967.
		pally	11%	Jan. 1-Dec. 31, 1968.
		20% ^{4/}	10%	Jan. 1-Dec. 31, 1969.
			8.5%	Jan. 1-Dec. 31, 1970.
			7%	Jan. 1-Dec. 31, 1971.
			6%	Jan. 1, 1972.

^{1/} Except as noted, the rate on July 1, 1934, was the same as the original rate in the Tariff Act of 1930, effective June 18, 1930.

^{2/} For concessions granted in the Kennedy Round, effective Jan. 1, 1968, the table shows staged rates scheduled to become effective up to and including Jan. 1, 1972.

^{3/} Effective Jan. 1, 1932, the statutory rate of 20 percent ad valorem was reduced to 10 percent ad valorem, pursuant to sec. 336 of the Tariff Act of 1930.

^{4/} Supported vinyl was not used for shoe uppers until the late 1940's or early 1950's. When footwear with supported vinyl uppers was imported during the 1950's and early 1960's, it was generally dutiable, by virtue of the similitude provisions of par. 1559, at the rate provided for "similar" leather footwear in par. 1530(e).

^{5/} The trade-agreement rate established in the TSUS, effective Aug. 31, 1963, under authority of the Tariff Classification Act of 1962 (Public Law 87-456) to replace the wide range of rates previously applicable to the various types of footwear provided for in this TSUS item.

Note.--The GATT concession rates are applicable to the products of all countries except those designated as Communist in General Headnote 3(e) of the TSUS; i.e., they are column 1 rates. Products of Communist countries are dutiable at column 2 rates, which for the TSUS items listed above except item 700.55 are the same as the rates shown for July 1, 1934. For item 700.55, the column 2 rate is 35 percent. That rate replaces the wide range of rates applicable in 1934 to the various types of footwear provided for in item 700.55.

Table 2.--Nonrubber footwear for women and misses: U.S. rates of duty and imports for consumption, by specified TSUS items, 1965-70

Year	Footwear of leather			
	Turn or turned (700.20)		"Other" leather foot- wear (700.43 and 700.45) ^{1/}	
	Tariff rate	Quantity	Tariff rate	Quantity
	<u>Percent</u> <u>ad val.</u>	<u>Million</u> <u>pairs</u>	<u>Percent</u> <u>ad val.</u>	<u>Million</u> <u>pairs</u>
1965-----	5	1	20	21
1966-----	5	1	20	28
1967-----	5	1	20	38
1968-----	4	2	(19	34
			(18	20
1969-----	4	2	(18	29
			(16	27
1970-----	3	2	(17	37
			(14	35
	Footwear with uppers of supported vinyl (700.55)			
	Tariff rate		Quantity	
	<u>Percent ad val.</u>		<u>Million pairs</u>	
1965-----		12.5		35
1966-----		12.5		33
1967-----		12.5		50
1968-----		11		69
1969-----		10		71
1970-----		8.5		77

^{1/} Before Jan. 1, 1968, in TSUS item 700.40.

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

