PHOTOGRAPHIC COLOR PAPER FROM JAPAN AND WEST GERMANY

Determination of No Reasonable Indication of Injury in Inquiries Nos. AA1921-Inq.-11 and AA1921-Inq.-12 Under the Antidumping Act, 1921, as Amended

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

May 8, 1978

[AA1921-Inq.-11 and AA1921-Inq.-12]

PHOTOGRAPHIC COLOR PAPER FROM JAPAN AND WEST GERMANY

Commission Determines "No Reasonable Indication of Injury"

On April 7, 1978, the United States International Trade Commission received advice from the Department of the Treasury that, in accordance with section 201(c)(1) of the Antidumping Act of 1921, as amended, antidumping investigations were being initiated with respect to photographic color paper 1/ from Japan and West Germany, and that, pursuant to section 201(c)(2) of that act, information developed during Treasury's preliminary investigations led to the conclusion that there was substantial doubt that an industry in the United States was being or was likely to be injured by reason of the importation of such merchandise into the United States from Japan and West Germany. Accordingly, the Commission, on April 13, 1978, instituted inquiries Nos. AA1921-Inq.-11 (photographic color paper from Japan) and AA1921-Inq.-12 (photographic color paper from West Germany) under section 201(c)(2) of that act, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

On the basis of information developed during the course of inquiry No. AA1921-Inq.-11 (photographic color paper from Japan), the Commission determines

1/ The Treasury advice defined photographic color paper as silver halide color negative photographic papers, sensitized but not exposed, provided for in item 723.30, Tariff Schedules of the United States.

unanimously that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of photographic color paper from Japan that is allegedly being sold at less than fair value as indicated by the Department of the Treasury.

On the basis of information developed during the course of inquiry No. AA1921-Inq.-12 (photographic color paper from West Germany), the Commission determines unanimously that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of photographic color paper from West Germany that is allegedly being sold at less than fair value as indicated by the Department of the Treasury.

A public hearing was held on April 27, 1978, in Washington, D.C. Public notice of the institution of the inquiries and of the hearing was duly given by posting copies of the notice at the Secretary's Office in the Commission in Washington, D.C., and at the Commission's office in New York City, and by publishing the notice in the Federal Register on April 19, 1978 (43 F.R. 16554).

The Treasury Department instituted its investigations after receiving a properly filed complaint on March 6, 1978, from Minnesota Mining and Manufacturing Co. (3M Co.) of St. Paul, Minnesota. The Treasury Department's notice of its antidumping proceedings was published in the Federal Register of April 12, 1978 (43 F.R. 15380).

STATEMENT OF REASONS OF CHAIRMAN DANIEL MINCHEW AND COMMISSIONERS GEORGE M. MOORE, CATHERINE BEDELL, ITALO H. ABLONDI, AND BILL ALBERGER

On April 13, 1978, The United States International Trade Commission instituted inquiries Nos. AA1921-Inq.-11 and AA1921-Inq.-12 under section 201(c)(2) of the Antidumping Act, 1921, as amended, to determine whether there is no reasonable indication that 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 photographic color paper from Japan and West Germany allegedly sold at less than fair value as indicated by the Department of the Treasury.

Determination

On the basis of information developed during the course of these inquiries, we determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of photographic color paper into the United States from Japan and West Germany allegedly sold at less than fair value as indicated by the Department of the Treasury.

Discussion

Statutory criteria of section 201(c)(2)

Section 201(c)(2) of the Antidumping Act, 1921, as amended, under which these inquiries are being conducted, states, in effect, that if the Secretary of the Treasury concludes, during a preliminary investigation under the Antidumping Act, that there is substantial doubt regarding possible injury to an industry in the United States, he shall forward to the U.S. International Trade Commission his reasons for such doubt. Within 30 day of receipt of the Secretary's reasons, the Commission shall determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented

1/ Prevention of the establishment of an industry is not a question in these inquiries and will not be discussed further.

from being established, by reason of the importation of merchandise allegedly sold in the United States at less than fair value.

The imported article and the domestic industry

Photographic color paper is used to make color prints from color negative film. It is composed of light-sensitive chemical emulsions coated on a resin-covered paper base. The emulsions contain silver halide (the light-sensitive chemical) and dyes which are activated during processing. Two U.S. firms currently produce photographic color paper: Eastman Kodak Co. and the petitioner, 3M Co. Eastman Kodak, the largest U.S. producer of photographic color paper, did not support or oppose the petition as explained in an affidavit which it filed with the Commission. A third company, GAF Corp., ceased production of such paper in July 1977, claiming alleged unfair trade practices on the part of Kodak as the reason for its withdrawal from the industry. What remained was only a small segment of the U.S. industry in support of the petition.

Information received from the Department of the Treasury on LTFV sales

The Department of the Treasury advised the Commission that the petitioner alleged margins of sales at less than fair value of as much as 121 and 44 percent, respectively, relative to imports of photographic color paper from Japan and West Germany.

No reasonable indication of injury or likelihood thereof by reason of the importation of photographic color paper from Japan and West Germany

Imports from Japan and West Germany.--The analysis which follows takes into consideration the cumulative impact of the subject imports from Japan and West Germany. 1/ Even in this light, which is the one most favorable to the petitioner's position, we find no reasonable indication of injury, or the likelihood thereof, to the relevant domestic industry.

1/ Commissioner Ablondi's analysis does not consider the subject imports on a cumulative basis.

U.S. production.--U.S. production rose by more than 16 percent from 1973 to 1976. In 1977, production did not increase despite an increase in producers' shipments because producers apparently decided to make substantial shipments from inventories.

Utilization of productive capacity.--U.S. producers increased their annual production capacity each year during 1973-77 and utilization of such capacity exceeded 85 percent each year. Because additions to capacity were generally made in large increments, the ratio of production to capacity declined in 1975 and again in 1977. Such declines are believed to be temporary conditions caused by the initial overexpansion of facilities to accommodate future increases in demand.

U.S. producers' shipments.--U.S. producers' shipments of photographic color paper rose each year during the 1973-77 period at an average annual rate of about 5 percent (based on quantity). Export shipments, which account for a substantial portion of total shipments, also increased each year, and were substantially higher than imports each year during the 1973-77 period.

U.S. producers' inventories.--U.S. producers' inventories fell sharply (by more than 14 percent) from 1976 to 1977 to a level lower than that of 1972 or 1973. The same general trend in inventory levels is exhibited by U.S. producers and importers, indicating that both have been similarly affected by changes in demand.

Employment.--The number of production and related workers engaged in the manufacture of photographic color paper remained relatively constant during 1973-77. This is partly explained by yearly increases in productivity that allowed production to increase without a corresponding increase in the number of workers.

Financial experience of 3M Co. and GAF Corp. 1/.--3M Co.'s operating profit on its photographic color paper operations rose to a record level in 1977. In addition, its ratio of net operating profit to net sales for operations on photographic color paper is higher than the comparable ratio for its other operations in the same establishment. GAF Corp. experienced losses on its photographic color paper operations, but attributed such losses to alleged unfair competitive practices by Kodak.

Market share.--The total U.S. industry's share of U.S. consumption declined during the 1973-77 period, but both 3M Co. and GAF Corp. increased their share. Despite the lower share of the U.S. market accounted for by U.S. producers, the U.S. producers increased their shipments annually in response to increasing demand.

Prices.--Data compiled by the Commission do not support the contention that U.S. producers have been forced to lower their prices because of price reductions by importers of photographic color paper from Japan or West Germany. To the contrary, such data indicate that U.S. producers are leaders both in terms of price changes and in terms of lowest prices.

Lost sales.--While information before the Commission suggests that there were some sales lost to imports, a number of lost sales can be attributed to superior quality of the imported paper and not to underselling.

Conclusion

On the basis of the information obtained in these inquiries, we determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of photographic color paper from Japan (inquiry No. AA1921-Inq.-11) and West Germany (inquiry No. AA1921-Inq.-12) allegedly sold at less than fair value as indicated by the Department of the Treasury.

1/ Kodak did not supply profit-and-loss data with respect to its color paper operations. The firm indicated insufficient time to respond to that aspect of the Commission's questionnaire.

STATEMENT OF REASONS OF VICE CHAIRMAN JOSEPH O. PARKER

These inquiries were instituted by the Commission after receiving advice from the Department of the Treasury that, during the course of the preliminary antidumping investigations with respect to silver halide color negative photographic paper, sensitized but not exposed, from Japan and West Germany, Treasury had concluded from the information available to it, "that there is substantial doubt that an industry in the United States is being, or is likely to be, injured by reason of the importation of this merchandise into the United States." Pursuant to the provisions of section 201(c)(2) of the Antidumping Act, 1921, as amended, the Commission, on April 13, 1978, instituted inquiries Nos. AA1921-Inq.-11 (photographic color paper from Japan) and AA1921-Inq.-12 (photographic color paper from West Germany) to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Determination

On the basis of information developed during the course of these inquiries, I determine that there is no reasonable indication that 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 photographic color paper into the United States from Japan and West Germany allegedly sold at less than fair value, as indicated by the Department of the Treasury.

1/ Prevention of the establishment of an industry is not a question in these inquiries and will not be discussed further.

No reasonable indication of injury or likelihood of injury

The petitioner in these inquiries has urged the Commission not to make a finding of no reasonable indication of injury, and its brief cited five criteria of injury in support of its position. 1/ Petitioner alleges that Japanese and West German imports of the subject merchandise have increased; that there has been increased market penetration; that there are large LTFV margins; and that there has been underselling and price depression. As in each investigation conducted by the Commission, these factors, as well as others, have been considered in reaching a determination.

Imports of photographic color paper from the four Japanese firms and one West German firm listed in the letter from Treasury increased steadily between 1973 and 1977. The share of apparent domestic consumption accounted for by imports from these firms increased from less than 10 percent to more than 25 percent between 1973 and 1977. For purposes of this decision, it must be assumed that the LTFV margins are as alleged by petitioner and transmitted to the Commission by Treasury. While increased imports, market penetration of the apparent levels in this investigation, and the assumed LTFV margins, standing alone, might be indicative of injury within the meaning of section 201, other factors are present which outweigh such evidence and warrant the conclusion that there is no reasonable indication of injury or the threat thereof to a domestic industry.

Apparent domestic consumption of photographic color paper increased steadily from 1973 to 1977, rising overall by more than 50 percent by 1977.

1/ Brief on behalf of the Minnesota Mining and Manufacturing Company, May 2, 1978.

U.S. producers' domestic shipments also increased during the 5-year period, rising by more than 20 percent. Their export shipments rose steadily by more than a third, and the United States was a net exporter of photographic color paper during each year of the 1973-77 period. 1/

In the last 5 years, the domestic industry has substantially increased its capacity to produce color photographic paper. While the domestic industry's ratio of production to production capacity declined slightly in 1977, the decrease took place in the same year that the domestic industry made its largest addition to productive capacity in the last 5 years. The petitioner almost doubled its ratio of production to production capacity in the last 3 years. Even if the petitioner and the other firms in the domestic industry operated at 100 percent of their capacity in 1976 and 1977, they could not have supplied apparent domestic needs and still maintained the same level of exports.

Data on financial experience was supplied in response to Commission questionnaires by the smaller two of the three firms in the domestic industry, the 3M Co., the petitioner, and GAF Corp. The 3M Co., which has captured an increasing market share in each year since 1973, did not have an adverse financial experience in any of the last 5 years except 1975. During the last 2 years, as both 3M Co. and imports captured a larger market share, 3M's financial experience has improved considerably

1/ Specific data have been omitted to avoid disclosure of confidential information.

and does not establish any adverse impact from the increase in imports.

GAF Corp., which ceased production of color photographic paper in July 1977, supplied no information to the Commission indicating that its financial experience and decision to cease production were related to alleged LTFV imports. Eastman Kodak, the largest factor in the domestic market, made no contention and supplied no information to the Commission indicating an adverse financial experience by reason of alleged LTFV imports.

The petitioner's allegation of underselling and price depression by LTFV imports was not borne out by the Commission's investigation. Price information gathered during the investigation shows that throughout most of the 1975-1977 period the net selling prices of Fuji, the largest Japanese importer, and Agfa-Gevaert, the only West German importer, were generally above those of petitioner 3M Co. Throughout the 1973-1977 period, GAF Corp., a domestic producer, consistently had the lowest prices in the market.

With respect to price depression, the Commission's investigation established that domestic prices have been declining since 1974. Fuji's prices began to decline in 1976, but remained above those of 3M Co. Agfa-Gevaert, the German producer, did not reduce its prices between mid-1973 and the fourth quarter of 1977. Thus, while there have been reductions in prices, particularly in 1977, it appears that the domestic producers, some of which offered lower prices than the major importers throughout much of the period, were a major factor in initiating these reductions. The lowering of prices by the domestic producer whose product was consistently priced substantially higher than that of other domestic producers, apparently had a greater competitive impact than imports.

The price reductions by the domestic industry may, in part, be attributable to the steady increase in the productivity of production and related workers in the domestic industry. In terms of square feet per man-hour, output increased in each year after 1973 and was almost 15 percent higher in 1977 than in 1973.

In my judgment, these inquiries have established that, even though imports at the assumed LTFV margins are increasing both in actual terms and as a share of apparent domestic consumption, when examined in the context of other information established by the Commission's investigation, the conclusion must be reached that there is no reasonable indication that an industry is being injured or threatened with injury by reason of the importation of the subject merchandise.

INFORMATION OBTAINED IN THE INVESTIGATION

Summary

On March 6, 1978, the Treasury Department received a petition on behalf of Minnesota Mining and Manufacturing Co. (3M Co.), St. Paul, Minn., indicating a possibility that silver halide color negative photographic papers, sensitized but not exposed, from Japan and West Germany are being, or are likely to be, sold in the United States at less than fair value (LTFV). On April 7, 1978, the United States International Trade Commission received advice from Treasury that, in accordance with section 201(c) of the Antidumping Act, 1921, as amended, antidumping investigations were being initiated with respect to photographic color paper from Japan and West Germany and that information developed during Treasury's preliminary investigations led to the conclusion that there was substantial doubt whether an industry in the United States is being or is likely to be injured by reason of the importation of such merchandise into the United States. Accordingly, the Commission, on April 13, 1978, instituted inquiries Nos. AA1921-Inq.-11 and AA1921-Inq.-12 under section 201(c)(2) of the act, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Affirmative determinations by the Commission will allow Treasury to terminate its investigation, while negative determinations will result in Treasury continuing its investigations into the nature and extent of sales at LTFV.

Photographic color paper is composed of light-sensitive chemical emulsions coated on a resin-covered paper base. The emulsions contain silver halide (the light-sensitive chemical) and dyes which are activated during processing. The paper is used to make color prints from color negative film. Two U.S. firms currently produce photographic color paper: Eastman Kodak Co. and the petitioner, 3M Co. A third company, GAF Corp., ceased production of such paper in July 1977 following substantial operating losses. Three Japanese firms and one West German firm export photographic color paper to the United States. The share of the U.S. market supplied by each of these firms, based on quantity, is as shown below:

* * * * * * *

In its petition, 3M Co. alleges that Japanese photographic color paper is being sold in the U.S. market at LTFV margins of 24.3 cents per square foot (54.9 percent of the fair market value and 121.5 percent of the U.S. purchase price) and that West German photographic color paper is being sold in the U.S. market at LTFV margins of 8.9 cents per square foot (30.6 percent of the fair market value and 44.1 percent of the U.S. purchase price).

Data on U.S. consumption of photographic color paper (as measured by shipments to U.S. customers) for 1973-77, are shown in the following tabulation:

(Quantity in millions of square feet; value in millions of dollars)

Year	U.S. producers' domestic shipments	Domestic shipments of imports from--			Total domestic shipments (U.S. consumption)	Share (percent) of total domestic shipments accounted for by domestic shipments of imports from--		
		Japan	West Germany	All sources		Japan	West Germany	All sources
	Quantity							
1973	***	***	***	***	***	***	***	***
1974	***	***	***	***	***	***	***	***
1975	***	***	***	***	746	***	***	***
1976	***	***	***	***	826	***	***	***
1977	***	***	***	***	923	***	***	***
	Value							
1973	***	***	***	***	***	***	***	***
1974	***	***	***	***	***	***	***	***
1975	***	***	***	***	262	***	***	***
1976	***	***	***	***	284	***	***	***
1977	***	***	***	***	295	***	***	***

Note.--Because of rounding, figures may not add to the totals shown.

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Data on U.S. producers' operations on photographic color paper are presented as follows:

* * * * * * *

Data on U.S. imports of photographic color paper from Japan and West Germany are presented as follows:

Year	Japan	West Germany	All other sources	Total
	Quantity (million square feet)			
1973	***	***	1.6	55.0
1974	***	***	3.2	95.8
1975	***	***	0.7	155.2
1976	***	***	2.0	225.5
1977	***	***	4.6	249.9
	Value (million dollars)			
1973	***	***	0.3	11.3
1974	***	***	0.7	22.9
1975	***	***	0.1	39.5
1976	***	***	0.6	59.0
1977	***	***	1.5	64.1

Shipments of imported photographic color paper to U.S. customers are detailed by companies, as follows:

* * * * * * *

Prices of photographic color paper have generally fallen since mid-1974, with a 15 to 20 percent reduction occurring in 1977. ***. The addition of 24.3 cents per square foot to the prices of color paper from Japan or 8.9 cents per square foot to the prices of color paper from West Germany would, in all cases, make the imported products more costly than the color paper produced in the United States, including that produced by Kodak.

Introduction

On April 7, 1978, the U.S. International Trade Commission received advice from the Treasury Department that, in accordance with section 201(c) of the Antidumping Act, 1921, as amended, antidumping investigations were being initiated with respect to photographic color paper from Japan and West Germany and that information developed during Treasury's preliminary investigations led to the conclusion that there is substantial doubt whether an industry in the United States is being or is likely to be injured by reason of the importation of such merchandise into the United States. 1/ The Treasury letter defined photographic color paper as silver halide color negative photographic paper, sensitized but not exposed, as provided for in item 723.30 of the Tariff Schedules of the United States (TSUS). Accordingly, the Commission, on April 13, 1978, instituted inquiries Nos. AA1921-Inq.-11 (color paper from Japan) and AA1921-Inq.-12 (color paper from West Germany) under section 201(c)(2) of the act, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on April 27, 1978, in Washington, D.C. Notice of the institution of the inquiries and hearing was duly given by posting copies of the notice at the Secretary's Office in the Commission in Washington, D.C. and at the Commission's office in New York City, and by publishing the notice in the Federal Register of April 19, 1978 (43 F.R. 16554). 2/

The Treasury Department instituted its investigations after receiving a complaint on March 6, 1978, from Minnesota Mining and Manufacturing Co. (3M Co.), of St. Paul, Minn. Treasury's notices of its antidumping proceedings were published in the Federal Register of April 12, 1978 (43 F.R. 15380). 3/

In the event that the Commission finds in the affirmative--that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of photographic color paper from Japan (inquiry No. AA1921-Inq.-11) or photographic color paper from West Germany (inquiry No. AA1921-Inq.-12) that may be sold in the United States at less than fair value--the Treasury Department will terminate its investigations as to the fact or likelihood of sales at less than fair value of such merchandise. In the event that the Commission finds in the negative, the Treasury Department's investigations will continue. The Commission's determinations are due to be reported to the Secretary of the Treasury within 30 days of receipt of Treasury's letter, or by Sunday, May 7, 1978.

A copy of the Commission's advice to the President concerning the probable economic effects of tariff changes under title I and title V of the Trade Act of 1974 for photographic color paper is presented in appendix D. This advice was given in 1975.

1/ A copy of Treasury's letter is presented in app. A.

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

3/ Copies of Treasury's notices of its antidumping proceedings are presented in app. C.

Description and Uses

The photographic color paper covered by the Treasury letter is silver halide color negative photographic paper, sensitized but not exposed. It is composed of light-sensitive chemical emulsions coated on a resin/polyethylene covered paper base. The light-sensitive emulsions contain silver halide (the light-sensitive chemical) and dyes which are activated during the printing process. Each of the three emulsion layers (see fig. 1) is sensitive to a different color of light and it is important that each layer react independently for the best color reproduction. To facilitate this, clear inactive interlayers of gelatin are added between emulsion layers, and a clear antiabrasion layer is applied to the top surface. It is primarily in the chemistry of the emulsion layers that photographic color papers differ from manufacturer to manufacturer. The water resistant resin coatings on both surfaces of the base paper serve to protect the paper and minimize the absorption of water and processing solution during printing (thus facilitating faster drying times). A typical sheet of photographic color paper is about 0.01 inch in thickness; the emulsion layers account for approximately 5 percent of the total thickness and the coated base paper accounts for 95 percent.

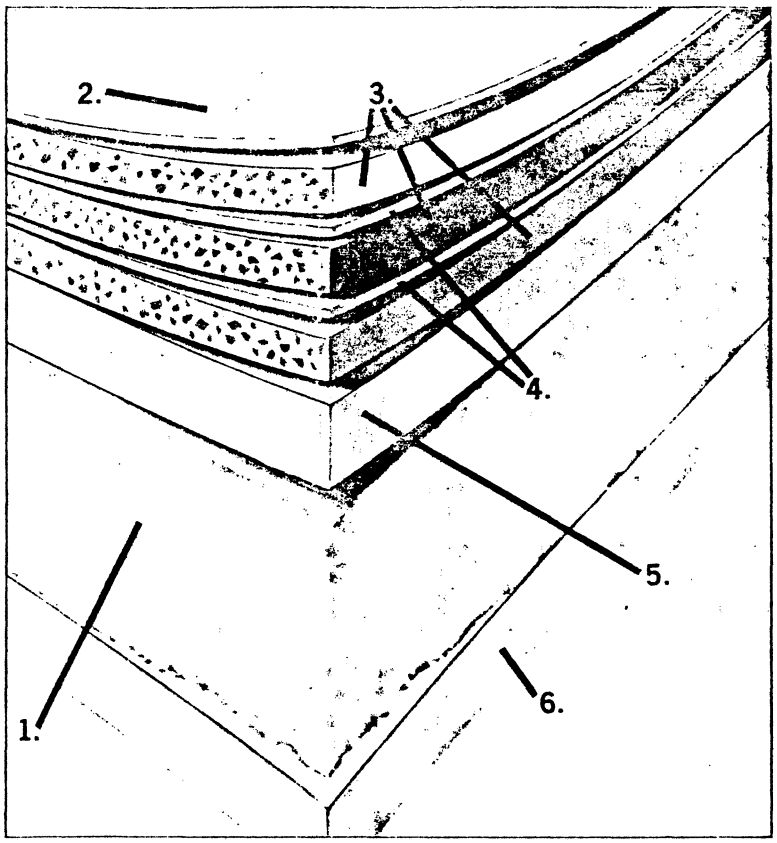
Producers of photographic color paper purchase the resin-coated base paper in rolls that are typically 44 inches in width and 3,000 feet in length. The paper is then coated with the emulsion and gelatin layers, dried, cut to size (except for a few large customers who purchase the jumbo or master rolls), and prepared for shipment.

The six layers of emulsions and gelatin may be applied to the base paper in two steps, or even one step since the various layers are formulated so that they will not mix with one another. Each layer is pumped through a separate horizontal slit in a wide metal plate that slopes downward toward the base paper. The horizontal slits are about an inch apart and the various layers glide over one another as they move by gravity-flow down the plate. When they reach the bottom of the plate, therefore, a two-, four-, or six-layer coating is ready to be applied to the paper. After the paper has received this coating, it is cooled to fix the emulsions and then dried slowly under moderate heat.

Photographic color paper is marketed with various surface textures such as glossy, silk, or matte. These textures are the result of embossing during the paper manufacturing process, i.e., as the paper is being pressed and dried, it is passed under a roller with either a smooth surface (for a glossy finish) or a patterned surface. Since this does not involve a separate manufacturing process (simply the use of the requested embossing roller), there is little, if any, difference in cost.

Photographic color paper is used to make color prints from color negative film. The quality of the final print is dependent on a number of factors including the film, the developing and printing processes, and the paper. It is also frequently a subjective judgment on the part of the beholder. Nevertheless, quality control is of primary concern to color paper producers and sophisticated machinery has been developed to both improve the product and

Figure 1.--Composition of photographic color paper.



1. Base paper.
2. Clear antiabrasion coating that protects the emulsion during processing and handling.
3. The three emulsion layers. In 3M Co. paper, the top layer is sensitive to red and forms cyan (blue-green) dye, the middle layer is sensitive to green and forms magenta (purple) dye, and the third layer is sensitive to blue and forms yellow dye.
4. Clear interlayers between emulsions to prevent codevelopment.
5. Clear layer of polyethylene resin. This layer is textured to produce a silk, matte, or glossy surface.
6. Water resistant resin coating to protect the base paper and increase stability.

Source: Minnesota Mining and Manufacturing Co.

test it for consistency. The qualities of color paper considered to be critical are:

(1) Sharpness or crispness of the picture;

(2) Overall color rendition (a function of the dyes used). As it is impossible with the present technology to reproduce all colors, color paper producers accent reproduction of those colors which customers seem to prefer (primarily flesh tones, grass green, and sky blue);

(3) Dye stability (a measure of the print's fade resistance); and

(4) Compatibility with existing processing systems (color paper imported from the West German producer Agfa-Gevaert, for example, is not compatible with processing systems used for most other color paper as it requires the use of different chemical solutions).

Two of the devices used to test and evaluate photographic color paper are the densitometer, which quantifies the amount of dye present, and the spectrophotometer, which measures the quality of the dye. This equipment is expensive ***, but is considered essential in product development and refinement.

U.S. Tariff Treatment

Color paper presently enters the United States under Tariff Schedules of the United States Annotated (TSUSA) item No. 723.3030. This tariff category was established January 1, 1978, to reflect a refinement of discontinued item number 723.3040, which included both negative paper (the subject of these inquiries) and reversal paper. Reversal paper is used in making color prints from "positive" film (i.e., slides) and currently enters under item No. 723.3050. As shown in the following table, the column 1 rate of duty (that rate afforded countries with most-favored-nation status) for color paper is 5 percent ad valorem. This rate became effective January 1, 1972, as the result of concessions granted by the United States in the Kennedy round of trade negotiations under the General Agreement on Tariffs and Trade. The rate of duty prior to the concessions was 10.5 percent ad valorem; this rate was reduced in stages beginning in 1968. Color paper is designated as an eligible article for purposes of duty-free treatment under the Generalized System of Preferences.

Table 1.--Photographic color paper: U.S. rates of duty, 1978

TSUSA item No.	Description	Rate of duty	
		Col. 1	Col. 2
	Photographic papers, including blue print and brown print papers, sensitized but not exposed:		
	Silver halide papers:		
	For pictorial use (continuous tone):		
	Color:		
723.3030	Negative----------	5% ad val.	30% ad val.

Source: Tariff Schedules of the United States Annotated (1978).

Nature and Extent of Alleged Sales at Less Than Fair Value

The complainant in the instant inquiries, 3M Co., alleges that virtually all sales of color paper in the United States by Japanese and West German manufacturers are being made at less-than-fair-value (LTFV) margins that allow a substantial degree of underselling in the U.S. market by foreign manufacturers. They allege that these LFTV sales have occurred, in large part, because of the slowdown in the growth of the domestic markets in Japan and West Germany, substantial over capacity for the production of color paper in the two countries, and the increasing values of the Japanese yen and West German mark vis-a-vis the value of the U.S. dollar. As detailed in the following pages, 3M Co. alleges that Japanese color paper is being sold in the U.S. market at LTFV margins of 24.3 cents per square foot (54.9 percent of the fair market value and 121.5 percent of the U.S. purchase price), while West German color paper is being sold in the U.S. market at LTFV margins of 8.9 cents per square foot (30.6 percent of the fair market value and 44.1 percent of the U.S. purchase price).

Alleged LTFV imports from Japan

The 3M Co. complaint alleged that four Japanese manufacturers of color paper account for all or nearly all Japanese exports of color paper to the U.S. market. The four firms are: Fuji Photo Film Co., Ltd. (Fuji); Konishiroku Photo Industry Co., Ltd. (Konishiroku); Mitsubishi Paper Mills, Ltd. (Mitsubishi); and Oriental Photo Industrial Co., Ltd. (Oriental). Their respective shares of the Japanese home market for color paper were alleged by 3M Co. to be as follows: Fuji (46 percent); Konishiroku (25 percent); Mitsubishi (12 percent); and Oriental (less than 5 percent).

The complainant alleged that all or nearly all sales of color paper by the four Japanese firms to the U.S. market are being made at LTFV prices. 3M Co. was able to supply detailed home-market and U.S. purchase price information only with respect to one firm--Fuji, the largest Japanese producer. Because the prices 3M Co. found for Fuji's sales to its wholly owned Japanese marketing subsidiary were only 0.5 percent lower than Konishiroku's and Mitsubishi's prices to their wholly owned Japanese marketing subsidiaries, and because other terms of trade in the Japanese home market and in the U.S. export market are similar, 3M Co. alleges that any LTFV margins alleged to exist with respect to Fuji's exports to the United States probably apply to the other two firms' export sales to the United States as well. No home market pricing data were obtained for Oriental, but 3M Co. alleges that it, too, is selling at LTFV prices in the United States.

The complaint alleges that Fuji, Konishiroku, and Mitsubishi market their color paper in the United States through wholly owned sales and service subsidiaries. Shipments from Japan to Fuji's customers, however, go through Fuji's U.S. warehousing facilities after customs clearance, while Konishiroku and Mitsubishi ship to their customers immediately upon customs clearance. According to 3M Co., Oriental has no wholly owned U.S. subsidiaries and has not yet obtained an exclusive U.S. sales agent.

Sales of color paper in the United States and Japan are commonly made in either roll or sheet form. 3M Co. alleges that most of Fuji's sales of color paper to the Japanese home market are made in the form of rolls measuring 3-1/4 inches by 229.7 feet, while most of Fuji's sales to the U.S. market are made in the form of rolls measuring 3-1/2 inches by 775 feet. 3M Co. alleged that the most appropriate manner in which to compare price in the two markets is on a price-per-square-foot basis. 3M Co., therefore, compared Fuji's prices per square foot for 3-1/4 inch by 229.7 foot color paper to Fuji's first unrelated purchasers in Japan to Fuji's prices per square foot for 3-1/2 inch by 775 foot color paper to Fuji's first unrelated purchasers in the United States, arriving at a margin of 24.3 cents per square foot, equivalent to 121.5 percent of the adjusted U.S. purchase price (or 54.9 percent of the adjusted fair (home) market value), as shown in the following tabulation:

Selling price to first unrelated Japanese customer	52.5¢ per sq. ft.
Less total adjustments	-8.2¢ per sq. ft.
Adjusted fair (home) market value in Japan	44.3¢ per sq. ft.
Selling price to first unrelated U.S. customer	25.4¢ per sq. ft.
Less total adjustments	-5.4¢ per sq. ft.
Adjusted U.S. purchase price	20.0¢ per sq. ft.
LTFV margin on U.S. sales	24.3¢ per sq. ft.
LTFV margin as a percent of adjusted fair (home) market value in Japan	54.9 percent
LTFV margin as a percent of adjusted U.S. purchase price	121.5 percent
Aggregate LTFV margin based on total 1977 imports from Japan of 135 million square feet valued at $32.9 million	$32.8 million

Alleged LTFV imports from West Germany

The 3M Co. complaint alleged that one West German manufacturer, Agfa-Gevaert, 1/ accounts for virtually all exports of color paper from West Germany to the U.S. market, but accounts for only 56 percent of total home market sales of color paper in West Germany. According to the 3M Co., all of Agfa's sales to the U.S. market are made through a wholly owned U.S. sales, service, and warehousing subsidiary. Despite complications in making price comparisons arising from the prevalence of negotiated prices in West Germany, and possible but unspecified problems arising from different product dimensions, 3M Co. attempted to compare Agfa-Gevaert's prices to its first unrelated West German customers to Agfa-Gevaert's prices for 3-1/2 inch by 775 foot color paper to Agfa-Gevaert's first unrelated purchaser in the United States. For Agfa-Gevaert, 3M Co. alleged an LTFV margin on such sales of 8.9 cents per square foot, equivalent to 44.1 percent of the adjusted U.S. purchase price (or 30.6 percent of the adjusted fair (home) market value), as shown in the following tabulation:

Selling price to first unrelated West German customer	33.1¢ per sq. ft.
Less total adjustments	-4.0¢ per sq. ft.
Adjusted fair (home) market value in West Germany	29.1¢ per sq. ft.
Selling price to first unrelated U.S. customer	25.4¢ per sq. ft.
Less total adjustments	-5.2¢ per sq. ft.
Adjusted U.S. purchase price	20.2¢ per sq. ft.
LTFV margin on U.S. sales	8.9¢ per sq. ft.
LTFV margin as a percent of adjusted fair (home) market value in West Germany	30.6 percent
LTFV margin as a percent of adjusted U.S. purchase price	44.1 percent
Aggregate LTFV margin based on total 1977 imports from West Germany of 125.5 million square feet valued at $29.6 million	$11.2 million

1/ The West German manufacturer, Farbenfabriken Bayer, A.G., and its subsidiaries, Gevaert Photo Production Co. N.V. (a Belgian company), and Agfa, A.G. (a West German company), are referred to hereinafter as Agfa-Gevaert. ***.

The Domestic Industry

Two companies currently manufacture photographic color paper in the United States: Eastman Kodak Co. (Kodak) and the petitioner, Minnesota Mining and Manufacturing Co. A third company, GAF Corp., produced color paper until July 1977.

Eastman Kodak Co.

Kodak, with headquarters in Rochester, N.Y. and production facilities in Rochester, N.Y., Windsor, Colo., 1/ and Peabody, Mass., is, by far, the dominant factor in the U.S. photographic color paper market. Kodak's share of the market (total domestic sales) has declined each year, however, from *** percent in 1973 to *** percent in 1977, and the company is presently faced with serious legal challenges to its marketing practices. Of three antitrust suits brought against the company in 1973 in the U.S. District Court in New York City, those filed by GAF Corp. and Pavelle Corp. are still pending, and the one filed by Berkey Photo, Inc. is being appealed.

Berkey Photo, Inc. charged violations of the antitrust laws in connection with Kodak's manufacture, sales, and processing of products for the amateur photographic industry. In January 1978, a jury verdict held Kodak liable to Berkey for these violations and in March 1978, the jury awarded Berkey $37.6 million in damages. Under the antitrust laws, this award would be tripled. In April 1978, Berkey filed a petition for "equitable relief" that seeks the forced divestiture of Kodak's photographic apparatus division and film-processing and printing operations, except for those portions of the operations unrelated to conventional amateur photography.

GAF Corp. alleged in its suit that Kodak has violated the antitrust laws in the following ways, among others: by developing and marketing "systems" (film, camera, processor, and chemicals); by changing components of "systems" to affect competitors adversely; by disclosing new products in advance to cause competitors' products to be unsalable; by large advertising expenditures to ensure dominance of Kodak products and the trademark "Kodak"; by controlling the manufacture of critical raw materials; and by obtaining large numbers of patents and misusing them.

Pavelle Corp. alleged in its complaint that Kodak has violated the antitrust laws in the following ways, among others: by developing and field testing at the same time as Pavelle Corp. an easily processed color print paper and related processing chemicals; and by reducing the price of such paper and chemicals in March 1973, so that Pavelle Corp. could not compete, resulting in the filing of a petition in bankruptcy by Pavelle Corp.

1/ The Colorado plant was brought on stream ***.

Minnesota Mining and Manufacturing Co.

3M Co., the complainant in the instant inquiries, is a large multinational corporation with administrative offices in St. Paul, Minn. and production facilities in Rochester, N. Y. Extensive research and development facilities are also located in St. Paul. In 1977, 3M Co.'s share of the U.S. photographic color paper market was *** percent, an increase from *** percent in 1976 and *** percent in 1975.

GAF Corp.

GAF Corp. is a diversified multinational company with primary operations in building materials, photographic and reprographic equipment, and chemicals. In July 1977, GAF Corp. announced that it was discontinuing its consumer photo business; in early 1978, the company also discontinued and offered for sale its photofinishing operations. GAF Corp. attributed losses in these operations to Kodak's dominance of the industry. In 1977, GAF Corp.'s share of the U.S. photographic color paper market was *** percent, down from *** percent in 1976 and 1975.

The Japanese Industry

Four firms are known to manufacture photographic color paper in Japan. The data on Japanese market share presented below are estimates made by the petitioner.

Fuji Photo Film Co., Ltd.

Fuji Photo Film Co., Ltd. is the largest producer of photographic color paper in Japan and accounts for an estimated 46 percent of sales in Japan. U.S. sales are made through Fuji Photo Film U.S.A., Inc. In 1977, Fuji accounted for *** percent of U.S. consumption of photographic color paper.

Konishiroku Photo Industry Co., Ltd.

Konishiroku Photo Industry Co., Ltd. accounts for about 25 percent of sales in Japan, and markets its product (trade name "Sakura") in the United States through Konishiroku Photo Industries U.S.A., Inc. Sales by Konishiroku were first made in the United States in *** and accounted for *** percent of U.S. consumption in 1977.

Mitsubishi Paper Mills, Ltd.

Mitsubishi Paper Mills, Ltd. accounts for about 12 percent of sales in Japan and markets its product in the United States through Mitsubishi International Corp. Mitsubishi entered the U.S. market in *** and accounted for *** percent of U.S. consumption in 1977.

Oriental Photo Industrial Co., Ltd.

Oriental Photo Industrial Co., Ltd. accounts for less than 5 percent of the market in Japan and is currently attempting to establish a position in the U.S. market. No U.S. customers for photographic color paper produced by Oriental have been indentified.

The value of total sales in Japan by all producers, foreign and domestic, is estimated at about $230 million in 1977. The only U.S. producer with sales in Japan is Kodak which had an estimated market share of 12 percent in 1977.

The West German Industry

Agfa-Gevaert is the only known producer of photographic color paper in West Germany. In 1977, Agfa accounted for an estimated 56 percent of the total West German market; the remainder was accounted for by Kodak (18 percent), Konishiroku (12 percent), Fuji (7 percent), 3M Co. (4 percent), and Mitsubishi (3 percent). 1/

Agfa-Gevaert's photographic color paper requires a special processing system that is different from the system used with all other producers' color paper. Because of this, Agfa-Gevaert maintains that its paper is not interchangeable with that produced by the Japanese and U.S. producers. 2/ 3M Co. argues that Agfa-Gevaert's color paper is "commercially" interchangeable with that of Japanese and U.S. producers in that it is manufactured, sold, and used for precisely the same markets and end uses. 3/ Sales in the United States, all of which are handled by Agfa's wholly owned U.S. subsidiary, accounted for *** percent of U.S. consumption of photographic color paper in 1977.

Channels of Distribution

In the U.S. market, sales are made to several distinct groups of customers. The largest is laboratories which process film for consumers using amateur film to photograph special occasions. Other customers include laboratories with business directed to professional photographers who take formal pictures in a studio, schools, stores, and various government/industrial/medical organizations (for photographic services such as aerial reconnaisance, product photography for advertising, publication, photography of medical patients, and infrared photography of residential areas to measure heat loss). U.S. producers and importers have indicated that prices do not vary significantly from customer to customer except that the larger customers can take advantage of quantity discounts that are not available to smaller customers.

1/ Market shares estimated by the petitioner.
2/ See transcript of the public hearing, pp 168.
3/ See transcript of the public hearing, pp 25.

Consideration of Injury or Likelihood Thereof by Reason of Alleged LTFV Sales

U.S. production

U.S. production of photographic color paper rose irregularly from *** million square feet (MSF) in 1973 to *** MSF in 1977 (table 2). More than *** percent of total production was of "rolls" (as opposed to "sheets") each year, and Kodak was responsible for at least *** percent of total production each year. Kodak's share of production generally declined throughout 1973-77, however, with most of the loss going to the 3M Co.

Table 2.--Photographic color paper: U.S. production, by types and by companies, 1973-77

* * * * * * *

Utilization of productive facilities

As shown in table 3, *** . It should be noted that companies can easily extend operations to 6 or even 7 days a week which would increase capacity by 20 percent or 40 percent, respectively.

Table 3.--Photographic color paper: U.S. producers' production capacity, 1/ and ratio of production to production capacity, by companies, 1973-77

* * * * * * *

U.S. producers' shipments and exports

U.S. producers' shipments (domestic 1/ and export) are presented in table 4. About *** percent of total shipments were exported each year and in 1977, exports were about ***. Total shipments rose each year from *** MSF valued at *** million in 1973 to *** MSF valued at *** million in 1977. Because of lower prices in 1977, the value of shipments in that year (*** million) was lower than in 1976 (*** million). The unit value of domestic shipments rose from *** cents per square foot in 1973 to *** cents per square foot in 1975 and then fell in 1976 and 1977 to *** cents per square foot and *** cents per square foot, respectively. A comparison of the unit values of U.S. shipments for each producer and each importer is presented in figure 2 on page A-18.

1/ Including captive shipments by ***.

Table 4.--Photographic color paper: U.S. producers' shipments, by types and by companies, 1973-77

* * * * * * *

Inventories

Inventory data reported by U.S. producers and importers are summarized in table 5. *** and *** both noted that their large increases in inventories in 1976 were due to an aggressive sales effort on the part of Kodak coupled with the introduction of its new lustre or "E" surface color paper. As most imports from Japan in 1976 had matte surfaces, the change by Kodak to lustre left importers with large quantities of paper that were viewed by photo-finishers (purchasers) as less than desirable. Other changes in Kodak's paper also have had an adverse impact on importer's sales and inventories according to information supplied by Konishiroku:

* * * * * * *

Table 5.--Photographic color paper: Inventories of U.S.-produced and imported paper, by types, 1973-77

* * * * * * *

U.S. imports for consumption

Imports from Japan.--Imports of photographic color paper from Japan rose rapidly from *** MSF in 1973 to *** MSF in 1976 and then declined very slightly to *** MSF in 1977 (table 6). The value of such imports followed the same trend.

All imports from Japan are in roll form. Importers indicated that packaging and transportation costs associated with photographic color paper in sheet form made the importation of such paper impractical.

Table 6.--Photographic color paper from Japan: U.S. imports for consumption, by companies, 1973-77

* * * * * * *

Imports from West Germany.--Imports of photographic color paper from West Germany (all of which are accounted for by Agfa-Gevaert) rose each year from *** MSF in 1973 to *** MSF in 1977 (table 7). More than *** percent of such imports each year were in roll form and their share of total imports from West Germany increased each year so that in 1977, less than *** percent of all imports from West Germany were in sheet form.

Table 7.--Photographic color paper from West Germany: U.S. imports for consumption, by types, 1973-77

* * * * * * *

Total imports.--According to official statistics of the U.S. Department of Commerce, at least 97 percent of total imports of photographic color paper 1/ came from Japan and West Germany each year from 1973 to 1977. The information presented in table 8 was derived from data submitted in response to questionnaires of the U.S. International Trade Commission for imports from Japan and West Germany, and from Commerce's official statistics for imports from other countries.

Table 8.--Photographic color paper: U.S. imports for consumption, 1973-77

Year	Quantity	Value
	Million square feet	Million dollars
1973	55.0	11.3
1974	95.8	22.9
1975	155.2	39.5
1976	225.5	59.0
1977	249.9	64.1

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

U.S. importers' shipments and exports

Importers' shipments to U.S. customers rose each year from *** MSF valued at *** million in 1973 to *** MSF valued at *** million in 1977 (table 9).

1/ As reported for TSUSA item 723.3040 which includes both negative color paper (the subject of these inquiries) and reversal color paper which is used for making color prints from slides.

Shipments in 1976 were substantially less than actual imports because of inventory accumulation.

Table 9.--Photographic color paper: U.S. importers' shipments of imported color paper, by types and by companies, 1973-77

* * * * * * *

Shipments of imports from Japan rose from *** MSF in 1973 *** to *** MSF in 1974 ***, *** MSF in 1975, *** MSF in 1976 ***, and *** MSF in 1977. Shipments of imports from West Germany (all of which were made by Agfa-Gevaert) rose steadily from *** MSF in 1973 to *** MSF in 1977.

The unit value of importers' shipments generally followed the same trends as exhibited by U.S. producers' shipments, rising in 1974 and 1975, and then falling in 1976 and 1977. Unit values of shipments to U.S. customers are shown graphically in figure 2.

U.S. consumption and market share

U.S. consumption of photographic color paper (as measured by total shipments to U.S. customers) rose from *** MSF in 1973 to 923 MSF in 1977, or by *** percent annually (table 10). About *** percent of total consumption in each year during 1973-77 was in the form of sheets; the remainder was in rolls.

Table 10.--Photographic color paper: U.S. consumption, 1/ by types, 1973-77

(In thousands of square feet)

Type	1973	1974	1975	1976	1977
Rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	***	***	745,682	826,475	922,711

1/ As calculated from shipments to U.S. customers.

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

The share of the U.S. market (as measured by the quantity of total shipments to U.S. customers) held by each supplier during 1973-77 is shown in table 11. The share of the market held by firms that import photographic color paper from Japan rose dramatically from *** percent in 1973 to *** percent in 1977; the share held by firms that import such paper from West Germany also rose, although not as much, from *** percent in 1973 to *** percent in 1977. Spokesmen for Agfa-Gevaert indicate that imports from Japan have had an adverse impact on their sales in the United States. The share of the U.S. market held by domestic producers declined each year from *** percent in 1973 to *** percent in 1977.

Figure 2.--Photographic color paper: Unit value of shipments to U.S. customers, by companies, 1973-77.

* * * * * * *

Table 11.--Photographic color paper: Market share, 1/ by companies, 1973-77

* * * * * * *

Employment

The average number of production and related workers engaged in the manufacture of photographic color paper fluctuated around *** throughout 1973-77 as shown in table 12. Man-hours worked by these workers are presented in table 13.

Table 12.--Average number of persons employed in U.S. establishments in which photographic color paper was produced, total and production and related workers, by companies, 1973-77

* * * * * * *

Table 13.--Man-hours worked by production and related workers in U.S. establishments in which photographic color paper was produced, by companies, 1973-77

* * * * * * *

The productivity of production and related workers increased each year as follows:

Year	Output (square feet) per man-hour
1973	***
1974	***
1975	***
1976	***
1977	***

Financial experience of U.S. producers

Information on financial experience was provided by 3M Co. and GAF Corp. (table 14). The aggregated financial data for these two firms should not be considered representative of the U.S. industry because of the absence of Kodak's input. The sizable losses experienced by GAF Corp. contributed to its decision in July 1977, to cease production of photographic color paper.

All three U.S. producers had large expenditures for research and development; aggregated data are shown below:

	1,000 dollars
1973	***
1974	***
1975	***
1976	***
1977	***

Producers reported that few extraordinary capital expenditures relating specifically to photographic color paper were required during 1973-77 to comply with regulations of Government agencies such as EPA and OSHA.

Table 14.--Financial experience of 2 U.S. producers on the total operations of their establishments in which photographic color paper is produced and on their photographic color paper operations, by companies, 1973-77

* * * * * * *

Prices

Despite significant fluctuations in prices during 1973-77, prices offered by individual companies have generally maintained their levels relative to prices offered by other companies. Because of this, and because there are large differences in prices from company to company, data in this section are not aggregated for U.S. producers or importers. Instead, data are presented on a company-by-company basis.

As shown in table 15 and figure 3, Kodak commands a price for its photographic color paper that until late in 1977 was about *** percent higher than its closest competitor, ***. In several periods (***, for example) changes in Kodak's prices appear to lead comparable changes throughout the industry by about one quarter. ***. The addition of the alleged LTFV margins (8.9 cents per square foot for imports from West Germany and 24.3 cents per square foot for imports from Japan) to the importers' U.S. sales prices shown would make all of the West German and Japanese prices shown higher than the prices of any U.S. manufacturer, including Kodak.

The practice in the industry is to offer several discounts or rebates to purchasers that have the effect of reducing list prices by about 20 percent for large customers. Some pricing is also done on the basis of "Kodak minus," a practice that indexes prices to those of Kodak. Terms of payment are typically 2/10 e.o.m., net 30 e.o.m. (2 percent discount if payment is made within 10 days of the end of the month in which the invoice is issued; net amount due 30 days after the end of the month in which the invoice is issued).

Table 15.--Photographic color paper: Net selling prices for the greatest volume sold of 3-1/2 inch by 775 foot rolls, 1/ by companies and by quarters, 1973-77

* * * * * * *

Loss of sales

Kodak supplied the Commission with a list of *** customers who allegedly purchased imported photographic color paper during 1973-77 in lieu of Kodak paper. This list was computer generated based on salesmen's reports. The total volume of alleged lost sales per year was as follows:

	1,000 square feet
1973	***
1974	***
1975	***
1976	***
1977	***

* * * * * * *

3M Co. provided information to the Commission on four categories of lost sales:

(1) Existing customer lost or partially lost to foreign competitors due to price,
(2) Existing customer retained after 3M Co. reduced prices to compete with import prices,
(3) New customers obtained after 3M Co. reduced prices to compete with import prices, and
(4) New customers not obtained despite efforts by 3M Co. because of lower prices on imported photographic color paper.

* * * * * * *

GAF Corp. submitted no specific evidence of sales lost to imports of photographic color paper, but did comment on the general market situation as follows:

* * * * * * *

Figure 3.--Photographic color paper: Net selling prices for the greatest volume sold of 3-1/2 inch by 775 foot rolls, by companies and by quarters, 1973-77

* * * * * * *

In testimony at the public hearing, 1/ Mr. Larry J. Polk, Vice President and General Manager of Kolor Print, Inc., a major photofinisher located in Little Rock, Arkansas, stated that--

> Prior to 1972, Kolor Print utilized color print paper manufactured by Eastman Kodak Co. exclusively. However, we began, at some point during 1972, to encounter certain processing difficulties with Kodak paper - principally scratches, lint, slivers and static, thus causing considerable waste. It was therefore decided, at that time, to seek an alternative source of supply of color print paper, and we proceeded to try Fuji-brand paper on an experimental basis.
>
> As a result of Kolor Print's initial use of Fuji paper, we found it in several ways to be superior in quality to Kodak paper, particularly in the area of color stability. Additionally, the use of Fuji rather than Kodak color print paper required less quality control changes at the processing level, thus resulting in considerable production cost savings to our firm. Actually, although Fuji paper was and continues to be slightly cheaper than Kodak paper, our decision to utilize Fuji as a primary source of supply for color paper was primarily based upon the quality of the product, rather than the price. . . . Kolor Print tried some color paper manufactured by Minnesota Mining & Manufacturing in January 1976 which, incidentally, was much cheaper than Fuji-brand paper, and found it to be of such poor quality that it could not be used. In fact, we returned the merchandise to the manufacturer and credit was obtained. . . . Currently, our color print paper product mix is approximately 70% Fuji and 30% Kodak. We continue to use Kodak paper because they carry certain types of paper which are not sold in the U.S. by Fuji, and because we are better able to utilize Kodak paper for certain applications for which Fuji paper cannot be as effectively used.

Impact of instant photography

With the entry of Kodak into the instant photography market in 1976, the already rapid growth in this field has accelerated. According to the 1976-1977 Wolfman Report on the Photographic Industry in the United States--

> The prime market for growth during the next 2 to 3 years will be the instant photography market. Overall effect of competition will be to expand the total market, an effect which should be strengthened by the strong possibility of licensing arrangements plus the virtually certain entry of additional major firms into the instant photo market. Competition will spill over into the advanced amateur market as more sophisticated equipment is developed.
>
> Instant photography will also score significant gains in the professional market due to recent improvements in quality of materials plus development of new, highly specialized products designed to use self-developing film.

1/ See transcript of the public hearing, pp. 125.

The steady growth in consumption of photographic color paper is an indication that the impact of self-developing film on the photographic color paper market has been small. The Wolfman Report notes that--

> There is, of course, the question of how instant photography has affected photofinishing, or indeed, if self-developing film has cut into the photofinishing market. In 1975, some 1,100,000,000 instant pictures were taken.
>
> At the present time, it seems likely that both instant and conventional photography will not only coexist, but grow, almost side-by-side.

The 1,100,000,000 instant pictures estimated in the Wolfman Report are equivalent to approximately 120 MSF of paper. If this figure is added to U.S. consumption of photographic color paper in 1975, the total is about 865 MSF. Approximately 14 percent of the total is accounted for by instant photographs.

APPENDIX A

TREASURY DEPARTMENT'S LETTER OF NOTIFICATION TO THE U.S. INTERNATIONAL TRADE COMMISSION

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

APR 5 1978

Dear Mr. Chairman:

In accordance with section 201(c) of the Antidumping Act of 1921, as amended, antidumping investigations are being initiated with respect to photographic color paper from Japan and West Germany. Pursuant to section 201(c)(2) of the Act, you are hereby advised that the information developed during our preliminary investigations has led us to the conclusion that there is substantial doubt that an industry in the United States is being, or is likely to be, injured by reason of the importation of this merchandise into the United States.

Information available to Treasury indicates that cumulative imports from Japan and West Germany increased from 19 to 25 percent of domestic consumption between 1975 and 1977 and that imports from those two countries are underselling the domestic product by margins of 11 to 19 percent. Furthermore, petitioner indicates that its domestic selling prices of photographic color paper declined by 16 percent from 1975 to 1977 and those of Eastman Kodak, the predominant supplier in the United States, by 23 percent during that same period. Most of the decline in the selling prices experienced by the two United States companies occurred during 1977, the year for which LTFV sales are alleged. Further, GAF, the third U.S. producer, left the market entirely in 1977.

In spite of that information, there are several economic indicators of a healthy industry. First, apparent United States consumption of this article has grown markedly over the last several years. Data presented by petitioner indicate that both the 3M Company individually and the domestic industry in the aggregate have shared in the growth of the domestic market. During the period 1975-77, both the petitioner and the United States industry experienced substantial rate of increase in production and domestic sales, while the petitioner also experienced an increase in its capacity utilization, employment, and profitability. For example, between 1975 and 1977 petitioner's domestic sales more than doubled. Although the aggregate market share held by the domestic industry declined from 81 percent in

1975 to 75 percent in 1977, that decline may have been due in substantial part to factors other than imports. For instance, most of the decline in the market share held by the domestic industry was attributable to Kodak. Some of the decline experienced by Kodak may have been due to its considerable anti-trust problems. In addition, there is information on record indicating that GAF's withdrawal from the market was due in large part to competition from Kodak. Finally, the decline in 3M's selling prices appears to have been a reflection of both its increased efficiency in the manufacture of this product, which it expressly acknowledges as having occurred, and price competition from Kodak.

Accordingly, from the available information the Department has concluded that there is substantial doubt that an industry is being, or is likely to be, injured by reason of the alleged sales at less than fair value from Japan and West Germany.

Based upon the data submitted by petitioner, there are margins of sales at less than fair value of as much as 121 and 44 percent, respectively, relative to this merchandise from Japan and West Germany.

For purposes of these investigations, as recommended by your Office of Nomenclature, "photographic color paper" means silver halide color negative photographic papers, sensitized but not exposed, provided for in item 723.30, Tariff Schedules of the United States.

Some of the enclosed data is regarded by Treasury to be of a confidential nature. It is therefore requested that the Commission consider all the enclosed information to be for the official use of the ITC only, not to be disclosed to others without prior clearance from the Treasury Department.

Sincerely yours,

Robert H. Mundheim

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

Enclosures

APPENDIX B

U.S. INTERNATIONAL TRADE COMMISSION NOTICE OF INQUIRIES AND HEARING

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

[AA1921-Inq.-11 and 12]

PHOTOGRAPHIC COLOR PAPER FROM JAPAN AND WEST GERMANY

Notice of Inquiries and Hearing

The United States International Trade Commission (Commission) received advice from the Department of the Treasury (Treasury) on April 7, 1978, that, during the course of determining whether to institute an investigation with respect to silver halide color negative photographic papers, sensitized but not exposed, provided for in item 723.30, Tariff Schedules of the United States, from Japan and West Germany in accordance with section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)), Treasury concluded from the information available to it that there is substantial doubt that an industry in the United States is being or is likely to be injured by reason of the importation of this merchandise into the United States. Therefore, the Commission on April 13, 1978, instituted inquiries AA1921-Inq.-11 and AA1921-Inq.-12 under section 201(c)(2) of that act, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

The Treasury advised the Commission as follows:

Dear Mr. Chairman:

In accordance with section 201(c) of the Antidumping Act of 1921, as amended, antidumping investigations are being initiated with respect to photographic color paper from Japan and West Germany. Pursuant to section 201(c)(2) of the Act, you are hereby advised that the information developed during our preliminary investigations has led us to the conclusion that there is substantial doubt that an industry in the United States is being, or is likely to be, injured by reason of the importation of this merchandise into the United States.

Information available to Treasury indicates that cumulative imports from Japan and West Germany increased from 19 to 25 percent of domestic consumption between 1975 and 1977 and that imports from those two countries are underselling the domestic product by margins of 11 to 19 percent. Furthermore, petitioner indicates that its domestic selling prices of photographic color paper declined by 16 percent from 1975 to 1977 and those of Eastman Kodak, the predominant supplier in the United States, by 23 percent during that same period. Most of the decline in the selling prices experienced by the two United States companies occurred during 1977, the year for which LTFV sales are alleged. Further, GAF, the third U.S. producer, left the market entirely in 1977.

In spite of that information, there are several economic indicators of a healthy industry. First, apparent United States consumption of this article has grown markedly over the last several years. Data presented by petitioner indicate that both the 3M Company individually and the domestic industry in the aggregate have shared in the growth of the domestic market. During the period 1975-77, both the petitioner and the United States industry experienced substantial rate of increase in production and domestic sales, while the petitioner also experienced an increase in its capacity utilization, employment, and profitability. For example, between 1975 and 1977 petitioner's domestic sales more than doubled. Although the aggregate market share held by the domestic industry declined from 81 percent in 1975 to 75 percent in 1977, that decline may have been due in substantial part to factors other than imports. For instance, most of the decline in the market share held by the domestic industry was attributable to Kodak. Some of the decline experienced by Kodak may have been due to its considerable anti-trust problems. In addition, there is information on record indicating that GAF's withdrawal from the market was due in large part to competition from Kodak. Finally, the decline in 3M's selling prices appears to have been a reflection of both its increased efficiency in the manufacture of this product, which it expressly acknowledges as having occurred, and price competition from Kodak.

Accordingly, from the available information the Department has concluded that there is substantial doubt that an industry is being, or is likely to be, injured by reason of the alleged sales at less than fair value from Japan and West Germany.

Based upon the data submitted by petitioner, there are margins of sales at less than fair value of as much as 121 and 44 percent, respectively, relative to this merchandise from Japan and West Germany.

For purposes of these investigations, as recommended by your Office of Nomenclature, "photographic color paper" means silver halide color negative photographic papers, sensitized but not exposed, provided for in item 723.30, Tariff Schedules of the United States.

Some of the enclosed data is regarded by Treasury to be of a confidential nature. It is therefore requested that the Commission consider all the enclosed information to be for the official use of the ITC only, not to be disclosed to others without prior clearance from the Treasury Department.

Sincerely yours,

s/Robert H. Mundheim
General Counsel

Hearing. A public hearing in connection with the inquiries will be held in Washington, D.C., beginning at 9:30 a.m., E.S.T., on Thursday, April 27, 1978, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW. All persons have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be received in writing in the office of the Secretary to the Commission not later than noon Monday, April 24, 1978.

Written statements. Interested parties may submit statements in writing in lieu of, and in addition to, appearance at the public hearing. A signed original and nineteen true copies of such statements should be submitted. To be assured of their being given due consideration by the Commission, such statements should be received no later than Wednesday, May 3, 1978.

By order of the Commission.

Kenneth R. Mason

Kenneth R. Mason
Secretary

Issued: April 14, 1978

APPENDIX C

TREASURY DEPARTMENT'S ANTIDUMPING PROCEEDING NOTICES

[4810-22]

Office of the Secretary

PHOTOGRAPHIC COLOR PAPER FROM JAPAN

Antidumping Proceeding

AGENCY: Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of photographic color paper from Japan are being, or are likely to be, sold at less than fair

value within the meaning of the Antidumping Act, 1921, as amended. There appears to be substantial doubt that imports of the subject merchandise at less than fair value are the cause of present, or likely future, injury to an industry in the United States, however, and the case is being referred to the U.S. International Trade Commission for further review.

EFFECTIVE DATE: April 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Stephen Nyschot, 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: On March 6, 1978, information was received in proper form pursuant to sections 153,26 and 153,27, Customs Regulations (19 CFR 153,26, 153,27), from counsel acting on behalf of the Minnesota Mining and Manufacturing Co., St. Paul, Minn., indicating a possibility that photographic color paper from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

For purposes of this notice, "photographic color paper" means silver halide color negative photographic papers, sensitized but not exposed, provided for in item 723.30, Tariff Schedules of the United States.

The margin of dumping alleged, based on a comparison of sales to the U.S. with prices in the home market, is approximately 121 percent.

There is evidence on record concerning injury or likelihood of injury from the alleged less than fair value imports. This evidence also indicates, however, that petitioner's sales, profits, employment, capacity utilization and share of the market have improved since 1975. Therefore, on the basis of such evidence it has been concluded that there is substantial doubt of injury, or likelihood of injury, to an industry in the United States by virtue of such imports from Japan. Accordingly, the U.S. International Trade Commission is being advised of such doubt pursuant to section 201 (c)(2) of the Act (19 U.S.C. 160(c)(2)).

Having conducted a summary investigation as required by section 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. Should the International Trade Commission, within 30 days of receipt of the information cited in the preceding paragraph, advise the Secretary that there is no reasonable indication that an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of such merchandise into the United States, the Department will publish promptly in the FEDERAL REGISTER, a notice terminating the investigation. Otherwise the investigation will continue to conclusion.

This notice is published pursuant to section 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Council of the Treasury.

APRIL 5, 1978.

[FR Doc. 78-9610 Filed 4-11-78; 8:45 am]

[4810-22]

PHOTOGRAPHJIC COLOR PAPER FROM WEST GERMANY

Antidumping Proceeding

AGENCY: Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of photographic color paper from West Germany are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. There appears to be substantial doubt that imports of the subject merchandise at less than fair value are the cause of present, or likely future, injury to an industry in the United States, however, and the case is being referred to the U.S. International Trade Commission for further review.

EFFECTIVE DATE: April 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, 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: On March 6, 1978, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of the Minnesota Mining and Manufacturing Co., St. Paul, Minn., indicating a possibility that photographic color paper from West Germany is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

For purposes of this notice, "photographic color paper" means silver halide color negative photographic papers, sensitized but not exposed, provided for in item 723.30, Tariff Schedules of the United States.

The margin of dumping alleged, based on a comparison of sales to the U.S. with prices in the home market, is approximately 44 percent.

There is evidence on record concerning injury or likelihood of injury from the alleged less than fair value imports. This evidence also indicates, however, that petitioner's sales, profits, employment, capacity utilization, and share of the market have improved since 1975. Therefore, on the basis of such evidence it has been concluded that there is substantial doubt of injury, or likelihood of injury, to an industry in the United States by virtue of such imports from West Germany. Accordingly, the United States International Trade Commission is being advised of such doubt pursuant to section 201(c)(2) of the act (19 U.S.C. 160(c)(2)).

Having conducted a summary investigation as required by section 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. Should the International Trade Commission, within 30 days of receipt of the information cited in the preceding paragraph, advise the Secretary that there is no reasonable indication that an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of such merchandise into the United States, the Department will publish promptly in the FEDERAL REGISTER a notice terminating the investigation. Otherwise the investigation will continue to conclusion.

This notice is published pursuant to section 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

APRIL 5, 1978.

[FR Doc. 78-9611 Filed 4-11-78; 8:45 am]

APPENDIX D

PROBABLE ECONOMIC EFFECTS OF TARIFF CHANGES UNDER TITLE I AND TITLE V OF THE TRADE ACT OF 1974 FOR TRADE AGREEMENT DIGEST NO. 70078, JULY 1975

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