

UNITED STATES INTERNATIONAL TRADE COMMISSION

RAILWAY TRACK MAINTENANCE EQUIPMENT  
FROM AUSTRIA

Determination of Injury in Investigation No. AA1921-173  
Under the Antidumping Act, 1921, as Amended, Together With  
the Information Obtained in the Investigation



USITC Publication 844  
Washington, D. C.  
November 1977

UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.

(AA1921-173)

CERTAIN RAILWAY TRACK MAINTENANCE EQUIPMENT FROM AUSTRIA  
Determination of Injury

On August 11, 1977, the United States International Trade Commission received advice from the Department of the Treasury that railway track maintenance equipment from Austria 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 (19 U.S.C. 106(a)). Accordingly, on August 19, 1977, the Commission instituted investigation No. AA1921-173 under section 201(a) of said 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.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the Federal Register on August 25, 1977 (42 F.R. 42930). On August 6 and 7, 1977, a hearing was held in Washington, D.C., at which all interested parties were provided an opportunity to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all 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.

On the basis of its investigation, the Commission has determined (Chairman Daniel Minchew and Commissioner Italo H. Ablondi dissenting and Commissioner Bill Alberger not participating) that an industry in the United States is being injured 1/ by reason of the importation of certain railway track maintenance equipment, specifically, tampers and ballast regulators from Austria which are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

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1/ Commissioner George M. Moore determined that an industry in the United States is being or is likely to be injured.

Statement of Reasons of Vice Chairman Joseph O. Parker  
and Commissioners George M. Moore and Catherine Bedell

On August 11, 1977, the United States International Trade Commission received advice from the Department of the Treasury that railway track maintenance equipment from Austria is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on August 19, 1977, the Commission instituted investigation No. AA1921-173 under section 201(a) of said act 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. Treasury's determination of sales at LTFV followed the reopening of an earlier antidumping investigation on railway track maintenance equipment from Austria which was discontinued in 1972 after formal assurances were given by the manufacturer that no further sales would be made at LTFV.

In order to make an affirmative determination of injury in an antidumping investigation, it is necessary to find that an industry is being or is likely to be injured and that injury or likelihood thereof must be by reason of LTFV imports. The criterion of injury

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

is satisfied if there is injury which is "more than frivolous, inconsequential, insignificant, or immaterial." <sup>1/</sup> The term "by reason of" expresses a causation linkage but does not mean that the LTFV imports must be a principal, major, or substantial cause of the injury or likelihood of injury.

#### Determination

On the basis of the information obtained in the investigation, we determine that an industry in the United States is being injured

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

The term "injury," which is unqualified by adjectives such as "material" or "serious," has been consistently interpreted by the Commission as being that degree of injury which the law will recognize and take into account. Obviously, the law will not recognize trifling, immaterial, insignificant or inconsequential injury. Immaterial injury connotes spiritual injury, which may exist inside of persons not industries. Injury must be a harm which is more than frivolous, inconsequential, insignificant, or immaterial.

Moreover, the law does not contemplate that injury from less-than-fair-value imports be weighed against other factors which may be contributing to injury to an industry. 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 required for determining the existence of injury under fair trade conditions.



by reason of the importation of certain railway track maintenance equipment, specifically, tampers and ballast regulators from Austria which the Department of the Treasury has determined are being, or are likely to be, sold at LTFV.

The imported article and the domestic industry

The present investigation was instituted on the basis of information from the Department of the Treasury that "railway track maintenance equipment (RTME) from Austria is being, or is likely to be, sold at less than fair value . . . ." However, the investigation by Treasury, on the basis of which this determination was made, and the information submitted by Treasury to the Commission for use in connection with this investigation were limited to two types of RTME: ballast regulators and tampers. In making our determination, therefore, we have considered the effect of only the two types of LTFV imports which Treasury included within the scope of its investigation and the information submitted to the Commission. We have considered the domestic industry to consist of the facilities in the United States used in the production of ballast regulators and tampers. In 1976, four domestic firms produced ballast regulators, and three domestic firms produced tampers. Plasser American Corp., a subsidiary of Plasser & Theurer, Linz, Austria, the manufacturer of the merchandise sold at LTFV, is one of the domestic firms producing tampers.

Injury by reason of LTFV imports

In recent years, Federal aid to the railroads combined with new Federal safety standards with respect to railway roadbeds has brought about a substantial increase in the demand for RTME. As a consequence of this increased demand, domestic manufacturers made substantial investments, increasing their capacity to produce all types of RTME. Aggregate U.S. production and shipments of all types of RTME and RTME parts increased annually during the period 1973-76. Apparent consumption of all types of RTME almost doubled in terms of value during the same period.

Unlike the trends in production and shipments of all types of RTME, those in production and shipments of ballast regulators and tampers declined sharply from 1974 to 1976, the year during which Treasury determined there were LTFV imports of the subject merchandise. Shipments of ballast regulators declined by 41 percent from 1975 to 1976, and shipments of tampers declined by 18 percent, falling almost to 1973 levels. Utilization of domestic capacity to produce both ballast regulators and tampers, which had been increased during the period 1973-76 in anticipation of increased demand, was substantially reduced in 1976 and was lower than in any other year during the period 1973-76.

In contrast, imports from Austria of both ballast regulators and tampers increased. Price comparisons made by Treasury for the period March 1, 1976, to December 31, 1976, revealed that 100 percent of the

ballast regulators exported to the United States from Austria were sold at LTFV, with a weighted average margin of 33 percent. Price comparisons made for the same period on 80 percent of the tampers exported to the United States from Austria revealed that 25 percent were sold at LTFV, with a weighted average margin of 17 percent.

In the 3 years prior to 1976, no Austrian-produced ballast regulators were marketed in the United States, but in 1976, the year in which Treasury determined there was LTFV pricing, imports of ballast regulators increased sharply and accounted for more than one-third of apparent domestic consumption. Imports of tampers from Austria approximately tripled from 1975 to 1976 as did their share of apparent domestic consumption. Thus, imports of both ballast regulators, 100 percent of which were sold at LTFV, and tampers, of which about 25 percent of those examined were sold at LTFV, significantly increased their penetration of the U.S. market from 1975 to 1976. During January-August, 1977, imports of tampers and ballast regulators from Austria continued at the levels reported in 1976.

The increased penetration resulted in lost sales to the domestic industry. The Consolidated Rail Corp. (Conrail), Philadelphia, Pa., was the largest single domestic purchaser of both ballast regulators and tampers in 1976 and through August, 1977. A large percentage of the machines purchased by Conrail during this period were from Austria.

A comparison of the prices at which a domestically produced and an imported ballast regulator were offered to domestic purchasers reveals that if the price of the LTFV imports had been adjusted to eliminate the average weighted dumping margin of 32 percent, the Austrian machines would not have been price competitive with U.S.-produced machines and some sales of the Austrian machines would not have been made.

Except for the models of ballast regulators referred to above, it is difficult to make comparisons between domestically produced and imported RTME because of the wide variations in the design and technical features of the various models. While it is also difficult to make definitive price comparisons, the Commission's investigation revealed that for models on which price comparisons could be made, LTFV prices enabled the imported product to penetrate the market during 1976, when Treasury found LTFV sales to be taking place. The investigation also revealed that the average weighted price of a leading model of a U.S.-produced tamper declined from 1975 to 1976. Similarly, available price data on a leading model of a U.S.-produced ballast regulator indicate that prices declined between 1975 and 1976. Thus, in 1976, during a period of rising costs, prices of domestic manufacturers were suppressed, increased penetration of the U.S. Market occurred, and sales were lost as a result of the lower prices at which imports of ballast regulators from Austria

could be sold because of their LTFV prices.

Conclusion

On the basis of the considerations discussed above, we conclude that an industry in the United States is being injured by reason of the importation of tampers and ballast regulators from Austria sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

Statement of Reasons for Negative Determination of Chairman  
Daniel Minchew and Commissioner Italo H. Ablondi

On August 11, 1977, the United States International Trade Commission (Commission) received advice from the Department of the Treasury (Treasury) that railway track maintenance equipment from Austria is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Pursuant to this advice, on August 19, 1977, the Commission instituted investigation No. AA1921-173 under section 201(a) of said 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.

Before the Commission may find in the affirmative in these investigations, it is necessary that the following two conditions be met:

- (1) An industry in the United States is being or is likely to be injured, or is prevented from being established, 1/ and
- (2) The requisite injury or likelihood of injury must be by reason of the importation into the United States of the merchandise which Treasury has determined is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

Determination

On the basis of the information obtained in the investigation, we have determined that an industry in the United States is not being and is not likely to be injured by reason of the importation of railway track maintenance equipment from Austria which is being, or is likely to be, sold at LTFV.

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

The domestic industry

In this investigation we have considered the relevant industry to consist of the facilities in the United States devoted to the production of railway track maintenance equipment (RTME). There are currently 11 firms in the United States producing such equipment.

No injury or likelihood of injury by reason of LTFV imports from Austria

In this investigation, the information does not reveal that an industry in the United States is being or is likely to be injured. The value of U.S. producers' shipments of RTME and parts increased annually from \$50.6 million in 1973 to \$95.2 million in 1976, or by 89 percent. In January-August 1977, shipments continued to increase and were 41 percent above their level for the corresponding period of 1976. U.S. exports of RTME and parts exceeded total U.S. imports in each of the years 1973-76.

The average number of production and related workers engaged in the manufacture of RTME and parts increased from 1,074 in 1973 to 1,303 in 1976, or by 21 percent. In January-August 1977, the number of such workers reached its highest level in recent years, averaging 1,507 as compared to 1,261 during the corresponding period of 1976.

In addition to favorable trends in sales and employment, the increasing profitability of U.S. producers with regard to their RTME operations clearly indicates that the domestic industry has not suffered by reason of LTFV imports from Austria. U.S. producers' net operating profit increased from \$2.8 million, or 8 percent of net sales, in 1973 to a high of \$8.4 million, or 14 percent of net sales, in 1976, the year in which Treasury found sales at LTFV. These firms' net operating profits continued to increase in January-June 1977, when they totaled \$7.8 million, or 19 percent of net sales. It should be noted that the net

operating profit recorded in the first half of 1977 significantly exceeded the full-year profits reported by U.S. producers in each of the years 1973-75.

U.S. purchasers of RTME and parts from Austria expressed to the Commission a preference for the Austrian products, citing such factors as the imports' quality, reliability, technical features, and performance characteristics. Customers indicated that these factors, and not always price, were considerations in their decisions to buy the Austrian product. Thus, any sales which U.S. producers may have lost to RTME imports from Austria may not be attributable solely to the LTFV margins that were applicable to those sales.

It is clear from the above considerations that the U.S. industry producing RTME has not suffered any injury by reason of LTFV sales within the meaning of the Act. It is even more clear that there is no likelihood of injury to the industry. U.S. producers have greatly expanded their capacity to produce RTME and are now in a position to capitalize on the very strong demand for this equipment in the U.S. market. Federal aid to railroads and new federal safety standards that call for upgrading roadways insure a continuation of the growing demand for RTME.

### Conclusion

For the reasons stated above, we have concluded that an industry in the United States is not being injured and is not likely to be injured by reason of LTFV imports of railway track maintenance equipment from Austria. 1/

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1/ Chairman Minchew notes that in March 1972, Treasury discontinued an earlier antidumping investigation concerning the same articles and foreign manufacturer as in this case, having received formal assurances from the manufacturer that no future sales would be made at LTFV. As is its normal practice, Treasury monitored such imports following the discontinuance to insure that the assurances were being met. Evidence indicates, however, that when Treasury terminated its monitoring of such imports, the Austrian manufacturer renewed its selling at LTFV margins in clear violation of the assurances it had formerly given to Treasury. The above factors would have weighed heavily in my deliberations had the evidence in support of a negative finding in this investigation not been so preponderant.



## INFORMATION OBTAINED IN THE INVESTIGATION

## Introduction

On August 11, 1977, the United States International Trade Commission received advice from the Department of the Treasury that railway track maintenance equipment (RTME) from Austria is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 (a)). <sup>1/</sup> Accordingly, on August 19, 1977, the Commission instituted investigation No. AA1921-173 under section 201(a) of said 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. By statute the Commission must render its determination within 3 months of its receipt of advice from Treasury--in this case by November 11, 1977.

In connection with the investigation, a public hearing was held in Washington, D.C., on October 6, and 7, 1977. Notice of the institution of the investigation and the public hearing was given by posting copies of the notice at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's office in New York City, and by publishing the notice in the Federal Register August 25, 1977 (42 F.R. 42930). <sup>2/</sup>

Treasury's determination of LTFV sales resulted from a reopening of an earlier antidumping investigation on RTME from Austria that was discontinued in March 1972 following formal assurances from the manufacturer that no future sales would be made at LTFV. Treasury reopened the investigation on the basis of information received on September 23 and October 1, 1976, from counsels acting on behalf of the Kershaw Manufacturing Co., Inc., Montgomery, Ala., and Tamper, Inc., Columbia, S.C., respectively. Treasury's notice of reopening of discontinued investigation was published in the Federal Register of November 1, 1976 (41 F.R. 47970-71), a withholding of appraisement notice was published in the Federal Register of May 10, 1977 (42 F.R. 23672), and its determination of sales at LTFV was published in the Federal Register of August 16, 1977 (42 F.R. 41339-40). <sup>3/</sup>

## The Product

Description and uses

RTME consists of a variety of machines used in the maintenance and rehabilitation of railway track, ties, roadbeds, and rights-of-way. Some of

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<sup>1/</sup> A copy of Treasury's letter to the Commission concerning LTFV sales of RTME from Austria is presented in app. A.

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

<sup>3/</sup> Copies of Treasury's Federal Register notices concerning RTME from Austria are presented in app. C.

the more important types of RTME are tampers, ballast regulators, <sup>1/</sup> ballast compactors, ballast cribbers, undercutter-cleaners, tie inserters-removers, spike pullers-drivers, tieplate lifters-removers, and track-measuring or track-recording cars. Generally, the name of each type indicates its primary functions; for example, spike puller-drivers replace old spikes. Weight, dimensions, technical features, and performance characteristics for machines performing certain functions vary not only from producer to producer but also within a single producer's product line, depending on the design, customer specifications, and options available. Weights of RTME range from one-half ton for small spike drivers to more than 80 tons for large combination machines; prices vary from several hundred dollars to \$750,000 or more per unit. Sometimes RTME is made to order.

The imported articles Treasury examined and found to have been sold at LTFV are ballast regulators and tampers. <sup>2/</sup> These are large self-propelled, track-mounted machines. Ballast regulators distribute ballast along the roadbed and shape it along the shoulder by means of adjustable-plow attachments. If the ballast regulator is equipped with a revolving-broom attachment, it is also capable of sweeping the bed after the ballast has been plowed.

Tampers compact ballast under the ties to insure the firmness and integrity of the track. Compaction is attained by means of hydraulically activated steel arms which ram into the ballast at a predetermined depth on either side of the tie and rail and then squeeze the ballast under the tie. The larger tampers lift, level, and aline the track in addition to tamping ballast. Immediately prior to the tamping operation, the vehicle grasps the rails and adjusts them as to proper height, degree of inclination (leveling), and alinement. Electronic gaging and sensing devices automatically control the adjusting of the rails.

Another item of RTME for which U.S. producers believe a large potential market exists is the ballast undercutter-cleaner. Undercutter-cleaners are among the largest RTME and cost approximately \$750,000 per unit. By various methods they remove the ballast from under the track, clean it, and redeposit it. Ballast must be cleaned periodically in order to remove foreign material and thus preserve its rigidity.

The types, models, technical features, and available options on RTME and, in particular, on tampers and ballast regulators vary considerably, making comparisons between the U.S.-produced items and their imported counterparts difficult. The only feature immediately distinguishing the imported from the domestic items is that the imports tend to be heavier and more massive in appearance than the U.S.-produced equipment.

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<sup>1/</sup> "Ballast" refers to the coarse gravel underlying railway track and ties.

<sup>2/</sup> Representative illustrations of ballast regulators and tampers are presented in app. D.

U.S. tariff treatment

Most RTME, including tampers and ballast regulators, are dutiable under the provisions of item 690.20 of the Tariff Schedules of the United States (TSUS) for "Railway and railway rolling stock: workshops, cranes, and other service vehicles". The column 1 (most-favored-nation) rate of duty is 5 percent ad valorem, which has been in effect since January 1, 1972, when the final stage of the concessions granted in the Kennedy round of negotiations under the General Agreement on Tariffs and Trade became effective. The column 2 rate of duty is 45 percent ad valorem.

RTME manufactured or assembled abroad in whole or in part of U.S.-made components may be entered under TSUS item 807.00. Such imports are dutiable at their full value, less the cost of the U.S.-made components therein, at the rate applicable to imports under item 690.20. U.S. components--primarily diesel engines--constituted about 9 percent of the value of RTME imports into the United States from Austria in 1976.

## Nature and Extent of Sales at LTFV

As previously noted, Treasury's investigation leading to its determination of sales of RTME from Austria at LTFV resulted from a reopening of an earlier antidumping investigation that was discontinued in March 1972 following receipt of assurances that future sales would not be at LTFV. Information gathered during that investigation indicated that there were sales at LTFV; however, these sales were determined to be minimal in relation to the total value of sales. Treasury's reopening of an antidumping investigation on the basis of a violation of assurances is unprecedented.

The LTFV determination by Treasury is based on an examination of Austrian exports of two kinds of railway track maintenance equipment--tampers and ballast regulators--to the United States during the period March 1, 1976-December 31, 1976. (The phrase "railway track maintenance equipment" was used to describe the articles sold at LTFV in Treasury's determination.) All exports of RTME from Austria examined by Treasury were manufactured by one firm, Plasser & Theurer, Linz, Austria.

Treasury made price comparisons on \* \* \* percent of the Austrian tampers (\* \* \* units, for which the exporter's sales price totaled \* \* \*) sold for export to the United States during the period of its investigation. Of the tampers examined, \* \* \* units valued at \* \* \* were found to have been sold at LTFV. Margins ranged from \* \* \* to \* \* \* percent, with a weighted average margin of \* \* \* percent. 1/

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1/ Calculated by the Department of the Treasury by dividing the dollar margin by the exporter's sales price. Margins calculated by dividing the dollar margin by the fair market value (third-country price) ranged from \* \* \* to \* \* \* percent, with a weighted average margin of \* \* \* percent.

Treasury made price comparisons on \* \* \* percent of the ballast regulators (\* \* \* units valued at \* \* \*) sold for export to the United States during the period of its investigation. All the units were sold at LTFV, with margins ranging from \* \* \* to \* \* \* percent; the average weighted margin was \* \* \* percent. 1/

For the purpose of considering whether the merchandise in question was being, or was likely to be, sold at LTFV within the meaning of the Antidumping Act, Treasury determined that the proper basis of comparison was between the exporter's sales price and the third-country price of such or similar merchandise, as well as the constructed value of such merchandise. Treasury denied adjustments in third-market prices on the basis of selling expenses claimed by the importer because verified information documenting these expenses was not received.

The exporter's sales price was used since all export sales are made to a related purchaser in the United States, which in turn sells to unrelated purchasers. The third-country price was used since such or similar merchandise is not sold in the home market in sufficient quantities to provide a basis of comparison for fair-value purposes. Constructed value was used when there were no sales of such or similar merchandise in the home market or to third countries.

#### Domestic Producers

There are 11 known producers of RTME within the United States, all of which are located east of the Mississippi River, especially around the Great Lakes and in Pennsylvania. The complainants before Treasury, Kershaw Manufacturing Co. and Tamper, Inc. (a division of Canron, Inc., of Canada), and the respondent, Plasser American Corp. (a subsidiary of Plasser & Theurer, of Austria), have general offices and plant facilities in Montgomery, Ala., Columbia, S.C., and Chesapeake, Va., respectively. Plasser American Corp. produces and imports RTME, with production accounting for approximately \* \* \* of the value of its total shipments in January-August 1977. None of the producers manufacture a complete line of RTME. In 1976 Tamper, Plasser, 2/ Kershaw, and Fairmont Railway Motors, Inc., of Fairmont, Minn., accounted for all domestic output of ballast regulators, and Tamper, Plasser, and Jackson Vibrators, Inc., of Chicago, Ill., accounted for all domestic output of tampers. U.S. producers' relative shares of shipments of domestically produced ballast regulators, tampers, and all RTME in 1976 are shown in table 1. U.S. producers except Plasser and, to a lesser degree, \* \* \* manufacture RTME almost exclusively from domestic components and raw materials.

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1/ Calculated by the Department of the Treasury by dividing the dollar margin by the exporter's sales price. Margins calculated by dividing the dollar margin by the fair market value (third-country price) ranged from \* \* \* to \* \* \* percent, with a weighted average margin of \* \* \* percent.

2/ \* \* \* \* \* \* \* \*

Table 1.--U.S. producers' relative shares of shipments of domestically produced RTME, by types, 1976

(In percent, based on value)

Producer	Ballast regulators	Tampers	All RTME
Fairmont Railway Motors, Inc-----	* * *	* * *	* * *
Tamper, Inc-----	* * *	* * *	* * *
Kershaw Manufacturing Co-----	* * *	* * *	* * *
Portec Inc., RMC Division-----	* * *	* * *	* * *
Plasser American Corp-----	* * *	* * *	* * *
Rexnord, Railway Equipment Division-----	* * *	* * *	* * *
Jackson Vibrators, Inc-----	* * *	* * *	* * *
Railway Track-Work Co-----	* * *	* * *	* * *
Racine Railroad Products, Inc-----	* * *	* * *	* * *
Marmon Transmotive-----	* * *	* * *	* * *
Loram Maintenance of Way, Inc-----	* * *	* * *	* * *

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

Sales of replacement parts are a significant factor in RTME producers' economic viability, constituting more than 50 percent of some firms' total sales. The sale of a piece of equipment guarantees sales of replacement parts over the life of the machine, which can be 10 years or more.

RTME producers encounter considerable risk in terms of potential variability of returns from their operations. In anticipation of orders for RTME, producers invest heavily in work-in-process inventories, thereby minimizing delivery lead times. Because total costs often must be recovered from the sales of a relatively small number of units, the loss of a single large sale and the resulting loss in followup sales of replacement parts can have a serious effect on the financial standing and performance of the firm.

Competition within the industry generates considerable pressure for improved manufacturing methods and for new and higher performance RTME products, so that capital expenditures and research and development costs are relatively high. In addition, there is substantial investment in developing and maintaining a specialized sales and after-sales service force. Virtually no unskilled labor is utilized within the industry.

The industry distributes its products directly to the railroads through a professional sales cadre and, to a lesser extent, through independent sales agents. Most equipment is delivered domestically by railroad.

### Importers

Plasser American Corp., with general offices and plant facilities in Chesapeake, Va., is the primary U.S. importer of RTME. \* \* \*. The types of equipment Plasser American imports are ballast regulators, ballast cribbers, ballast compactors, tampers, undercutter-cleaners, and track-measuring cars. The company is a wholly owned subsidiary of Plasser & Theurer, whose main offices and manufacturing facilities are in Linz, Austria. The parent firm also maintains production and/or servicing facilities in Canada, Brazil, West Germany, Japan, India, Australia, Great Britain, Spain, France, and South Africa. In 1970 Plasser American moved its import operation from Rockford, Ill., to Chesapeake, Va., and in 1972 began manufacturing tampers at Chesapeake. Its plant is now undergoing a major expansion in line with management's plans to begin producing ballast regulators at that location by 1978. Currently, Plasser American's manufacturing establishment is devoted almost exclusively to the production of tampers and certain RTME parts, although complete tampers and major parts for the tampers it produces, such as \* \* \*, are still imported from its parent firm in Austria. These imported parts account for approximately \* \* \* percent of the value of the tampers produced in the Chesapeake plant.

### Foreign Producers

There are four major foreign producers of RTME: Plasser & Theurer (Austria), Matisa (Switzerland), Robel (West Germany), and Geismer (France). Plasser & Theurer and Matisa have highly diversified product lines, extensive production and research facilities, and worldwide distribution networks. Matisa and Tamper, Inc., constitute the Canron Railgroup of the Canadian firm Canron, Inc. They operate under a common international marketing policy and an integrated engineering and development program. Robel was recently purchased by Plasser & Theurer.

### U.S. Market

Railroads and a small number of independent track-maintenance contractors and leasing companies are the exclusive users of RTME. Consolidated Rail Corp. (Conrail), Philadelphia, Pa., alone accounted for \* \* \* percent of the ballast regulators and \* \* \* percent of the tampers purchased in 1976 and \* \* \* percent of the ballast regulators and \* \* \* percent of the tampers purchased during January-August 1977. Because RTME represents a major capital expenditure, such purchases generally coincide with the railroads' annual capital-budgeting decisions. A budgetary allocation having been approved for the next fiscal period, the purchasing department will request quotations or bids from various producers for machines that meet the railroad's specifications. Among the more heavily weighted criteria in railroads' purchasing decisions are durability and reliability, technical features and performance characteristics, availability of parts, operating and maintenance costs, price, and after-sale service and assistance.

There has been a general depression in the railroad industry since the early 1950's, resulting in considerable neglect of railway ties, rails, roadbeds, and rights-of-way; however, in recent years, Federal aid to the railroads combined with new Federal safety standards that call for upgrading roadways has brought about a substantial increase in the demand for RTME. Further growth in demand is anticipated in the next several years, as evidenced by the substantial investment U.S. producers have made in expanding their capacity to produce RTME. Table 2 shows the value of U.S. producers' shipments, imports, exports, and apparent consumption for all RTME and parts thereof in recent time periods.

Table 2. RTME and parts thereof: U.S. producers' shipments, imports, exports, and apparent consumption, 1973-76, January-August 1976, and January-August 1977

Period	Producers' shipments	Imports	Exports	Apparent consumption	Ratio of imports to consumption
	1,000 dollars	1,000 dollars	1,000 dollars	1,000 dollars	Percent
1973-----	50,614	***	5,768	***	***
1974-----	69,155	***	7,194	***	***
1975-----	81,076	***	10,027	***	***
1976-----	95,150	***	13,628	***	***
Jan.-Aug.--					
1976-----	59,022	***	8,614	***	***
1977-----	83,188	***	6,297	***	***

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

#### Consideration of Injury or Likelihood Thereof

##### Utilization of U.S. producers' capacity

On the basis of the operation of their production facilities at two shifts a day, 5 days a week, and on their 1977 product mix, U.S. producers' annual capacity to produce tampers increased from \*\*\* units in 1973 to \*\*\* units in 1976, or by 16 percent (table 3). 1/ During the same period, capacity to produce ballast regulators increased from \*\*\* to \*\*\* units, or by 43 percent.

1/ U.S. producers' annual capacity to produce tampers does not include the capacity of Plasser American Corp., which was unable to report such data on the basis requested by the Commission.

Table 3.--Tampers and ballast regulators: U.S. production and U.S. producers' capacity, 1973-76, January-August 1976, and January-August 1977

Item	1973	1974	1975	1976	January-August--	
					1976	1977
Production:						
Tampers 1/-----units--	***	***	***	***	***	***
Ballast regulators-----do----	***	***	***	***	***	***
Capacity: 2/						
Tampers-----do----	***	***	***	***	***	***
Ballast regulators 3/---do----	***	***	***	***	***	***
Ratio of production to capacity:						
Tampers-----Percent--	***	***	***	***	***	***
Ballast regulators-----do----	***	***	***	***	***	***

1/ Because Plasser American Corp. was unable to provide data on capacity, its U.S. production of tampers is not included in the data reported here. Plasser's U.S. production of tampers amounted to \*\*\* tampers in 1973, \*\*\* in 1974, \*\*\* in 1975, \*\*\* in 1976, \*\*\* in January-August 1976, and \*\*\* in January-August 1977.

2/ Based on the 1977 product mix and operating domestic facilities at 2 shifts a day, 5 days a week.

3/ Data do not include the capacity of 1 small producer of ballast regulators, Marmon Transmotive.

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

During 1973-76 and January-August 1977, the ratio of production to capacity of U.S. firms producing tampers and ballast regulators varied widely. Capacity utilization for tampers declined from a high of \*\*\* percent in 1974 to a low of \*\*\* percent in 1976, the year in which Treasury found sales at LTFV, and then rose to \*\*\* percent in January-August 1977. Capacity utilization for ballast regulators increased from \*\*\* percent in 1973 to \*\*\* percent in 1975 before declining to \*\*\* percent in 1976. In January-August 1977, these facilities operated at \*\*\* percent of capacity.

U.S. producers' shipments and exports

The value of U.S. producers' total shipments of domestically produced RTME and parts increased annually during 1973-76, rising from \$50.6 million in 1973 to \$95.2 million in 1976 (table 2). Such shipments continued to increase in January-August 1977, when they totaled \$83.2 million, 41 percent greater than the \$59.0 million reported for January-August 1976. U.S. exports of RTME and parts, which accounted for 10 to 14 percent of U.S. producers' annual shipments during 1973-76, followed the same trend as that reported for total



shipments except during January-August 1977, when exports declined by about 38 percent from the level reported in the corresponding period of 1976. Exports consistently exceeded imports over 1974-76, but they slipped to more than 25 percent below the level of imports during January-August 1977.

Table 4.--RTME: U.S. producers' shipments, imports from Austria, exports, and apparent consumption, 1973-76, January-August 1976, and January-August 1977

Period	(Quantity in units; value in thousands of dollars)														
	Producers' shipments			Imports from Austria			Exports			Apparent consumption			Ratio (percent) of imports from Austria to apparent consumption		
	Ballast: regula-tors	Other RTME	Tampers	Ballast: regula-tors	Other RTME	Tampers	Ballast: regula-tors	Other RTME	Tampers	Ballast: regula-tors	Other RTME	Tampers	Ballast: regula-tors	Other RTME	Tampers
1973-----	**	**	166	**	**	1/	**	**	**	**	**	**	**	**	1/
1974-----	**	**	252	**	**	1/	**	**	**	**	**	**	**	**	1/
1975-----	**	**	208	**	**	1/	**	**	**	**	**	**	**	**	1/
1976-----	**	**	170	**	**	1/	**	**	**	**	**	**	**	**	1/
January-August--	**	**	104	**	**	1/	**	**	**	**	**	**	**	**	1/
1976-----	**	**	205	**	**	1/	**	**	**	**	**	**	**	**	1/
1977-----	**	**	205	**	**	1/	**	**	**	**	**	**	**	**	1/
	Quantity														
	Value														
1973-----	**	**	9,539	**	**	15,229	**	**	**	**	**	2,176	**	**	**
1974-----	**	**	15,746	**	**	17,409	**	**	**	**	**	1,187	**	**	**
1975-----	**	**	14,573	**	**	24,358	**	**	**	**	**	3,826	**	**	**
1976-----	**	**	13,771	**	**	29,956	**	**	**	**	**	6,222	**	**	**
January-August--	**	**	8,341	**	**	18,210	**	**	**	**	**	3,434	**	**	**
1976-----	**	**	16,071	**	**	26,152	**	**	**	**	**	2,892	**	**	**
1977-----	**	**	16,071	**	**	26,152	**	**	**	**	**	2,892	**	**	**

1/ Items are not comparable.

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

U.S. producers' shipments of ballast regulators and tampers, the articles Treasury found to have been sold at LTFV, did not follow the trend already reported for U.S. producers' shipments of all RTME and parts. Shipments of ballast regulators increased substantially from 1973 through 1975, but then plunged in 1976 (table 4). During January-August 1977, shipments of ballast regulators increased over the level reported during the corresponding period of 1976. U.S. producers' shipments of tampers increased from 1973 to 1974, but then declined in both 1975 and 1976. In a sharp reverse of this downswing, shipments of tampers almost doubled during January-August 1977, when they totaled 205 units, valued at \$16.1 million, compared with 104 units, valued at \$8.3 million, during the corresponding period of 1976.

Exports of ballast regulators rose irregularly in 1973-76, although data for January-August 1977 suggest a decline in the current year. There were no imports of these machines from Austria until 1976 and 1977, when they greatly exceeded total U.S. exports. In terms of value, U.S. trade in tampers considerably outpaces that in ballast regulators. The figures in table 4 show that, except in 1975, total exports of tampers failed to reach import levels from Austria by a considerable margin.

#### Inventories

U.S. producers' yearend inventories of tampers peaked at \* \* \* units in 1976, and their inventories of ballast regulators and other RTME peaked at \* \* \* and \* \* \* units, respectively, in 1975 (table 5). Importers' yearend inventories of ballast regulators were at their highest level (\* \* \* units) in 1976. Their inventories of tampers were highest in 1974 and 1975, and their inventories of other RTME peaked in 1975.

#### Employment

During 1973-76, average annual employment in U.S. establishments producing RTME (9 of 11 producers reported data on employment) ranged from a low of 3,683 persons in 1976 to a high of 3,962 in 1975 (table 6). In the same period the average number of production and related workers engaged in the production of RTME ranged from a low of 1,074 in 1973 to a high of 1,326 in 1975. The average number of production and related workers producing RTME increased from 1,261 in January-August 1976 to 1,507 in January-August 1977. Producers of ballast regulators and tampers were unable to report employment in the production of these articles separately from all RTME other than by making allocations based on the value of sales.

Table 5.--RTME: U.S. producers' and importers inventories, by types,  
Dec. 31 of 1973-76 and Aug. 31 of 1976 and 1977

(In units)						
Date	Tampers		Ballast regulators		Other RTME	
	Producers'	Importers'	Producers'	Importers'	Producers'	Importers'
Dec. 31--						
1973-----	* * *	* * *	* * *	* * *	25	* * *
1974-----	* * *	* * *	* * *	* * *	15	* * *
1975-----	* * *	* * *	* * *	* * *	43	* * *
1976-----	* * *	* * *	* * *	* * *	20	* * *
Aug. 31--						
1976-----	* * *	* * *	* * *	* * *	23	* * *
1977-----	* * *	* * *	* * *	* * *	18	* * *

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

Table 6.--Average number of employees in U.S. establishments producing RTME, total and production and related workers engaged in the manufacture of all products and of RTME, 1973-76, January-August 1976, and January-August 1977

Item	1973	1974	1975	1976	January-August--	
					1976	1977
All employees-----	3,789	3,767	3,962	3,683	3,613	3,906
All production and related workers-----	2,490	2,553	2,670	2,385	2,359	2,606
Production and related workers producing RTME-----	1,074	1,276	1,326	1,303	1,261	1,507

Source: Compiled from data submitted by 9 U.S. producers in response to questionnaires of the U.S. International Trade Commission.

#### Profit-and-loss experience of U.S. producers

Usable profit-and-loss data were obtained from four U.S. producers of RTME: \* \* \*; these firms accounted for about two-thirds of total industry shipments of RTME and parts in 1976. One of these firms operated on a fiscal year that ended in November 30, and another operated on a fiscal year that ended September 30. The other two firms operated on a calendar-year basis. Aggregated data for the four producers showed that their overall RTME operations were profitable in each of the periods for which data were reported, with net operating profits reaching their highest levels in 1976 and

in January-June 1977 (table 7). The performance of the individual producers in terms of the ratio of net operating profit to net sales are consistent with the trend of the combined data shown in table 7.

Table 7.--Selected financial data for 4 U.S. producers of RTME on their RTME operations, 1973-76, January-June 1976, and January-June 1977

Item	1973	1974	1975	1976	January-June--	
					1976	1977
Net sales-----1,000 dollars--	:33,944	:46,177	:55,422	:59,635	:26,905	:40,627
Gross profit-----do-----	:10,796	:15,060	:17,767	:21,510	:9,734	:15,151
Net operating profit-----do-----	:2,787	:5,625	:6,388	:8,426	:3,781	:7,799
Fixed assets, book value-----do-----	:6,047	:6,515	:10,880	:12,857	:12,277	:13,008
Fixed assets, replacement value----do-----	:17,756	:20,005	:26,182	:30,040	:28,582	:31,138
Ratio of net operating profit to net sales--percent--	:8.2	:12.2	:11.5	:14.1	:14.1	:19.2
Ratio of net operating profit to fixed assets (cost)-----do-----	:46.1	:86.3	:58.7	:65.5	:61.6	:119.9
Ratio of net operating profit to fixed assets (replacement value)-----do-----	:15.7	:28.1	:24.4	:28.0	:26.5	:50.1

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

Only one firm responding to the Commission's questionnaire--Kershaw Manufacturing Co.--provided separate financial data on its tamper and/or ballast regulator operations. This firm, the largest U.S. producer of ballast regulators, reported net operating losses on ballast-regulator operations as follows:

<u>Year</u>	<u>Loss</u>
	(1,000 dollars)
1973-----	* * *
1974-----	* * *
1975-----	* * *
1976-----	* * *
1977 (Jan.-Sept.)-----	* * *

Consideration of the Casual Relationship Between LTFV  
Imports and the Alleged Injury

Market penetration of imports from Austria

In 1976, the year in which Treasury found LTFV imports, U.S. producers' shipments of ballast regulators and tampers fell by 41 and 18 percent, respectively, from the quantities shipped in 1975, contrary to the trend in producers' shipments of other RTME. This decline in shipments of ballast regulators and tampers is noticeably offset by greatly increased imports of those items in that year, as evidenced by the increased ratio of imports from Austria to apparent consumption. There were no imports of ballast regulators from Austria in 1975; in 1976 there were \* \* \* units imported, accounting for \* \* \* percent of U.S. consumption (table 4). Imports of tampers from Austria increased from \* \* \* units or \* \* \* percent of U.S. consumption in 1975 to \* \* \* units or \* \* \* percent of consumption in 1976.

U.S. imports of tampers from Austria totaled \* \* \* units in both January-August 1976 and January-August 1977; however, as a result of a marked increase in U.S. consumption during January-August 1977, the ratio of imports from Austria during the two periods declined from \* \* \* to \* \* \* percent.

The ratio of ballast regulator imports from Austria to apparent consumption of these machines increased from \* \* \* percent in January-August 1976 to \* \* \* percent in the corresponding period of 1977. Because the bulk of the imports from Austria were shipped in the last 4 months of 1976, the ratio for January-August of that year was considerably less than the ratio for the year as a whole.

Loss of sales

Only two producers--Tamper, Inc., and Kershaw Manufacturing Co.--documented lost sales of ballast regulators and tampers to the importer, providing dates, customer information, quotation prices, and types, models, and quantities involved. The total lost sales reported amounted to more than \* \* \* for Tamper and more than \* \* \* for Kershaw. Some of the more significant customers to which they allegedly lost sales were \* \* \*. Questionnaire responses verify that these and other railroads had purchased RTME imported from Austria. Because the combined total of Tamper's and Kershaw's alleged lost sales greatly exceeded import shipments, it is probable that in many instances they claimed the same lost sale. This is confirmed by the data the railroads provided in response to the Commission's questionnaires. For the period January 1976-August 1977, Tamper reported lost sales of \* \* \* tampers and \* \* \* ballast regulators, and Kershaw reported lost sales of \* \* \* ballast regulators. Plasser shipped \* \* \* imported ballast regulators and \* \* \* imported tampers during this period. It is likely that in reporting lost sales of tampers, Tamper, Inc., included those sales which were lost to machines that Plasser produced in its Chesapeake, Va., plant.

In an effort to evaluate factors affecting purchasing decisions of ballast regulators and tampers, the Commission asked 18 railroads which had purchased these items from Plasser during the period July 1975-August 1977 to rank certain criteria on a scale of 1 to 5 according to their importance (1 being not important at all, and 5 being extremely important) in their decision to purchase ballast regulators and tampers from Plasser over the best alternative product manufactured in the United States. The results of that inquiry are shown in the following tabulation:

<u>Criterion</u>	<u>Average degree of importance</u>
Quality/durability/reliability-----	4.83
Technical features/performance characteristics-----	4.83
Availability of parts-----	4.16
Lower operating/maintenance costs-----	4.16
Price-----	3.91
After-sale service and assistance-----	3.83
Warranty-----	3.67
Speed of delivery-----	3.50
Historical source-----	2.25
Alternative source-----	2.16

In addition to providing data requested by the Commission, \* \* \* stated that Plasser is the "only manufacturer of dual-operator switch tampers willing to work with our railroad to develop a model that can be used efficiently and economically on American railroads. Other suppliers, including U.S. manufacturers, are now getting interested in this type of machine." (\* \* \* purchased \* \* \* from Plasser during 1976 and 1977). The \* \* \* stated, "Plasser has been the leader in the industry in developing new techniques in their equipment." (\* \* \* purchased \* \* \* ballast regulators and several types of tampers from Plasser in 1977).

Because prices for imported and U.S.-manufactured items tended to be roughly equivalent during the period examined, the importance of price as indicated in the above tabulation may be somewhat understated. Certainly, in view of the heavy capital outlays required for the purchase of these machines, price is an important factor.

\*            \*            \*            \*            \*            \*

In discussions with key personnel involved in the purchasing of RTME at \* \* \*, the Commission learned that \* \* \* considers the Plasser ballast regulator to be superior to U.S.-made machines and that there is no question that had the Plasser machines cost \* \* \* more per unit they would still have purchased them. Key personnel in the engineering department at \* \* \* advised that if Plasser's ballast regulators had cost \* \* \* more per unit--the amount Plasser would have had to increase its price if its ballast regulators were sold at fair value--they might still have recommended purchasing the Plasser machines,

but that under these circumstances they would surely have faced difficulties in justifying the recommendation to the purchasing department.

Other railroads the Commission contacted felt at the time of purchase that the Plasser equipment was generally superior to that produced in the United States. Key personnel of the \* \* \* stated that they would have purchased Plasser's ballast regulators even if they had cost \* \* \* more per unit because only Plasser machines had certain technical features or performance characteristics that met their immediate needs. For example, \* \* \* personnel stated that Plasser machines have the required weight and power to plow snow, and \* \* \* stated that such machines have a center plow which allows ballast to be transferred in one pass. The \* \* \* representative indicated that the company would probably have purchased the imported ballast regulators even if they had cost \* \* \* more per unit because \* \* \* had been extremely satisfied with Plasser's tampers, and the company was anxious to evaluate Plasser's ballast regulators. \* \* \*. On the other hand, the \* \* \* personnel stated that had Plasser's machines cost \* \* \* more per unit, they would have considered them to be competitive with one of Kershaw's more highly priced models and that thus they would have had to reexamine the relative merits of both machines for their respective purposes. (\* \* \* have purchased \* \* \* and \* \* \* ballast regulators, respectively, from Plasser since January 1976).

### Prices

The lack of comparability between the Austrian and U.S. products precludes any definitive price comparisons. Specific price information--date of shipments, customer name and address, model, quantity, and unit prices (for basic machine, options and attachments, and total)--was requested by the Commission for all ballast regulators and tampers shipped between July 1975 and August 1977. \* \* \* even provided copies of quotations, purchase orders, and invoices. Aside from the variability of features among these products, what one producer considers an option is frequently what another considers a part of a basic machine. Price data for certain options, moreover, were not always available.

For tampers the complexity of price comparisons was particularly acute because there are many different models of tampers sold in the United States and prices for the different models vary widely. It is evident from the data obtained, however, that the prices of imported and U.S.-produced tampers remained relatively constant throughout the period July 1975-August 1977.

A comparison of prices paid during 1976 and January-August 1977 for Kershaw's ballast regulators (models 26-1-1 and 26-1-12) and Plasser's model (PBR 103), complete with options and attachments, shows that Plasser's average price was lower than Kershaw's only in those periods in which it made large shipments to \* \* \* (April-June 1976 and April-June 1977) (table 8). In these periods Plasser's average prices were about \* \* \* percent lower than Kershaw's. In all other periods for which comparisons were made, Plasser's average price exceeded Kershaw's by amounts ranging from less than \* \* \* percent in October-December 1976 to \* \* \* percent in July-August 1977.



Insofar as prices for domestically produced ballast regulators remained relatively constant throughout the period July 1975-August 1977 despite substantial increases in the cost of manufacturing these articles, there is evidence of price suppression during this period. The weighted average price (including options and attachments) of Kershaw's models 26-1-1 and 26-1-12 ballast regulators for January-August 1977 was \* \* \*, only \* \* \* or \* \* \* percent higher than the weighted average price (including options and attachments) of this item for July-December 1975. For the same periods, Kershaw reported that the average unit manufacturing cost for its ballast regulator increased from \* \* \* to \* \* \* or by \* \* \* percent.

Table 8.--Average unit sales prices of Austrian ballast regulators (model PBR 103) and Kershaw's ballast regulators (models 26-1-1 and 26-1-12), July 1, 1975-Aug. 31, 1977

Period	Produced by Kershaw			Imported from Austria		
	Average unit price of : price of : basic machine: and attachments :	Average unit price : including options : and attachments :	Units : shipped :	Average unit price : of : basic machine: and attachments :	Average unit price : including options : and attachments :	Units : shipped :
1975:						
July-Sept-----	**	**	**	**	**	**
Oct.-Dec-----	**	**	**	**	**	**
1976:						
Jan.-Mar-----	**	**	**	**	**	**
Apr.-June-----	**	**	**	**	**	**
July-Sept-----	**	**	**	**	**	**
Oct.-Dec-----	**	**	**	**	**	**
1977:						
Jan.-Mar-----	**	**	**	**	**	**
Apr.-June-----	**	**	**	**	**	**
July-Aug-----	**	**	**	**	**	**

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

APPENDIX A

TREASURY'S LETTER NOTIFYING THE  
COMMISSION OF LTFV SALES



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

COCKET NUMBER
RECEIVED <i>if 4/61</i>
Office of the Secretary Int. Trade Commission

AUG 11 1977

77 AUG 11 PM

1:06

Dear Mr. Chairman:

In accordance with section 201 (OFFICE OF THE SECRETARY  
U.S. INT. TRADE COMMISSION) of the dumping Act, 1921, as amended, you are hereby advised that railway track maintenance equipment from Austria is being, or is likely to be, sold at less than fair value within the meaning of the Act.

The U.S. Customs Service is making the files relative to this determination available to the International Trade Commission under separate cover. These files are for the Commission's use in connection with its investigation(s) as to whether an industry in the U.S. is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of this merchandise into the U.S. Since some of the data in these files is regarded by the Treasury to be of a confidential nature, it is requested that the Commission consider all information therein contained for the use of the Commission only, and not to be disclosed to others without prior clearance with the Treasury Department.

Sincerely yours,

Henry C. Stockell  
Acting General Counsel

The Honorable  
Daniel Minchew  
Chairman  
U.S. International  
Trade Commission  
Washington, D.C. 20436

A-21

APPENDIX B

FEDERAL REGISTER NOTICE OF COMMISSION'S  
INVESTIGATION AND HEARING

A-21

42930

ing courses, mine inspection personnel, mine operators, State personnel and miners' representatives or organizations who provide training courses required by MESA.

[FR Doc. 77-24582 Filed 8-24-77; 8:45 a.m.]

### INTERNATIONAL TRADE COMMISSION

[AA1921-173]

#### CERTAIN RAILWAY TRACK MAINTENANCE EQUIPMENT FROM AUSTRIA

##### Investigation and Hearing

Having received advice from the Department of the Treasury on August 11, 1977, that railway track maintenance equipment from Austria is being, or is likely to be, sold at less than fair value, the United States International Trade Commission, on August 16, 1977, instituted investigation No. AA1921-173 under section 20(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160 (a)), 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.

**Hearing.** A public hearing in connection with the investigation will be held in Washington, D.C., beginning at 10 a.m., e.d.t. on Thursday, October 6, 1977, in the hearing room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. All persons shall have the right to appear by counsel or in person, to present evidence, and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Thursday, September 29, 1977.

Issued: August 22, 1977.

By order of the Commission.

KENNETH R. MASON,  
Secretary.

[FR Doc. 77-24554 Filed 8-24-77; 8:45 am]

[Investigation No. 387-TA-29]

#### CERTAIN WELDED STAINLESS STEEL PIPE AND TUBE

##### Order Dismissing Certain Respondents

This matter comes before the Commission as a result of the recommendation of the presiding officer to dismiss Nippon Steel Corp., Nippon Kokan Kabushiki Kaisha, Itoman & Co., Ltd., Nishimura Kogyo Co., Ltd., Shinshowa Kokan Co., Ltd., Sanwa Metal Industries, Ltd., Sumikin Bussan Kaisha, Ltd., Iwatani and Co., Ltd., Mitsubishi Corp., and Nippon Stainless Steel Co., Ltd., as respondents in the instant investigation. After considering the presiding officer's recommendation, Prehearing Order No. 17, issued July 29, 1977, and the evidence in support thereof including both affidavits filed in support of the motions to dismiss and discovery responses of the respondents,

and the pleadings of all parties concerning these motions, the Commission has decided to adopt recommendations 1-10 of Prehearing Order No. 17.

We also adopt the presiding officer's opinion. It would appear that he set up a special wave of discovery to inquire into jurisdictional facts. In light of the interrogatory answers that have been filed and the respondents' affidavits, the Commission will not disturb the presiding officer's findings.

*It is, therefore, hereby ordered, That:*

1. The motion of Nippon Steel Corporation (M29-11) to be removed as a party is granted.

2. The motion of Nippon Kokan Kabushiki Kaisha (M29-12) to be removed as a party is granted.

3. The motion of Itoman and Co., Ltd. (M29-13) to be removed as a party is granted.

4. The motion of Nishimura Kogyo Co., Ltd. (M29-14) to be removed as a party is granted.

5. The motion of Shinshowa Kokan Co., Ltd. (M29-15) to be removed as a party is granted.

6. The motion of Sanwa Metal Industries, Ltd. (M29-16) to be removed as a party is granted.

7. The motion of Sumikin Bussan Kaisha, Ltd. (M29-17) to be removed as a party is granted.

8. The motion of Iwatani and Co., Ltd. (M29-18) to be removed as a party is granted.

9. The motion of Mitsubishi Corporation (M29-35) to be removed as a party is granted.

10. The motion of Nippon Stainless Steel Company (M29-50) to be removed as a party is granted.

Issued: August 22, 1977.

By order of the Commission.

KENNETH R. MASON,  
Secretary.

[FR Doc. 77-24555 Filed 8-24-77; 8:45 am]

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 77-51]

#### SPACE SCIENCE STEERING COMMITTEE, SPACE TELESCOPE AD HOC ADVISORY SUBCOMMITTEE

##### Meeting

The Space Science Steering Committee, Space Telescope Ad Hoc Advisory Subcommittee, will meet at NASA Headquarters on September 19, 20, and 21, 1977. The meetings will be held as follows: September 19: Room 5026; 9:00 a.m.-5:30 p.m.; Rooms 5137 and 6004; 10:30 a.m.-5:30 p.m.; September 20: Rooms 5026, 5002, and 5127; 8:30 a.m.-5:00 p.m.; September 21: Room 5000; 8:20 a.m. to 5:00 p.m.

The Subcommittee section will discuss, evaluate, and categorize proposals for participation in scientific investigations to be performed on the Space Telescope mission. Throughout the Subcommittee session the professional qualifications of the proposers, the merits of their pro-

posed flight investigations and the associated instrumentation, and the potential scientific contribution of the proposers to the mission will be candidly discussed and appraised. Discussion of these matters in a public session would invade the privacy of the proposers and the other individuals involved. The meeting will be closed to members of the public.

Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552(b)(6), it has been determined that these sessions should be closed to the public.

For further information please contact Dr. Nancy G. Roman, NASA Headquarters, Washington, D.C. 20546, telephone 202-755-3649.

Dated: August 19, 1977.

KENNETH R. CHAPMAN,  
Assistant Administrator for  
DOD and Interagency Affairs.

[FR Doc. 77-24584 Filed 8-24-77; 8:45 a.m.]

[Notice 77-52]

#### NASA RESEARCH AND TECHNOLOGY AD- VISORY COUNCIL PANEL ON AVIATION SAFETY AND OPERATING SYSTEMS, AD HOC PANEL ON TERMINAL CON- FIGURED VEHICLES

##### Meeting

The NASA Research and Technology Advisory Council, Panel on Aviation Safety and Operating Systems, Ad Hoc Panel on Terminal Configured Vehicles will meet on September 14-16, 1977, at the NASA Langley Research Center, Hampton, Va. 22065. The meeting will be held in Conference Room 246 of Building 1202. The meeting will be open to the public on a first-come, first-served basis, up to the seating capacity of the room, which is about 50 persons. All visitors must report to the Receptionist in Room 246, Building 1202.

The NASA Research and Technology Advisory Council's Panel on Aviation Safety and Operating Systems, Ad Hoc Panel on Terminal Configured Vehicles serves in an advisory capacity only. The Panel reviews and evaluates all phases of terminal configured vehicle research and technology in relevance to current needs and requirements, and also prepares recommendations and advice on the goals, trends, content, and benefits in areas of Panel responsibility. The Chairman is John A. Gerham.

There are 10 members. The following list sets forth the approved agenda and schedule for the September 14-16, 1977 meeting of the Panel. For further information, please contact the Executive Secretary, Mr. Kenneth E. Hodge, Code RO, NASA Headquarters, Washington, D.C. 20546, area code 202-755-2375.

SEPTEMBER 14, 1977

**Time and Topic**  
12:00 Noon: Registration of Members, Invited Guests, and Visitors.  
12:30 p.m.: Convene. Welcoming Remarks and Introductory Statement.  
12:45 p.m.: Report of the Chairman (Purpose: To report on the May 24-26, 1977 meeting of the Panel on Aviation Safety

APPENDIX C

FEDERAL REGISTER NOTICES OF TREASURY'S REOPENING OF  
DISCONTINUED INVESTIGATION, WITHHOLDING OF  
APPRAISEMENT AND DETERMINATION OF SALES AT LTFV

A-24  
NOTICES

47970

Fees and expenses paid to underwriters and others should be reasonable.

PROCEDURES

Banks desiring to effect changes in capitalization should obtain forms and instructions from the Regional Administrator of National Bank Applications for capital changes should be filed with the Regional Administrator.

Effective date: November 1, 1976.

Dated: October 26, 1976.

ROBERT BROWN,  
Acting Comptroller  
of the Currency.

[FR Doc.76-31913 Filed 10-29-76;8:45 am]

[TD Order 190, Rev. 12]

DEPUTY SECRETARY, ET AL.

Supervision of Bureaus and Offices, Delegation of Authority, and Order of Succession in the Treasury Department

1. The following officials shall be under the direct supervision of the Secretary: The Deputy Secretary, Advisor to the Secretary, The Executive Assistant to the Secretary, Staff Assistants to the Secretary.

2. The following officials shall be under the supervision of the Secretary, and shall report to him through the Deputy Secretary:

Under Secretary for Monetary Affairs, Under Secretary, General Counsel, Assistant Secretary (Tax Policy), Commissioner, Internal Revenue Service, Comptroller of the Currency.

3. The following officials shall be under the supervision of the Under Secretary for Monetary Affairs, and shall exercise supervision over those organizational entities indicated thereunder:

- Assistant Secretary (International Affairs): Deputy Assistant Secretary for Trade and Key Industries Policy; Deputy Assistant Secretary for Energy and Environmental Policy; Deputy Assistant Secretary for International Monetary Affairs; Deputy Assistant Secretary for Developing Nations; Deputy Assistant Secretary for Research and Financing; Deputy to the Assistant Secretary for Saudi Arabian Affairs; and Inspector General for International Finance.
- Assistant Secretary (Capital Markets and Debt Management): Deputy Assistant Secretary for Capital Markets Policy; Deputy Assistant Secretary for Debt Financing; Senior Advisor (Debt Research); Special Assistant to the Secretary (Debt Financing); Deputy to the Assistant Secretary for New York Finances.
- Assistant Secretary (Economic Policy): Office of Financial Analysis.
- Fiscal Assistant Secretary: Bureau of Government Financial Operations; Bureau of the Public Debt; Treasurer of the United States.

Special Assistant to the Secretary (National Security), U.S. Savings Bonds Division.

4. The following officials shall be under the supervision of the Under Secretary, and shall exercise supervision over those organizational entities indicated thereunder:

- Assistant Secretary (Administration): Office of Administrative Programs; Office of Audit; Office of Budget and Program Analysis; Office of Computer Science; Office of Equal Opportunity Programs; Office of Management and Organization; Office of Personnel.
- Assistant Secretary (Legislative Affairs).
- Assistant Secretary (Enforcement, Operations, and Tariff Affairs): Office of Law Enforcement; Office of Operations; Office of Trade Affairs; Office of Foreign Assets Control; Bureau of Alcohol, Tobacco and Firearms; U.S. Customs Service; Bureau of Engraving and Printing; Bureau of the Mint; U.S. Secret Service; and Federal Law Enforcement Training Center.
- Special Assistant to the Secretary (Public Affairs).
- Office of Revenue Sharing.

5. The following officials shall exercise supervision over those organizational entities indicated thereunder:

- General Counsel: Tax Division; Office of Director of Practice.
- Assistant Secretary (Tax Policy): Office of Tax Analysis; Office of Tax Legislative Counsel (also part of Legal Division); Office of International Tax Counsel (also part of Legal Division); and Office of Industrial Economics.
- Commissioner, Internal Revenue Service; Assistant Commissioner (Accounts, Collection and Taxpayer Services); Assistant Commissioner (Administration); Assistant Commissioner (Compliance); Assistant Commissioner (Employee Plans and Exempt Organizations); Assistant Commissioner (Inspection); Assistant Commissioner (Planning and Research); and Assistant Commissioner (Technical).
- Comptroller of the Currency: Chief Deputy Comptroller; Deputy Comptroller.

6. The Deputy Secretary, the Under Secretary for Monetary Affairs, the Under Secretary, the General Counsel, the Commissioner of the Internal Revenue Service, and the Comptroller of the Currency are authorized to perform the functions the Secretary is authorized to perform. Each of these officials shall perform functions under this authority in his own capacity and in his own title and shall be responsible for referring to the Secretary any matter on which actions should appropriately be taken by the Secretary. Each of these officials will ordinarily perform under this authority only functions which arise out of, relate to, or concern the activities or functions of or the laws administered by or relat-

ing to the bureaus, offices, or other organizational units over which he has supervisory authority. Any action heretofore taken by any of these officials in his own capacity and under his own title is hereby affirmed and ratified as the action of the Secretary.

7. The following officers shall, in the order of succession indicated, act as Secretary of the Treasury in case of the death, resignation, absence, or sickness of the Secretary and other officers succeeding him, until a successor is appointed or until the absence or sickness shall cease:

- A. Deputy Secretary;
- B. Under Secretary for Monetary Affairs;
- C. Under Secretary;
- D. General Counsel;
- E. Commissioner of Internal Revenue; and
- F. Assistant Secretary or Deputy Under Secretary, appointed by the President with Senate confirmation, in the order in which they took the oath of office as Assistant Secretary or Deputy Under Secretary.

8. Treasury Department Order No. 190 (Revision 11) is rescinded, effective this date.

Date: September 14, 1976.

WILLIAM E. SIMON,  
Secretary of the Treasury.

[FR Doc.76-31320 Filed 10-29-76;8:45 am]

Office of the Secretary  
RAILWAY TRACK MAINTENANCE  
EQUIPMENT FROM AUSTRIA

Reopening of Discontinued Investigation

On September 23, 1976, and on October 1, 1976, information was received from counsel acting on behalf of Kershaw Manufacturing Co., Inc., Montgomery, Alabama, and from counsel acting on behalf of Iron Ore, Inc., Columbia, South Carolina, respectively, indicating that railway track maintenance equipment from Austria is to be, or is being, sold at less than fair value within the meaning of the Antidumping Act, 1916, as amended (19 U.S.C. 160 et seq.).

A "Notice of Discontinuance of Antidumping Investigation" was published in the Federal Register of March 24, 1972 (37 FR 6121). This notice stated in part:

Complaints made revealed sales instances where exporter's sales prices were lower than advised United States price of such or similar merchandise. Such instances were confined to a single model which has not been imported to the United States for some time. It was determined that the importer had the impression that no further sales of this model will be made to the United States. In addition, the exporter provided general assurances that no future sales of railway track maintenance equipment will be made at a price lower than the meaning of the [Antidumping] Act. These facts constitute evidence warranting the discontinuance of the investigation.

The U.S. Customs Service is renewing its inquiry to obtain the facts necessary to enable the Secretary of the Treasury to determine whether subsequent to the



above noted discontinuance, there are reasonable grounds to believe or suspect that there are or are likely to be sales to the United States at less than fair value, as required by section 153.33(g) of the Customs Regulations (19 CFR 153.33 (g)).

A summary of current information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold, or offered for sale, for exportation to the United States, are, or are likely to be, less than the price at which such or similar merchandise is sold for exportation to third countries.

JERRY THOMAS,  
Under Secretary  
of the Treasury.

OCTOBER 26, 1976.

[FR Doc. 76-31834 Filed 10-29-76; 8:45 am]

[Dept. Cir. Pub. Dept Series—No. 28-76]

TREASURY NOTES OF NOVEMBER 15,  
1979

Series K-1979

OCTOBER 28, 1976.

#### I. INVITATION FOR TENDERS

I. 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders for \$3,000,000,000, or thereabouts, of securities of the United States, designated Treasury Notes of November 15, 1979, Series K-1979 (CUSIP No. 912827 GC 0). The securities will be sold at auction with bidding on the basis of yield, and with the interest rate and the price equivalent of each accepted bid to be determined as set forth below. Additional amounts of these securities may be issued to Government accounts and to Federal Reserve Banks for their own account in exchange for maturing Treasury securities being held by them, and to Federal Reserve Banks, as agents of foreign and international monetary authorities, for new cash only.

I. 2. If the interest rate determined in accordance with this circular is identical to the rate on an outstanding issue of United States notes, and the terms and conditions of such outstanding issue are otherwise identical to terms and conditions of the securities offered herein, this invitation shall be deemed to be an invitation for an additional amount of the outstanding securities and this circular will be amended accordingly. Payment for the securities in that event will be calculated on the basis of the auction price determined in accordance with this circular plus accrued interest from the last preceding interest payment date on the outstanding securities.

#### II. DESCRIPTION OF SECURITIES

II. 1. The securities will be dated November 15, 1976, and will bear interest from that date, payable on a semiannual basis on May 15 and November 15, 1977, and thereafter on May 15 and November 15 in each year until the principal amount becomes payable. They will mature November 15, 1979, and will not be

subject to call for redemption prior to maturity.

II. 2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

II. 3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

II. 4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of \$5,000, \$10,000, \$100,000 and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

II. 5. The securities will be subject to the general regulations of the Department of the Treasury governing United States securities, now or hereafter prescribed.

#### III. SALE PROCEDURES

III. 1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, November 3, 1976. Noncompetitive tenders, as defined below, will be considered timely if post-marked no later than Tuesday, November 2, 1976.

III. 2. Each tender must state the face amount of securities bid for, which must be \$5,000 or a multiple thereof. Competitive tenders must show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "non-competitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed \$1,000,000.

III. 3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers, provided the names of the customers and the amount for each customer are furnished. Others will not be permitted to submit tenders except for their own account.

III. 4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan as-

sociations; States and political subdivisions or instrumentalities thereof; public pension and retirement and other public funds; international organizations in which the United States holds membership, foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

III. 5. Immediately after the closing hour, tenders will be opened, following which public announcement will be made of the amount and yield range of accepted bids. Subject to the reservations expressed in Section IV, noncompetitive tenders will be accepted in full at the average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be determined at a  $\frac{1}{8}$  of one percent increment that translates into an average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price corresponding to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of yield. Additional tenders received from Government accounts and Federal Reserve Banks will be accepted at the average price of accepted competitive tenders.

III. 6. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. Those submitting noncompetitive tenders will not be notified except when the tender is not accepted in full or when the price is over par.

#### IV. RESERVATIONS

IV. 1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section I, and to make different percentage allotments to various classes of applicants when he deems it to be in the public interest, and his action in any such respect shall be final.

#### V. PAYMENT AND DELIVERY

V. 1. Settlement for securities allotted hereunder must be made, or completed on or before November 15, 1976, at the Federal Reserve Bank or Branch, or the

Farmer Technologies) in accordance with and subject to the terms and conditions set forth in a project authorization dated December 30, 1976, authorizing said Project ("Project Authorization").

This delegation of authority is effective through July 29, 1977.

Acting Assistant Administrator,  
Latin America Bureau.

APRIL 27, 1977.

[FR Doc.77-13257 Filed 5-9-77;8:45 am]

[Delegation of Authority No. 121]

**PERSONAL FOREIGN EXCESS PROPERTY  
IN TURKEY**

**Delegation of Authority**

Pursuant to the authority vested in me by Delegation of Authority No. 104 from the Secretary of State, dated November 3, 1961 (26 FR 10638), as amended, I hereby delegate to the United States Ambassador to Turkey the following authority:

a. Upon the determination that it will be consistent with and in furtherance of the purposes of part I and within the limitations of the Foreign Assistance Act of 1961, as amended (the Act), to permit the furnishing of U.S. Government-owned excess property and related services in accordance with section 607(a) of the Act. Such authority shall be exercised only with respect to personal foreign excess property located in Turkey. Any acquisitions of excess property located in Turkey made under section 607(a) of the Act directly from U.S. Government agencies shall be subject to the guidelines set forth in Chapter 7 of A.I.D. Handbook 16.

b. To make the determinations prescribed under section 607(b) of the Act, to wit:

(1) That, with respect to any U.S. Government-owned excess property which is to be made available in accordance with this Delegation of Authority, there is a need for such property in the quantity requested and such property is suitable for the purpose requested;

(2) The status and responsibility of the end-user justifies the requested transfers and the end-user has the ability effectively to recondition when necessary, use, and maintain such property; and

(3) The residual value, serviceability, and appearance of the property to be transferred will not reflect unfavorably on the image of the United States and will justify the accessorial costs, and the residual value at least equals the total of these costs.

Such determinations shall be made in writing prior to the transfer of such property. The authority delegated under this paragraph b may be redelegated to subordinate officers.

The authority delegated by this Delegation of Authority shall be subject to the terms and provisions of A.I.D. Handbook 16 including, without limitation,

those portions of Chapter 5 thereof entitled "Control, Utilization, and Disposition of Excess Property" and "Use of the Official AID Emblem".

This Delegation of Authority revokes Delegation of Authority No. 23, dated May 2, 1963 (28 FR 4726), as amended, only insofar as Delegation of Authority No. 23 concerns Turkey.

This Delegation of Authority shall become effective June 30, 1977.

Dated: April 27, 1977.

JOHN J. GILLIGAN,

[FR Doc.77-13259 Filed 5-9-77;8:45 am]

**DEPARTMENT OF THE TREASURY**

[Treasury Department Order No. 250]

**DISESTABLISHMENT OF THE POSITION  
AND OFFICE OF ASSISTANT SECRETARY  
Enforcement, Operations, and Tariff Affairs**

By virtue of the authority vested in me as Secretary of the Treasury, including the authority vested in me by Reorganization Plan No. 26 of 1950, the following organizational changes are ordered:

1. The position and the Office of Assistant Secretary (Enforcement, Operations, and Tariff Affairs) are hereby disestablished. The functions, responsibilities, and personnel formerly assigned to the Assistant Secretary (Enforcement, Operations and Tariff Affairs) are hereby temporarily transferred to the Under Secretary, pending review and further disposition of these functions and responsibilities.

2. Additional changes in organization, and reassignments of functions, responsibilities, and personnel necessitated by this order will be finalized as soon as possible.

3. Treasury Department Orders No. 128 (Revision 5), No. 147 (Revision 3), No. 191-3, No. 217 (Revision 1), and No. 220 are hereby amended.

This order is effective immediately.

Dated: May 3, 1977.

W. MICHAEL BLUMENTHAL,  
Secretary of the Treasury.

[FR Doc.77-13256 Filed 5-9-77;8:45 am]

[Treasury Department Order No. 251]

**ESTABLISHMENT OF THE OFFICE OF  
THE ASSISTANT SECRETARY  
Public Affairs**

By virtue of the authority vested in me as Secretary of the Treasury, including the authority vested in me by Reorganization Plan No. 26 of 1950, it is ordered that:

1. The position of the Assistant Secretary (Public Affairs) is hereby established. The incumbent will report to the Secretary, and will be responsible for:

a. Establishing general operating policies and guidelines, and providing leadership, direction and management strategy for administering public affairs programs and activities in all Treasury offices and bureaus;

b. Formulating and executing public information policies and programs which will increase the public's knowledge and understanding of Treasury's activities and services;

c. Providing continuing public information support to the Office of the Secretary; and

d. Serving as the principal advisor to the Secretary, the Deputy Secretary, and senior officials throughout the Treasury Department on matters affecting the public's understanding of Treasury policies and programs.

2. The Office of the Assistant Secretary (Public Affairs) is hereby established. Under the supervision of the Assistant Secretary (Public Affairs) this Office performs the following functions:

a. Developing materials to inform the public of the Department's policies, programs, activities, and services;

b. Serving the day-to-day needs of the print and electronic media, including the writers who specialize in economic reporting and analysis, and the media who base their daily operations in the Treasury headquarters;

c. Serving the specialized needs of specific Treasury officials for releasing public information;

d. Providing editorial support services such as preparation of Congressional and public statements, and research, correspondence, clipping service and files;

e. Coordinating public affairs policies throughout the Department.

3. All of the functions, positions, personnel, records and property assigned to the Office of the Special Assistant to the Secretary (Public Affairs) are transferred to the Office of the Assistant Secretary (Public Affairs).

4. Responsibility for maintaining the Secretary's current issues briefing book and for answering correspondence, and the positions, personnel, records, and property associated with these responsibilities are transferred to the Office of the Assistant Secretary (Public Affairs) from the immediate office of the Secretary.

5. The Assistant Secretary (Public Affairs) is authorized to define the organizational structure and the specific responsibilities of the positions and personnel assigned to the Office of the Assistant Secretary (Public Affairs).

This Order is effective immediately.

Treasury Department Order No. 99 is hereby rescinded.

Dated: May 3, 1977.

W. MICHAEL BLUMENTHAL,  
Secretary of the Treasury.

[FR Doc.77-13255 Filed 5-9-77;8:45 am]

**Office of the Secretary**

**RAILWAY TRACK MAINTENANCE EQUIP-  
MENT FROM AUSTRIA; ANTIDUMPING**

**Withholding of Appraisal Notice**

**AGENCY:** United States Treasury Department.

**ACTION:** Withholding of appraisal.

**SUMMARY:** This notice is to advise the public that there are reasonable grounds to believe or suspect that there are or are likely to be sales of railway track maintenance equipment from Austria to the United States at less than fair value within the meaning of the Antidumping Act of 1921. Appraisement for the purpose of determining the proper duties applicable to entries of this merchandise will be suspended for 6 months. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. Interested persons are invited to comment on this action by June 9, 1977.

**EFFECTIVE DATE:** May 10, 1977.

**FOR FURTHER INFORMATION CONTACT:**

Paul R. Nichols, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, 202-566-5492.

**SUPPLEMENTARY INFORMATION:** Information was received on September 23 and October 1, 1976, from counsels acting on behalf of Kershaw Manufacturing Co., Inc. Montgomery, Alabama, and Tamper, Inc., Columbia, South Carolina, respectively indicating that railway track maintenance equipment from Austria was being sold at less than fair value, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as the "Act"). On the basis of this information a "Notice of Reopening of Discontinued Investigation" was published in the FEDERAL REGISTER of November 1, 1976 (41 FR 47970-71), and the U.S. Customs Service renewed its inquiry to obtain information necessary to enable the Secretary of the Treasury to determine whether there were reasonable grounds to believe or suspect that there are or are likely to be sales to the United States at less than fair value.

**Tentative Determination of sales at less than fair value:** On the basis of the information presented and that developed by the United States Customs Service, for the reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are reasonable grounds to believe or suspect that the exporter's sales price of railway track maintenance equipment from Austria is less or likely to be less than the fair value, and thereby the foreign market value, of such or similar merchandise.

**Statement of reasons on which this determination is based:** (a) *Scope of the Investigation.* It appears that all imports of the subject merchandise from Austria were manufactured by Plasser and Theuer, Linz, Austria. Therefore, the investigation was limited to this manufacturer.

(b) *Basis of Comparison.* For the purposes of determining whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis

of comparison appears to be between exporter's sales price and the third country price of such or similar merchandise. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used since all export sales appear to be made to a related purchaser in the United States which in turn sells to unrelated purchasers. Third country price, as defined in section 153.3, Customs Regulations (19 CFR 153.3), was used since such or similar merchandise is not sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes. In accordance with section 153.31(b), Customs Regulations (10 CFR 153.31(b)), pricing information was obtained concerning sales of railway track maintenance equipment from Austria during the period of March 1 through December 31, 1976.

(c) *Exporter's Sales Price.* For the purposes of this tentative determination of sales at less than fair value, deductions have been made from the U.S. resale price for ocean and inland freight, insurance, brokerage, handling, and United States customs duties.

(d) *Third Country Price.* For the purposes of this tentative determination of sales at less than fair value, the third country price has been calculated on the basis of the C.I.F. delivered price to a customer in Alexandria, Egypt. Deductions have been made for ocean and inland freight, and insurance.

(e) *Result of Fair Value Comparison.* Using the above criteria, preliminary analysis suggests that exporter's sales price probably will be lower than the third country price of such or similar merchandise. Comparisons were made on merchandise which accounts for approximately 63 percent of the merchandise exported to the United States during the investigative period. The best information available indicates that margins exist on 100 percent of the merchandise compared, with the average margin being 62 percent. The manufacturer of the subject merchandise has submitted additional information, but not in sufficient time to allow consideration of it in connection with this determination.

Accordingly, Customs officers are being directed to withhold appraisement of railway track maintenance equipment from Austria, in accordance with § 153.48 Customs Regulations (19 CFR 153.48).

In accordance with section 153.49 Customs Regulations (19 CFR 153.49), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by his office on or before May 20, 1977. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commis-

sioner of Customs in time to be received in his office on or before June 9, 1977.

This notice, which is published pursuant to § 153.35(b) Customs Regulations (19 CFR 153.35(b)), shall become effective May 10, 1977. It shall cease to be effective at the expiration of 6 months from the date of publication unless previously revoked.

BETTE B. ANDERSON,  
Under Secretary of the Treasury.

MAY 3, 1977.

[FR Doc. 77-13203 Filed 5-9-77; 8:45 am]

## DEPARTMENT OF COMMERCE

National Bureau of Standards

NATIONAL BUREAU OF STANDARDS'  
VISITING COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act 5 U.S.C., App. I (Supp. V, 1975), notice is hereby given that the National Bureau of Standards' Visiting Committee will meet on Monday, June 27, 1977, from 8:30 a.m. to 4:30 p.m. in Lecture Room B, Administration Building, National Bureau of Standards, Gaithersburg, Maryland; and Tuesday, June 28, 1977, from 9 a.m. to 12 noon in Room 3881 and from 2 p.m. to 3:30 p.m. in Room 5851, Department of Commerce, Washington, D.C.

The NBS Visiting Committee is composed of five members prominent in the fields of science and technology and appointed by the Secretary of Commerce.

The purpose of the meeting is to review the efficiency of the Bureau's scientific work and the condition of its equipment in order to assist the Committee in reporting to the Secretary of Commerce as required by law.

The public is invited to attend, and the Chairman will entertain comments or questions at an appropriate time during the meeting. Any persons wishing to attend the meeting should inform Ms. Elaine D. Buntin, Office of the Associate Director for Programs, National Bureau of Standards, Washington, D.C. 20234, telephone (301) 921-3131.

Dated: May 4, 1977.

ERNEST AMBLER,  
Acting Director.

[FR Doc. 77-13260 Filed 5-9-77; 8:45 am]

National Oceanic and Atmospheric  
Administration

AQUARIUM OF NIAGARA FALLS, INC.

Issuance of Permit To Take Marine  
Mammals

On March 4, 1977 notice was published in the FEDERAL REGISTER (42 FR 12453), that an application had been filed with the National Marine Fisheries Service by the Aquarium of Niagara Falls, Inc., 701 Whirlpool Street, Niagara Falls, New York 14301, for a permit to take two (2) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on May 4, 1977, and as authorized by the provisions

Division, may grant requests for records under the Freedom of Information Act (5 U.S.C. 552) that are directed to Customs Service Headquarters. Those regulations also provide that the Assistant Commissioner, Office of Regulations and Rulings, is the official authorized to deny such requests. Due to a reassignment of functions within the Office of Regulations and Rulings and a desire to respond more promptly to requests for information, the Commissioner of Customs has determined that the Director, Entry Procedures and Penalties Division, should be authorized to grant or deny those requests.

Under Appendix C, Subpart C, 31 CFR Part 1, the Director, Entry Procedures and Penalties Division, may grant requests made under the Privacy Act (5 U.S.C. 552a) that are directed to Customs Service Headquarters. That Appendix also provides that the Assistant Commissioner, Office of Regulations and Rulings, is the official authorized to deny such requests. The Commissioner of Customs has determined that authorizing the Director, Entry Procedures and Penalties Division, to both grant and deny requests made under the Privacy Act that are directed to Customs Service Headquarters will enable Customs to respond more promptly to such requests.

Under section 103.5 of the Customs Regulations (19 CFR 103.5) and Appendix C, Subpart A, 31 CFR Part 1, the Commissioner of Customs will decide all appeals of denials of requests under the Freedom of Information Act. Under Appendix C, Subpart C, 31 CFR Part 1, the Commissioner will also decide all appeals of denials of requests to amend records under the Privacy Act. The Commissioner has determined that, to expedite the administrative review of such denials, the authority to decide appeals under the Freedom of Information and Privacy Acts should be delegated to the Assistant Commissioner, Office of Regulations and Rulings.

Inasmuch as this rule relates solely to agency organization, procedure, or practice, notice and public procedure thereon are unnecessary and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

This delegation is made under the authority given to the Commission of Customs by Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended.

Conforming amendments to the regulations that are affected by this delegation will be prepared.

#### DRAFTING INFORMATION

The principal author of this document was Richard M. Belanger, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the Customs Service participated in developing the document, both on matters of substance and style.

#### AMENDMENT TO DELEGATION ORDER

Customs Delegation Order No. 1 (Revision 1) (T.D. 69-126, 34 FR 8208), as amended, is amended as set forth below:

Paragraph A is amended to read as follows:

A. Assistant Commissioner of Customs, Office of Regulations and Rulings:

Decisions with respect to any claim (including claim for liquidated damages), fine, or penalty (including forfeiture) now delegated to the Commissioner of Customs by paragraph (h) of Treasury Department Order No. 165, Revised, as amended, (supra), decisions with respect to appeals from denials of requests for information under 5 U.S.C. 552, decisions with respect to appeals from denials of requests for amendment of records under 5 U.S.C. 552a, decisions denying or approving requests for extension of the time for the submission of comments on proposed amendments to the Customs Regulations, and decisions and functions relating to all matters in which authority also is delegated by this Order to the Director, Classification and Value Division, the Director, Entry Procedures and Penalties Division, and the Director, Carriers, Drawback and Bonds Division.

\* \* \* \* \*

(b) *Director, Entry Procedures and Penalties Division:*

(1) \* \* \*

(2) \* \* \*

(3) Decisions denying or approving requests under 5 U.S.C. 552 and 5 U.S.C. 552a.

(4) All other decisions in matters arising under provisions of law administered in the Entry Procedures and Penalties Division.

\* \* \* \* \*

G. R. DICKERSON,  
*Acting Commissioner of Customs.*

[FR Doc.77-23564 Filed 8-15-77;8:45 am]

#### Office of the Secretary

#### ADVISORY COMMITTEE ON REFORM OF THE INTERNATIONAL MONETARY SYSTEM Meeting

Notice is hereby given that the Advisory Committee on Reform of the International Monetary System will meet at the Treasury Department on September 22, 1977.

The meeting is called in order to obtain the opinions of the participants in the Advisory Committee regarding international monetary questions to be discussed at the annual meeting of the Board of Governors of the International Monetary Fund on September 26-30 and the related meeting of the Interim Committee of the Board of Governors.

A determination as required by Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that this meeting is for the purpose of considering matters falling within the exemption to public disclosure set

for in 5 U.S.C. 552b(c)(1) and that the public interest requires such meeting be closed to public participation.

Any comment or inquiry with respect to this notice can be addressed to Donald Syrud, Director, Office of International Monetary Affairs, U.S. Department of the Treasury, Washington, D.C. 20220, (202) 566-5365.

Dated: August 9, 1977.

ANTHONY M. SOLOMON,  
*Under Secretary  
for Monetary Affairs.*

[FR Doc.77-23520 Filed 8-15-77;8:45 am]

#### RAILWAY TRACK MAINTENANCE EQUIPMENT FROM AUSTRIA

#### Antidumping Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that railway track maintenance equipment from Austria is being sold at less than fair value under the Antidumping Act. (Sales at less than fair value generally occur when the price of merchandise for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries.) This case is being referred to the United States International Trade Commission for a determination concerning possible injury to an industry in the United States.

EFFECTIVE DATE: August 16, 1977.

FOR FURTHER INFORMATION CONTACT:

David Mueller, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: Information was received in proper form on September 23 and October 1, 1976, from counsels acting on behalf of the Kershaw Manufacturing Company, Inc., Montgomery, Alabama, and Tamper, Inc., Columbia, South Carolina, respectively, indicating that railway track maintenance equipment from Austria was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of a "Notice of Reopening of Discontinued Investigation" which was published in the FEDERAL REGISTER of November 1, 1976 (41 FR 47970-71).

A "Withholding of Appraisal Notice" issued by the Secretary of the Treasury was published in the FEDERAL REGISTER of May 10, 1977 (42 FR 23672).

## NOTICES

DETERMINATION OF SALES AT LESS THAN  
FAIR VALUE

I hereby determine that, for the reasons stated below, railway track maintenance equipment is being or is likely to be sold at less than fair value within the meaning of the section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS  
DETERMINATION IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of the Investigation.* It appears that all imports of the subject merchandise from Austria were manufactured by Plasser and Theurer, Linz, Austria. Therefore, investigation was limited to this manufacturer.

b. *Basis of Comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between exporter's sales price and the third country price of such or similar merchandise or the constructed value of such merchandise, as appropriate.

Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used since all export sales are made to a related purchaser in the United States which in turn sells to unrelated purchasers. Third country price, as defined in § 153.3, Customs Regulations (19 CFR 153.3), was used since such or similar merchandise is not sold in the home market in sufficient quantities to provide a basis of comparison for fair value purposes. Constructed value, as defined in section 206 of the Act (19 U.S.C. 165) was used in those instances where there were no sales of such or similar merchandise in the home market or to third countries.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales to the United States and to appropriate third countries during the period March 1, through December 31, 1976, as well as appropriate constructed value information.

c. *Exporter's Sales Price.* For the purpose of this determination of sales at less than fair value, exporter's sales price has been calculated on the basis of the price to unrelated United States customers, with deductions for ocean freight, insurance, inland freight, brokerage and handling charges and U.S. customs duties. Deductions have also been made for cash and quantity discounts, and for selling and warranty expenses, as appropriate.

d. *Third Country Prices.* For the purpose of this determination of sales at less than fair value, the third country price has been calculated based upon the ex-works or delivered price to unrelated customers in Italy, Canada and Egypt, as appropriate. Deductions were made for inland and ocean freight, insurance, handling charges and bank and stamp tax fees, as appropriate. Adjustment for quantity discounts were also made, in accordance with § 153.9(b), Customs Regulations (19 CFR 153.9(b)). In accordance with § 153.10, Customs Regulations (19 CFR 153.10), adjustment was also made for warranty expenses applicable to third country sales, as appropriate.

Adjustment was claimed, under § 153.10 (b), Customs Regulations (19 CFR 153.10 (b)), for commissions incurred in connection with sales to third countries. Commissions incurred vis-a-vis unrelated agents

have been adjusted. Adjustments for commissions incurred vis-a-vis related persons have been disallowed, as such commissions represent an intra-company transfer.

Claims have been made for adjustment for selling expenses in third country markets, under § 153.10, Customs Regulations (19 CFR 153.10). These claims have been denied because verified information has not been received documenting actual selling expenses related to the sale of the particular merchandise under consideration in individual third countries. Section 153.10(b), Customs Regulations (19 CFR 153.10(b)) permits allowance only for actual selling expenses.

Claims have been made for differences in merchandise sold in the United States and to third countries. These claims have been allowed to the extent that such differences, based upon material and labor cost differentials, have been documented. Section 153.11, Customs Regulations (19 CFR 153.11) provides that in comparing the exporter's sales price with the selling price for exportation to third countries in the case of similar merchandise, due allowance shall be made for differences in the merchandise. Section 153.11 further provides that, in determining the allowance for such differences, the Secretary shall be guided primarily by differences in cost of manufacture. The term "cost of manufacture" does not include general selling and administrative expenses nor profit. That term does include the costs of materials and direct labor, for which adjustments have been made. Since no evidence has been presented in the instant case with respect to direct factory overhead costs, no adjustments for such costs have been made.

(e) *Constructed Value.* For the purposes of this determination, constructed value has been calculated on the basis of the sum of the cost of materials and of fabrication of the merchandise, an amount for general expenses and profit related to the manufacture and sale of merchandise of the same general class or kind as the merchandise under consideration, and the cost of all containers and coverings used to pack the merchandise ready for shipment to the United States.

f. *Results of Fair Value Comparisons.* Using the above criteria, exporter's sales price was found to be lower than the third country price, or constructed value, as appropriate, of such or similar merchandise. Comparisons were made on approximately 83 percent of the merchandise sold to the United States during the investigative period. Margins were found, ranging from 5 to 42 percent on approximately 75 percent of the sales compared. The weighted average margin on those sales on which margins were found was approximately 32 percent.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

The United States International Trade Commission is being advised of this determination.

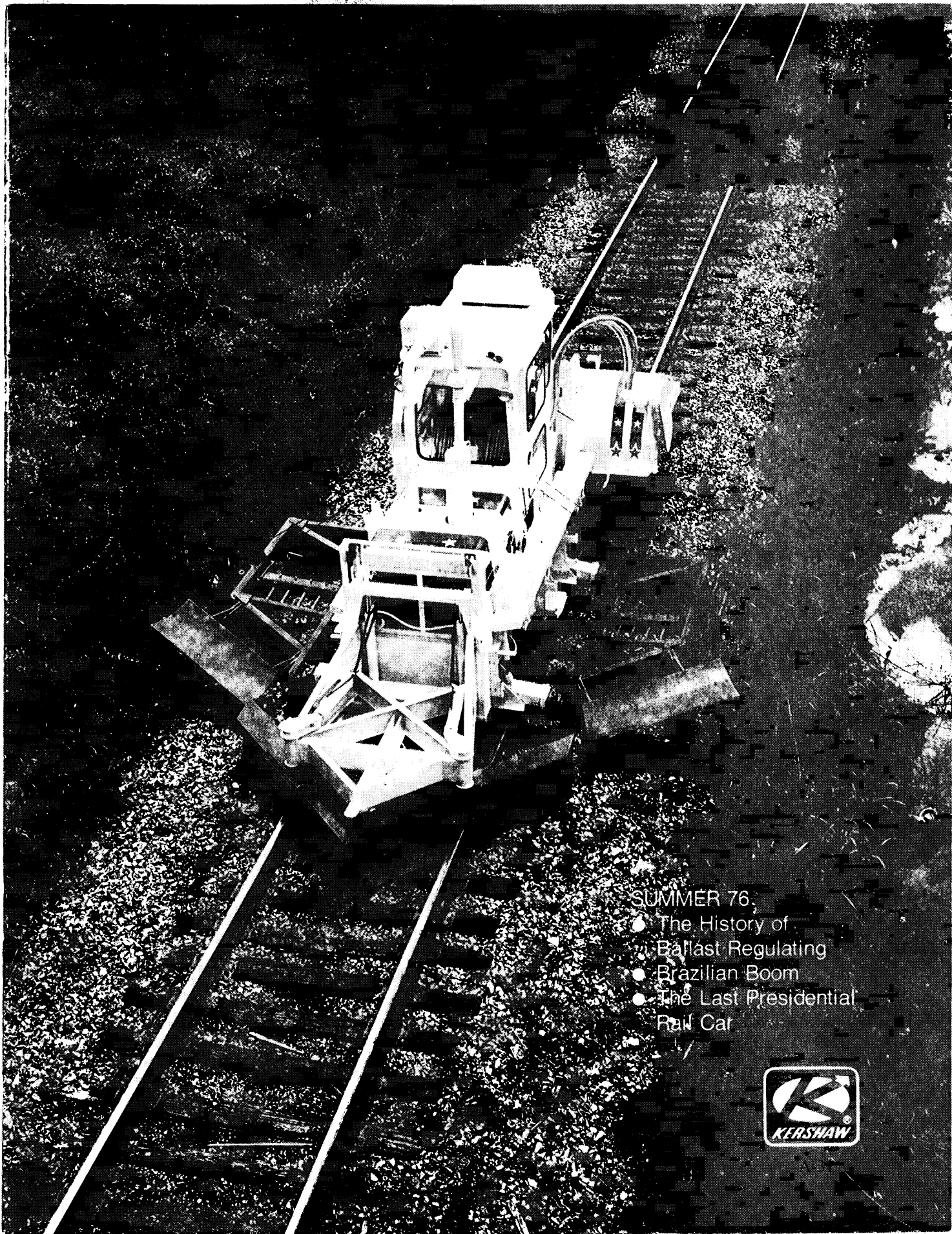
This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

HENRY C. STOCKELL, Jr.,  
Acting General Counsel

AUGUST 10, 1977.

[FR Doc.77-23536 Filed 8-15-77;8:45 am]

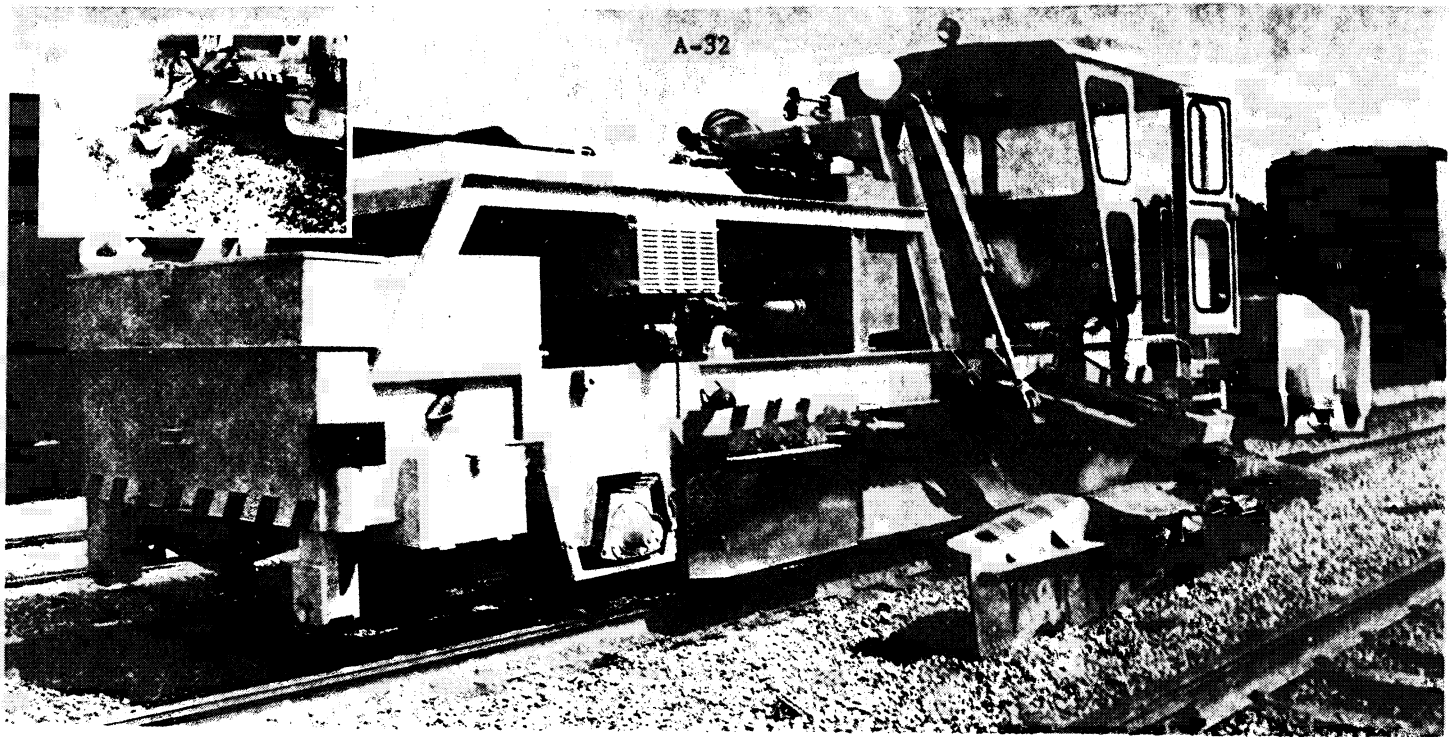
APPENDIX D  
EXHIBITS OF CERTAIN RAILWAY TRACK  
MAINTENANCE EQUIPMENT



SUMMER 76:

- The History of Ballast Regulating
- Brazilian Boom
- The Last Presidential Rail Car



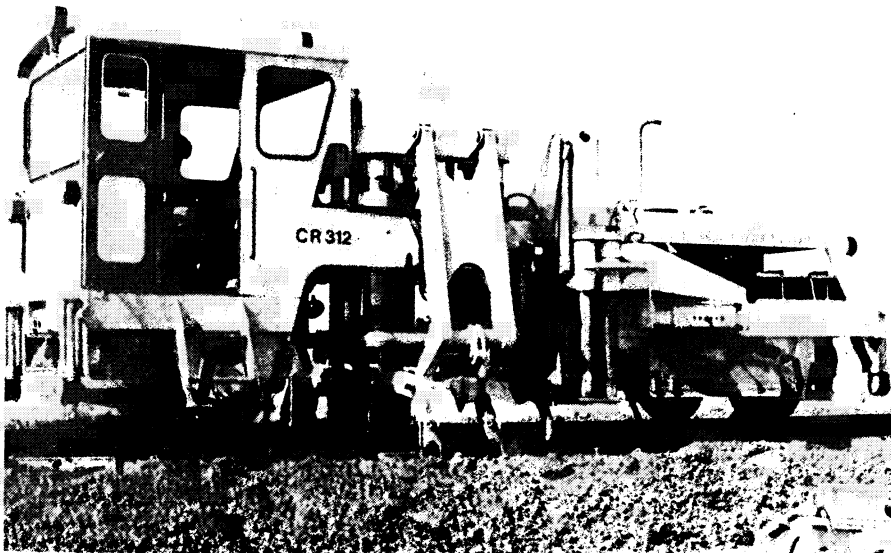


## PBR-103 Ballast Regulator Featuring "Center Plow"

the newest technology for moving ballast

The Center Plow will transfer ballast from one shoulder to the other; in either direction—all in a single pass.

Two shoulder plows reclaim ballast, profile the shoulders to any desired slope, and transport surplus shoulder ballast over the rail and into the track. Plows feature removable scarifying tools, a digging tool and tie end plow. Brooming removes excess ballast.

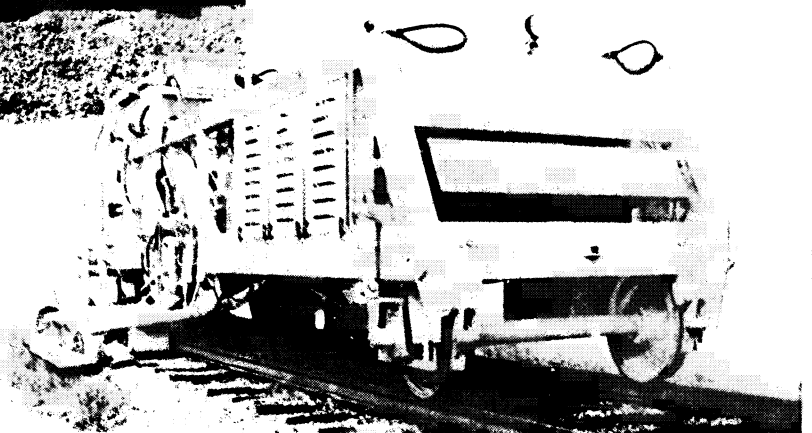


## CR 312 Cribber digs and cleans two cribs at one time

One-man operation under severest of ballast conditions, this unit digs/cleans two cribs simultaneously or either side independently. The powerful plates dig out crib and shoulder material to a variable depth to 10 inches below the ties. Adjustable side plows dig out tie ends and remove shoulder material.

## CPM 800-R Ballast Compactor... restores lateral track stability

And provides a mechanized high-speed method of compacting and consolidating ballast in the cribs and on the shoulders. Used behind out-of-face surfacing, tie or other gangs, 90% of track stability is regained immediately, increasing the lifetime of surface and cross level, and traffic is restored to regular speeds without delay. Two cribs are compacted simultaneously.



**PLASSER AMERICAN CORP.**

2001 MYERS ROAD, CHESAPEAKE, VA. 23324



**PLASSER CANADA LTD.**<sup>32</sup>

2705 MARCEL STREET, MONTREAL, QUEBEC

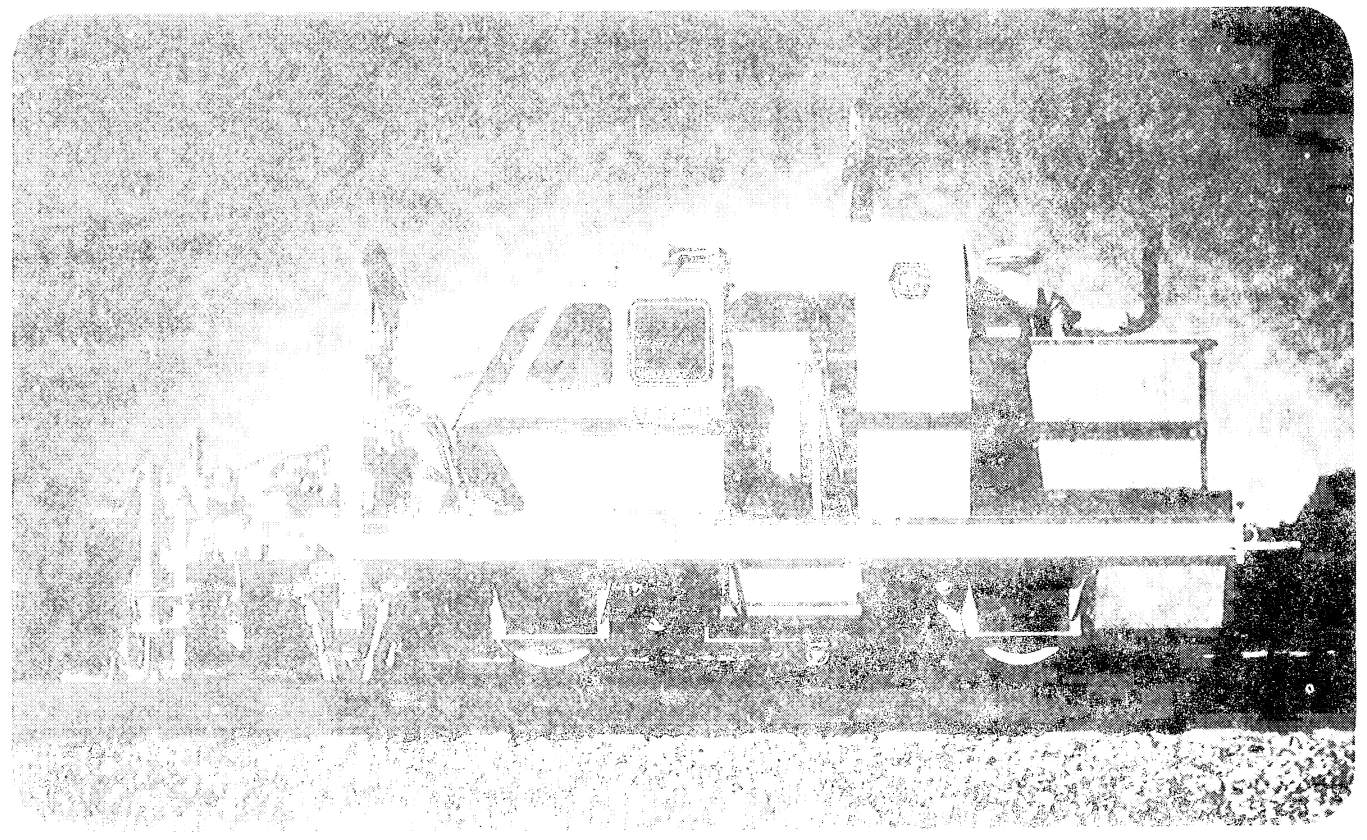


3-77

# Mark II Series

## TAMPER

Model F-111



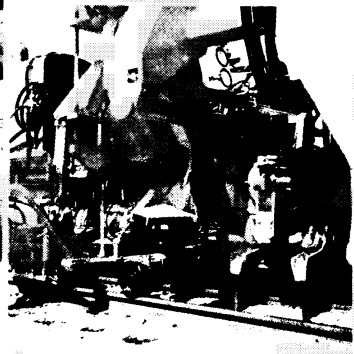
**GANRON**

TAMPER-MATISA

# General Roadmaster A 16-tool versatile tamper with moveable tamping heads to tamp the entire switch & frog area and tangent track

Two vibratory squeeze 16-tool tamping heads are laterally moveable over the total width of the machine, giving the General Roadmaster a versatility no other machine has.

Automatic lifting, crossleveling and lining attachments, all servo-valve controlled, are available. Now you can lift, level and line the entire switch area, spirals, curves, and tangent track all with one machine.



## Roadmaster "Special" the most advanced production tamper...

With proportionate surfacing and one-chord lining system. Features four point lifting and lining; cut-off automatically controlled by servo-valves and an electronic pendulum assures accurate cross level. No outside jacks are used; all lifting, leveling and lining takes place between two loaded axles. Lining tangents and curves is controlled by the one-chord system up to 14°. Previous plotting is not necessary.

