LEATHER WEARING APPAREL FROM URUGUAY

Determination of Injury in
Investigation No. 303-TA-2
Under Section 303(b)
of the Tariff Act of 1930,
as Amended, Together With
the Information Obtained
in the Investigation

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

[303-TA-2]

LEATHER WEARING APPAREL FROM URUGUAY

Determination of Injury

On January 24, 1978, the United States International Trade Commission received advice from the Department of the Treasury (Treasury) that a bounty or grant is being paid with respect to leather wearing apparel imported from Uruguay, entered under item 791.76 of the Tariff Schedules of the United States (TSUS) and accorded duty-free treatment under section 501 of Title V of the Trade Act of 1974. Accordingly, the Commission, on February 3, 1978, instituted investigation No. 303-TA-2, under section 303(b) of the Tariff Act of 1930, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and time of the public hearing to be held in connection therewith was published in the Federal Register of February 9, 1978 (43 F.R. 5593). Notice of the place of the public hearing was published in the Federal Register of March 1, 1978 (43 F.R. 8306). On March 14, 1978, a public hearing was held in New York City, at which all persons who requested the opportunity were permitted to appear in person or by counsel.

On the basis of its investigation, the Commission has unanimously determined (Commissioner Ablondi not participating) that an industry in the United States is being injured 1/ by reason of the importation of leather wearing apparel from Uruguay, entered under item 791.76 of the Tariff Schedules of the United States and accorded duty-free treatment under section 501 of Title V of the Trade Act of 1974, upon

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1/ Vice Chairman Joseph O. Parker determined that an industry in the United States is being or is likely to be injured.

which the Department of the Treasury has determined that a bounty or grant is being paid within the meaning of section 303 of the Tariff Act of 1930, as amended.

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

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATION OF
CHAIRMAN DANIEL MINCHEW, VICE CHAIRMAN JOSEPH O. PARKER, AND
COMMISSIONERS GEORGE M. MOORE, CATHERINE BEDELL, AND BILL ALBERGER

In order for a Commissioner to make an affirmative determination in an investigation under section 303(b) of the Tariff Act of 1930, as amended, it is necessary to find that an industry in the United States is being or is likely to be injured, or is prevented from being established,[1/] and the injury or likelihood thereof must be by reason of the importation into the United States of merchandise found by the Department of the Treasury (Treasury) to be receiving a bounty or grant from the exporting country.

Determination

On the basis of the information obtained in the investigation, we determine that an industry in the United States is being injured by reason of the importation of leather wearing apparel from Uruguay which the Treasury has determined is receiving a bounty or grant from the Government of Uruguay.[2/]

The Product and the Domestic Industry

The leather wearing apparel which is the subject of this investigation includes virtually all leather wearing apparel other than articles of reptile leather, footwear, gloves, headwear, apparel belts, and watch straps, or wearing apparel in chief value of fur or in chief weight of cotton, wool, or manmade fibers, or any combination thereof. Various styles of coats and jackets account for the bulk of U.S. shipments of leather wearing apparel; however, leather is used in the manufacture of a variety of apparel, including pants, vests, skirts, dresses, and shorts.

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

2/ Vice Chairman Parker determines in the statutory terms that an industry is being or is likely to be injured by reason of the importation of such merchandise.

The Bounty or Grant

Treasury examined several categories of alleged bounties or grants on leather wearing apparel, and concluded that these bounties and grants were equal to approximately 12 percent of the f.o.b. price of Uruguayan apparel exported to the United States. The most significant bounty, tax rebate certificates known as "reintegros," account for about 90 percent of the subsidies. Treasury has indicated its intention to waive countervailing duties under section 303(d), due to a commitment by the Government of Uruguay to totally remove the net bounty derived from the tax rebate certificate program between January 1, 1978, and January 1, 1979. 1/ We note that Treasury's stated intention does not relieve us of our responsibility for making a determination, although it is recognized that the prompt elimination of all subsidies would correct this violation.

The Question of Injury or Likelihood Thereof

Imports and market share -- The value of imports from Uruguay has increased steadily and sharply since 1972 ($.8 million), reaching $4.7 million in 1974, $17.6 million in 1976, and increasing again to $24.6 million in 1977. Their market share has increased from 0.3 percent of U.S. consumption in 1972 to 5.6 percent in 1977.

During the same time period, imports from Korea and the Republic of China (Taiwan) were greater than those from Uruguay. However, by 1977 Uruguay had almost overtaken Taiwan as the second largest supplier of imports to the U.S. market (11.2 percent share of total imports compared to Taiwan's 12.6 percent).

Capacity utilization -- Utilization of U.S. producers' capacity to manufacture leather wearing apparel has declined steadily during the period

1/ Notice of Final Countervailing Duty Determination, Federal Register, January 30, 1978 (43 F.R. 3974-75).

of this investigation, perhaps partially due to expanded capacity prior to the recent sharp increases in imports. Almost one-half of the 185 companies that produced these articles in 1972 have since discontinued such production, and some of them have become exclusively importers. The Commission staff data show that capacity utilization (at 81 percent in 1974) took its sharpest dip from 1976-77 when it fell from 79 percent to 67 percent.

U.S. producers' shipments -- Shipments rose from 1972 ($173.5 million) through 1975 reaching a high of $258.9 million, and then dropped sharply to below 1974 levels ($240 million) in 1977 to an estimated $220.6 million. Taking inflation as well as the rise in leather prices into account makes this decline even more significant.

Inventories -- Levels of year-end inventories held by U.S. producers were at their peak in 1974, and declined irregularly to a low level in 1977. Unlike many industries, however, most supplies are produced for specific orders, and inventory levels are probably not a good indicator of the health of this industry.

Employment -- The number of production and related workers employed in the leather wearing apparel industry increased significantly from 6,000 in 1973 to 10,100 in 1974. Since 1974, the decline in workers, man-hours worked, and firms producing the products have all declined. In 1976, 8,500 such workers were employed, and responses to Commission questionnaires indicate a continuing decline through 1977.

Profit and loss experience -- Net operating profits of firms responding to the Commission questionnaires declined from 1975 through 1977. The ratio of net operating profit to net sales was 7.3 percent in 1975, 6.5 percent in 1976, and only 5 percent in 1977.

Prices -- Women's coats, the principal articles imported from Uruguay, show increasing prices for domestic products and decreasing prices for imports from Uruguay. Even in 1975, a representative type of coat imported from Uruguay was priced about 15 dollars below the price of the same type of domestically produced coat. The 12 percent bounty constitutes a significant portion of the price difference. The most substantial decline in domestic shipments of leather wearing apparel has also occurred in the women's apparel segment of the market, the segment which has been primarily impacted by the imports from Uruguay.

Lost sales -- Nine examples of alleged lost sales were presented to the Commission. Five of these former customers indicated they purchase at least part of their leather garment requirements from Uruguay. Two of those five use Uruguay as their major source. The remaining four former customers indicated they import from Korea and Taiwan.

Likelihood of Injury -- Having found present injury in this case, we believe it is unnecessary to address the issue of likelihood of injury.1/

1/ Vice Chairman Parker believes a determination of present injury necessarily connotes continuing injury in the future if corrective action is not taken.

Conclusion 1/

From the above considerations, we find that the U.S. industry producing leather wearing apparel is being injured by reason of imports from Uruguay which the Department of the Treasury has determined is subject to a bounty or grant.

1/ Chairman Minchew and Commissioner Alberger would have used the paragraph "Conclusion" to summarize their views that imports from Uruguay are a cause, at least in part, of the injury sustained by the U.S. industry. The proper standard for analysis of causation in countervailing duty investigations is that used in antidumping investigations. (House Ways and Means Committee, H.R. Doc. No. 93-571, 93rd Congress, 1st Session, 1973)). The volume of imports from Uruguay ranks third, behind imports from Korea and Taiwan, but is gaining rapidly on Taiwan. With the exception of inventory levels, which are neither a positive nor a negative factor, indications of injury are found in all factors analyzed.

SUMMARY

Investigation No. 303-TA-2 was instituted by the U.S. International Trade Commission (USITC) on February 3, 1978, following notification from the Department of the Treasury on January 24, 1978, that a bounty or grant is being paid with respect to leather wearing apparel imported from Uruguay. The original petition was filed by Wolf & Co., on behalf of the National Outerwear & Sportswear Association, a trade association representing some of the largest U.S. producers of leather wearing apparel. The public hearing was held in New York City on Tuesday, March 14, 1978.

Leather wearing apparel includes a variety of items, principally coats and jackets, that are classified under the Tariff Schedules of the United States (TSUS) item 791.76. The following articles are specifically provided for elsewhere in the TSUS: articles of reptile leather, footwear, gloves, headwear, apparel belts, and watch straps of leather, or wearing apparel in chief value of fur or chief weight of cotton, wool, or manmade fibers, or any combination thereof.

According to the Census of Manufactures, 185 firms produced leather wearing apparel in the United States in 1972. An estimated 100 firms produced this apparel in 1977. The industry employed about 6,300 production and related workers in 1972; the Department of Commerce estimates that this number rose to a peak of 10,100 workers in 1974, and then dropped to 8,500 workers by 1976. Responses to Commission questionnaires indicate that employment in the firms sampled continued to decline in 1977, as did man-hours worked. The value of industry shipments increased from $173.5 million in 1972 to $246.2 million in 1976, according to official statistics of the U.S. Department of Commerce. Responses to Commission questionnaires showed that the value of industry shipments in 1977 declined to an estimated $220.6 million.

U.S. imports of leather wearing apparel nearly doubled in value between 1974 and 1977 (from $103.9 million to $220.4 million). The two largest sources of U.S. imports are the Republic of Korea and the Republic of China (Taiwan) ($79.7 million and $27.7 million, respectively, in 1977); both of these countries lost preferential treatment under the Generalized System of Preferences (GSP), when they exceeded the applicable value limitations on imports of any TSUS item by an individual country. Uruguay was the third largest supplier of leather wearing apparel to the U.S. market in the last 2 years. Imports from Uruguay rose from $4.7 million in 1974 to $24.6 million in 1977; as a share of the total value of all U.S. imports of this item, Uruguay accounted for 4.6 percent in 1974 and 11.2 percent in 1977.

The domestic industry's rate of capacity utilization declined between 1974 and 1975 (from 81.4 percent to 78.4 percent), rose slightly in 1976 to 78.8 percent, and then declined again in 1977 to 66.8 percent. Yearend inventories of leather wearing apparel held by U.S. producers fluctuated widely between 1974 and 1977, with peak inventories in 1974 and the lowest inventory level occurring in 1977. The ratio of net operating profit, as well as net profit before taxes, to net sales for all operations of the sampled leather wearing apparel producers peaked in 1975, and then declined steadily in 1976 and 1977.

Imports of leather wearing apparel from Uruguay of the type that is eligible for GSP treatment increased from about 0.3 percent of the value of apparent U.S. consumption in 1972 to 5.6 percent in 1977. During the same period, the ratio of all imports to consumption rose from 31 percent in 1972 to 50.3 percent in 1977. Of the former customers cited by U.S. producers as having shifted to Uruguayan imports, two use Uruguay as a major source of leather garments, three import from many sources including Uruguay, and four of the former customers are large importers of Taiwanese and Korean, rather than Uruguayan, leather garments. Price data obtained from domestic producers and importers of Uruguayan garments indicate that the price of a specified type of women's coat imported from Uruguay was significantly lower than the price for a same type of coat produced in the United States in all 3 years.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On January 24, 1978, the United States International Trade Commission received advice from the Department of the Treasury that a bounty or grant is being paid with respect to leather wearing apparel imported from Uruguay, entered under item 791.76 of the Tariff Schedules of the United States (TSUS) and accorded duty-free treatment under section 501 of Title V (Generalized System of Preferences (GSP)) of the Trade Act of 1974. On February 3, 1978, the Commission instituted investigation No. 303-TA-2 under section 303(b) of the Tariff Act of 1930, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. The statute directs that the Commission make its determination by April 24, 1978.

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

Notice of the institution of this investigation and time of the public hearing was published in the Federal Register of February 9, 1978 (43 F.R. 5593). Notice of the place of the public hearing was published in the Federal Register of March 1, 1978 (43 F.R. 8306). 1/ The public hearing was held on March 14, 1978, in New York City.

Development of the Instant Case

This investigation evolved from one of a series of countervailing duty petitions which were filed with the Treasury Department in 1977 by Wolf & Co., a Washington accounting and economic consulting firm, on behalf of various clients. On January 21, 1977, this firm filed three petitions regarding leather wearing apparel from Argentina, Uruguay, and the Republic of China (Taiwan), on behalf of the National Outerwear & Sportswear Association. A final negative determination regarding leather wearing apparel from Taiwan was

1/ Copies of the Commission's Federal Register notices concerning the institution of the investigation and place of the public hearing are presented in app. A.

warehouse for consumption of the articles in question was suspended pending a determination by the Commission.

Description and Uses

The term leather wearing apparel as used in this report includes a variety of articles that are classifiable under item 791.76 of the TSUS. It includes virtually all leather wearing apparel other than articles of reptile leather, footwear, gloves, headwear, apparel belts, and watch straps, or wearing apparel in chief value of fur or in chief weight of cotton, wool, or manmade fibers, or any combination thereof. All of these excluded articles are specifically provided for elsewhere in the TSUS. Wearing apparel of sheep or lamb with the wool on the inside of the garment is considered for customs purposes to be wearing apparel of leather, whereas when the wool is on the outside, it is classified as wearing apparel of fur.

Leather wearing apparel is made from a variety of leathers, of which cowhide, calf, sheep, and lamb are the most commonly used. 1/ Various styles of coats and jackets 2/ account for the bulk of U.S. shipments of leather wearing apparel (about 90 percent based on value in 1972) and for nearly all imports of such apparel. However, leather is used in the manufacture of a variety of apparel, including pants, vests, skirts, dresses, and shorts. Leather wearing apparel for men and boys accounted for slightly more than half of the shipments of U.S.-made leather wearing apparel in 1972; most of the remainder consisted of women's, misses', and juniors' apparel.

U.S. Tariff Treatment

The rates of duty applicable to leather wearing apparel have remained unchanged at 6 percent ad valorem (col. 1) and 35 percent ad valorem (col. 2) since January 1, 1972, when the last stage of the Kennedy round reductions went into effect. Before March 1, 1977, leather wearing apparel was provided for under TSUS item 791.75. Effective March 1, 1977, TSUS item 791.75 was deleted and new TSUS items 791.74 and 791.76 were established.

TSUS item 791.74 covers leather wearing apparel in chief weight of cotton, wool, or manmade fibers, or any combination thereof. Such apparel is subject to the quota provisions of the Multifiber Agreement (MFA). Approximately 15 percent of the apparel formerly in TSUS item 791.75 is covered now by TSUS item 791.74. 3/ TSUS item 791.76 covers leather wearing apparel, not in chief weight of textile fiber.

1/ Apparel of the type covered in this report is generally comparable with that reported in the Standard Industrial Classification (SIC) product code 2386, leather and sheep-lined clothing.

2/ A jacket is an item of outerwear of less than 40 inches in length, whereas a coat is 40 inches in length or longer, according to suggested industry definitions for these articles.

3/ See footnote on page 12 for an explanation of the basis for this estimate.

Title V of the Trade Act of 1974 authorized the President to extend duty-free treatment to eligible articles from designated beneficiary developing countries after consideration of (1) the effect such action will have on furthering the economic development of developing countries; (2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries; and (3) the anticipated impact of such action on U.S. producers of like or directly competitive products. Duty-free treatment may not be applied to certain categories of import-sensitive articles including textile and apparel articles which are subject to textile agreements and other articles which the President determines to be import-sensitive in the context of the GSP. GSP became effective on January 1, 1976.

Section 504(c) of the Trade Act provides that eligible articles will not receive duty-free treatment, however, if they are (1) the product of a beneficiary country which in the preceding calendar year accounted for 50 percent or more of total U.S. imports of the article (unless the President has determined that the article was not produced in the United States on January 3, 1975), or (2) the product of a beneficiary country which supplied imports valued at $25 million or more in the preceding year. The figure of $25 million is adjusted annually by a percentage equivalent to the percent of change in the gross national product of the United States compared with the gross national product in 1974. This figure was $29.9 million in 1976 and $33.4 million in 1977.

The list of beneficiary-country exceptions to eligibility for particular products resulting from the provisions of section 504(c) must be updated within 60 days after the end of each calendar year. A country excepted from eligibility for GSP treatment for a particular product in the above manner may be redesignated eligible for GSP benefits for that article if imports of that article from that country do not exceed the annual value limitation applicable in a subsequent calendar year. The TPSC, composed of representatives of agencies concerned with trade matters, 1/ advises the President each year on the articles and countries eligible for GSP treatment.

Leather wearing apparel (entered under TSUS item 791.75 prior to March 1, 1977, and under TSUS item 791.76 since that time) was entitled to duty-free treatment under the GSP after January 1, 1976. Designated eligible countries which are significant suppliers of leather wearing apparel to the U.S. market include (in order of importance) Korea, Taiwan, Uruguay, Argentina, Mexico, Hong Kong, Brazil, Israel, and Turkey. Korea lost preferential treatment under the GSP for this article on February 29, 1976, and Taiwan lost preferential treatment on March 1, 1977, after they exceeded the value limitation discussed above. Although the value of imports of leather wearing apparel from Taiwan in 1977 was below the value limitation for that year ($33.4 million), Taiwan was not redesignated as eligible for duty-free treatment for this article in 1978. The TPSC does not issue public statements explaining the reasons for its decision in such cases.

1/ Office of the Special Trade Representative, Department of State, Department of Treasury, Department of Commerce, Department of Agriculture, Department of Labor, Department of Interior, Department of Defense, and the U.S. International Trade Commission (advisory, nonvoting member).

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

Uruguayan export incentives

The Treasury Department determined that the Government of Uruguay granted three types of export incentives to Uruguayan manufacturers/exporters of leather wearing apparel which constituted bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended. These are described below.

Income tax exemptions on certain export-related income.--The Uruguayan government allows a portion of export profits corresponding to the value added by the firms producing the export item to be exempt from the corporate income tax. * * *

Preferential financing for exports.--

*   *   *   *   *   *   *

The granting of tax certificates known as "reintegros," to manufacturers of leather wearing apparel, upon the exportation of the goods.--

*   *   *   *   *   *   *

The Treasury Department decided that the effect of the export subsidy is offset by certain indirect taxes that are directly related to the exported leather wearing apparel. These taxes are not rebated on export, and under the Act would be eligible for rebate and thus act to reduce the effective export benefit. These taxes include (1) export taxes charged on the value of the leather wearing apparel plus a tax on the value of the export rebate certificates; (2) value-added taxes that are charged in manufacturing the leather wearing apparel (the Government of Uruguay generally rebates 75 percent of the value-added taxes paid by manufacturers of leather wearing apparel); (3) taxes on agricultural transactions which in this case involve a 4 percent tax on the value of the hide purchased by the tanner; and (4) import taxes and other special taxes which are assessed on the non-leather items of the leather apparel. The net effect of these offsets is to reduce the total amount of the bounties or grants on leather wearing apparel to approximately 12 percent of the f.o.b. price for export to the United States.

Volume of goods subject to countervailing duties

At present, all imports of leather wearing apparel under TSUS item 791.76 from Uruguay would be subject to countervailing duties if the Commission made an affirmative decision in this case. However, the Treasury Department has stated that it would consider it appropriate to waive countervailing duties under section 303(d) of the Act, in the event the Commission made an affirmative decision. According to the Treasury Department, the Government of

Uruguay is committed to the total removal of the net bounty derived from the tax rebate certificate program (reintegro) for all leather products, except tanned leather, between January 1, 1978 and January 1, 1979. The Government of Uruguay has advised Treasury that a 50 percent reduction in the effective bounty was accomplished December 29, 1977. A 50 percent reduction in the remaining effective export subsidy will be made on or before July 1, 1978, with total elimination accomplished on or before January 1, 1979. These actions will have the effect of removing almost completely the effective bounty or grant, thus satisfying the first waiver criteria under section 303(d) of the Trade Act of 1974. The Treasury Department stated that the remaining criteria governing the waiver provision would appear to be satisfied, based on the very active role of the developing countries in the Multilateral Trade Negotiations in Geneva, combined with progress that is being made to negotiate agreements eliminating nontariff barriers to trade. The Treasury Department's authority to grant such waivers expires on January 3, 1979.

An analysis of the provisions of the waiver authority and the statutory limits on its use, together with their legislative history, indicates a congressional preference that foreign export subsidies be removed by the government of the exporting nation rather than by the imposition of countervailing duties. However, should the Commission make an affirmative determination in this investigation and the Uruguayan Government fail to remove the bounty or grant prior to the termination of Treasury's waiver authority, the Treasury Department would be required to impose countervailing duties after expiration of the waiver authority. 1/

U.S. Market

During the 1970's, a dramatic expansion occurred in the leather wearing apparel market, particularly in the low- and medium-price ranges. A rise in consumer demand for apparel with a "natural" and "genuine" look coincided with the development of new leather processing techniques. The result of these two occurrences was increased production of leather garments at lower prices, especially since the new technology allowed a lightweight supple garment grain leather to be produced from cattlehides rather than imported kidskin and goatskins. By 1977, the boom had waned; demand for women's leather apparel had declined from the peak in 1974 and 1975, and men's leather outerwear, always the major item of leather wearing apparel production, is expected to constitute the bulk of shipments in the next few years. A shift in the type of leather preferred by consumers has also occurred and production has shifted from cowhide leather garments to lambskin splits.

Since hides and skins are a by-product of slaughtering operations, the supply of hides and skins does not respond to the demand for leather but to the demand for meat. The use of leather in finished products is heavily influenced by the availability of an adequate supply of hides and skins at

1/ Memorandum of March 24, 1978, from the General Counsel to the Commission, GC-B-075.

stable prices. The supply of leather in the U.S. market has been affected by the recent emphasis by many developing countries on exporting finished leather products rather than exporting raw hides and skins or tanned leather. This has led to a strong export demand for U.S. hides and skins, a reduction of domestic and imported supplies easily available to domestic manufacturers, and contributed to a rise in hide and skin prices. Approximately 60 percent ($582.9 million) of U.S. production of hides and skins was exported in 1977; 1.5 percent ($8.8 million) of these exports went to Uruguay.

Channels of Distribution

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

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

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

Consideration of Injury, or Likelihood Thereof

U.S. producers

According to official statistics of the U.S. Department of Commerce, 185 U.S. firms produced leather wearing apparel in 1972, the most recent year for which such data are available. 1/ In that year, more than two-thirds of the value of U.S. producers' shipments originated in the Northeastern States of the United States. The principal producing States and their share of the value of total U.S. shipments were New York (46 percent), New Jersey (10 percent), and Massachusetts (9 percent). The West was next in importance, accounting for about 15 percent of U.S. shipments; the principal producing State in that area was California (10 percent). The North Central States accounted for about 14 percent of U.S. shipments, spread over many States.

1/ Data from the 1977 Census of Manufactures is still being collected by the Department of Commerce and will not be available until 1979.

Almost half the 185 companies that produced leather wearing apparel in 1972 have discontinued such production according to information supplied by domestic producers, labor unions, and responses to the Commission's questionnaires. Many of the firms that exited the industry have gone out of business; however, responses to Commission questionnaires indicate that 13 former producers are still in business but no longer produce leather wearing apparel. One company has been certified eligible for trade adjustment assistance by the U.S. Department of Commerce. An official of the National Outerwear & Sportswear Association provided the Commission with a list of 18 former producers who have ceased all or most of their production of leather garments and now import leather wearing apparel.

Most firms in the industry producing leather and sheep-lined clothing operate a single establishment and few are subsidiaries of other firms. A number of firms produce textile apparel, as well as leather apparel. In addition, many firms contract all or part of their production to contractors who cut and/or sew the garments. This is especially true during peak selling periods and in that portion of the industry producing women's and girls' leather wearing apparel.

U.S. producers' shipments and exports

The value of U.S. producers' shipments of leather wearing apparel increased from $173.5 million in 1972 to $246.2 million in 1976, according to official statistics of the U.S. Department of Commerce. Responses to Commission questionnaires showed that the value of industry shipments in 1977 declined to an estimated $220.6 million, as shown below:

Year	U.S. producers' shipments 1/ (1,000 dollars)
1972	173,500
1973	190,400
1974	240,000
1975	258,900
1976	246,200
1977	220,600

1/ The figures for 1974-76 are based on survey data which had a standard error of estimate of 15-17 percent at the product class level. Data for 1977 were estimated by the Commission.

Responses to Commission questionnaires (22 firms which accounted for 22.5 percent of the estimated value of shipments in 1977) indicate that the peak in shipments occurred in 1976, rather than 1975, and then dropped in 1977 (table 1). This trend was corroborated in telephone conversations with the remaining, nonrespondent producers. Coats and jackets accounted for approximately 99 percent of both the quantity and value of U.S. producers' domestic shipments of leather wearing apparel. Men's coats and jackets accounted for the bulk of domestic shipments.

Table 1.--Leather wearing apparel: U.S. producers' shipments, by types, 1974-77

Item	1974	1975	1976	1977
	Quantity (units)			
Coats and jackets:				
Men's and boys'	823,323	820,346	938,947	838,957
Women's, girls' and infants'	141,439	165,402	135,756	77,732
All other articles	3,000	6,200	8,583	9,655
Total	967,762	991,948	1,083,286	926,344
	Value (1,000 dollars)			
Coats and jackets:				
Men's and boys'	34,536	36,312	45,137	43,314
Women's, girls' and infants'	9,505	12,090	10,053	6,058
All other articles	37	93	227	268
Total	44,078	48,495	55,417	49,640
	Unit value			
Coats and jackets:				
Men's and boys'	$41.95	$44.26	$48.07	$51.63
Women's, girls' and infants'	67.20	73.09	74.05	77.93
All other articles	12.33	15.00	26.45	27.76
Total	45.55	48.89	51.16	53.59

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

Exports of leather wearing apparel have been small, generally accounting for less than 1 percent of U.S. producers' annual shipments. In 1977, about half of U.S. exports of leather wearing apparel went to Mexico and Japan. U.S. exports of leather wearing apparel in 1974-77 according to official statistics of the U.S. Department of Commerce were as follows:

Year	U.S. exports (1,000 dollars)
1974	$2,659
1975	2,247
1976	4,479
1977	2,820

Capacity utilization

Responses to Commission questionnaires showed that the domestic industry's rate of capacity 1/ utilization declined between 1974 and 1975, rose slightly in 1976, and then declined again i 1977 (in percent), as shown below:

Item	1974	1975	1976	1977
Coats and jackets:				
Men's and boys'	84.2	80.3	83.7	71.0
Women's, girls' and infants'	68.5	70.4	56.5	41.0
All other articles	87.0	71.4	75.0	81.1
Total	81.4	78.4	78.8	66.8

The capacity utilization rate was much lower for women's, girls' and infants' outerwear than for men's and boys' coats and jackets. Between 1974 and 1975, the capacity utilization rate for women's outerwear rose slightly to 65.4 percent, dropped to 51.8 percent in 1976, and then fell further to 39.1 percent in 1977.

U.S. imports

U.S. imports of leather wearing apparel 2/ nearly doubled in value between 1974 and 1977 (from $103.9 million to $220.4 million) (table 2). Imports from Korea, the principal supplier of leather wearing apparel to the U.S. market during the last 3 years, increased about sixteen-fold between 1974 and 1977 (from $4.6 million to $79.7 million), and accounted for two-thirds of the total growth in U.S. imports in this period. Despite Korea's loss of

1/ Maximum capacity to produce leather wearing apparel is defined as normal sustained production, at one shift per 8-hour day, 5 days per week, 50 weeks per year.

2/ Import data prior to Mar. 1, 1977 (TSUS item 791.75) have been adjusted to exclude those articles of leather wearing apparel with a chief weight of textile fabric which are subject to the provisions of the MFA. These articles are not eligible articles under the GSP. The data were adjusted by combining import data for TSUS items 791.74 and 791.76 for July-December 1977, calculating the percentage of the combined total accounted for by the two items (TSUS item 791.74--15.5 percent; TSUS item 791.76--84.5 percent), and applying those percentages to the imports entered under TSUS item 791.75 in previous years. Unless otherwise specified, all import data in this report have been adjusted in this manner.

preferential treatment under the GSP in March 1976, imports from Korea also increased between 1976 and 1977, but at a lesser rate. In 1977, Korea was the source of over one-third of all U.S. imports of leather wearing apparel. Imports from Taiwan, the second largest supplier with 12 percent of total U.S. imports, apparently were affected by that country's loss of preferential GSP treatment for this article in March 1977. Taiwanese imports declined from $29.6 million in 1976 to $27.7 million in 1977.

Uruguay was the third largest supplier of leather wearing apparel to the U.S. market in the last 2 years. Imports from Uruguay rose from $4.7 million in 1974 to $24.6 million in 1977. Uruguayan imports as a share of the total value of all U.S. imports increased from 4.6 percent in 1974 to 11.2 percent in 1977.

Table 2.--Wearing apparel not specially provided for, of leather (except reptile leather) and containing less than 50 percent by weight of cotton, wool, or manmade fibers, or any combination thereof: U.S. imports for consumption, by principal sources, 1974-77

Source	1974	1975	1976	1977
	Value (1,000 dollars)			
Republic of Korea	4,630	25,128	65,471	79,776
Republic of China	13,771	22,349	29,675	27,708
Uruguay	4,735	8,411	17,673	24,656
Argentina	5,469	2,886	9,632	18,845
Mexico	10,832	9,706	11,751	13,291
Canada	18,372	14,784	13,032	11,051
All other	46,184	47,089	52,681	45,066
Total	103,993	130,353	199,915	220,393
	Percent of total value			
Republic of Korea	4.5	19.3	32.7	36.2
Republic of China	13.2	17.1	14.8	12.6
Uruguay	4.6	6.5	8.8	11.2
Argentina	5.3	2.2	4.8	8.6
Mexico	10.4	7.4	5.9	6.0
Canada	17.7	11.3	6.5	5.0
All other	44.4	36.1	26.4	20.4
Total	100.0	100.0	100.0	100.0

Source: Derived from official statistics of the U.S. Department of Commerce as indicated in the footnote on the preceding page.

Note.--Because of rounding, figures may not add to the totals shown. Percents are calculated from the unrounded figures.

The steady rise in imports from Uruguay of leather wearing apparel, including that in chief weight of textile fiber which is not entitled to duty-free entry under the GSP but which is subject to the bounty or grants paid or bestowed by the Government of Uruguay, is shown in table 3. Uruguayan imports of leather wearing apparel in 1968 were one-tenth of one percent of all imports. Imports from Uruguay grew steadily between 1968 and 1977 and by 1977, 11 percent of all U.S. imports of leather wearing apparel came from Uruguay.

Table 3.--Leather wearing apparel (except reptile leather), not specially provided for (TSUS items 791.75, 791.74 and 791.76): U.S. imports for consumption from Uruguay and all other countries, 1968-77

Year	Total	Uruguay		All other countries	
		Value	Percent of total	Value	Percent of total
	1,000 dollars	1,000 dollars		1,000 dollars	
1968	14,319	14	0.1	14,305	99.9
1969	19,674	117	.6	19,557	99.4
1970	38,233	280	.7	37,953	99.3
1971	59,251	606	1.0	58,645	99.0
1972	91,773	1,034	1.1	90,739	98.9
1973	109,654	2,443	2.2	107,211	97.8
1974	123,066	5,602	4.6	117,464	95.4
1975	154,263	9,954	6.5	144,309	93.5
1976	236,587	20,915	8.8	215,672	91.2
1977	260,820	29,178	11.2	231,642	88.8

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

Note.--Import data shown are approximately 15.5 percent higher than shown elsewhere in the report since they include leather wearing apparel of chief weight textile fabrics subject to the MFA.

According to Commerce Department import statistics for January 1978, women's, girls', and infants' coats and jackets accounted for more than half of all imports of leather wearing apparel under TSUS item 791.76 and a slightly higher proportion of the imports from Uruguay. Less than 10 percent of the Uruguayan imports consisted of men's and boys' coats and jackets. The following tabulation shows the percentage distribution of imports by types of apparel for January 1978:

	Total	Uruguay
Coats and jackets:		
Men's and boys'	25.8	7.5
Women's, girls', and infants'	51.4	55.9
All other articles of leather wearing apparel	22.8	36.6

Incomplete data on the distribution of U.S. producers' shipments by type of apparel indicate that a much larger proportion of domestic shipments consists of men's and boys' coats and jackets.

Employment

Total U.S. employment of workers in the industry producing leather and sheep-lined clothing, as reported in official statistics, declined from 7,000 in 1972 to 6,900 in 1973, increased to 11,100 in 1974, and then dropped steadily to 9,700 in 1976. Production workers account for about 90 percent of total employment in the leather wearing apparel industry, compared with 70 to 75 percent in all manufacturing industries. Responses to Commission questionnaires indicate that employment in the firms sampled continued to decline in 1977 as did man-hours worked. The following tabulation shows the average number of production workers and man-hours worked, 1972-76, according to official statistics of the U.S. Department of Commerce:

	Production and related workers	Man-hours worked
		(1,000 hours)
1972	6,300	11,600
1973	6,000	11,100
1974	10,100	17,100
1975	8,900	16,300
1976	8,500	15,500

Union representatives stated at the public hearing that the leather wearing apparel industry is labor-intensive with predominantly unskilled labor, principally women and minorities. The workers are also within the older age groups, have lower levels of education, and relatively low annual family incomes. Employees of 16 leather wearing apparel producers have applied to the U.S. Department of Labor for trade adjustment assistance since April 1975. Of the 11 petitions on which decisions had been reached by the Labor Department as of February 28, 1978, 10 petitions involving 676 workers were certified as eligible for trade adjustment assistance and one petition involving 55 workers was denied.

Inventories

Responses to Commission questionnaires showed that yearend inventories of U.S.-made leather wearing apparel held by U.S. producers 1/ fluctuated widely between 1974 and 1977, with peak inventories in 1974 and the lowest inventory level occurring in 1977, as shown in the following tabulation:

1/ Some producers also held small quantities of imported apparel.

	Inventories (1,000 dollars)
1974	6,017
1975	3,357
1976	4,111
1977	2,564

Profit-and-loss experience

Usable profit-and-loss data were supplied by 10 firms in response to the Commission questionnaires. Net sales on all operations of these firms increased steadily from $28.6 million in 1974 to $32.5 million in 1977. The ratio of net operating profit to net sales, as well as net profits before taxes, peaked in 1975 and then declined steadily in 1976 and 1977. Two companies reported losses on all operations of their establishments in 1977. The profit-and-loss experience of the 10 firms in 1974-77 were as follows:

Type	1974	1975	1976	1977
Net sales----------1,000 dollars--	28,694	30,545	31,423	32,551
Ratio of net operating profit to net sales----------percent--	6.9	7.3	6.5	5.0
Net profits before taxes--1,000 dollars--	1,268	1,756	1,618	1,041

With the exception of one firm, leather wearing apparel operations were 80 percent or more (usually 100 percent) of all operations of the reporting firms. Trends in profitability remained the same over the 4-year period when the profit and loss data were recalculated to include just the leather wearing apparel operations of this firm.

Consideration of the Causal Relationship Between Uruguayan Imports and the Alleged Injury

Market penetration of Uruguayan imports

Data based on U.S. producers' shipments of leather wearing apparel as reported in the Annual Survey of Manufactures show that imports from Uruguay of the type of apparel that is entitled to GSP treatment increased from about 0.3 percent of apparent U.S. consumption in 1972 to an estimated 5.6 percent in 1977 (table 4). The value of producers' shipments for 1977 have been estimated based on the percentage change reported between 1976 and 1977 in responses to Commission questionnaires. The ratio of all imports to consumption rose from 31 percent in 1972 to 50.3 percent in 1977. These data probably understate the market penetration by the Uruguayan imports because U.S.

producers' shipments include some items of apparel that are not properly within the scope of this investigation. In addition, the values reported for imports reflect foreign value (e.g., value f.o.b. the foreign port of shipment) and thus are not strictly comparable with data reported for U.S. producers' shipments (wholesale values at the factory).

Table 4.--Leather wearing apparel: U.S. producers' shipments, exports, imports, and apparent consumption, 1972-77

Period	U.S. producers' shipments	Exports	Imports 1/	Imports from Uruguay	Apparent consumption	Ratio of: imports to consumption	Ratio of Uruguayan imports to consumption
	1,000 dollars	1,000 dollars	1,000 dollars	1,000 dollars	1,000 dollars	Percent	Percent
1972---	173,500	596	77,548	874	250,452	31.0	0.3
1973---	190,400	1,440	92,658	2,064	281,618	32.9	.7
1974---2/	240,000	2,658	103,993	4,735	341,335	30.5	1.4
1975---2/	258,900	2,247	130,353	8,411	387,006	33.7	2.2
1976---2/	246,200	4,479	199,915	17,673	441,636	45.3	4.0
1977---3/	220,600	2,820	220,393	24,656	438,173	50.3	5.6

1/ Import data prior to March 1977 have been adjusted to exclude those articles of leather wearing apparel not eligible for GSP treatment.

2/ Annual Survey of Manufactures data at the product-class level has a standard error of estimate of 15-17 percent.

3/ Data on value of producers' shipments for 1977 were estimated based on the percentage change reported between 1976 and 1977 in responses to Commission questionnaires.

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

Loss of sales

Domestic producers were requested to supply evidence of sales lost to Uruguayan imports. Four domestic producers cited nine former customers believed to have switched from domestically produced leather wearing apparel to Uruguayan imports. Four of the nine former customers cited import from Korea and Taiwan rather than Uruguay, three import from many sources including Uruguay, and two use Uruguay as a major source of leather garments. One of the former customers mentioned by domestic producers has increased purchases of both domestic and imported leather garments over the last 3 years.

A representative number of large domestic purchasers were asked to assess the relative importance of various factors in their purchasing decisions regarding leather wearing apparel. The numerical values assigned by these purchasers (1=poor; 5=excellent) have been weighted by the quantity of leather apparel obtained by each purchaser, and the results are shown in the following tabulation:

Factors	Imported from Uruguay	Imported from: all other countries	Produced in the United States
Quality of product	4	3	5
Style of product	3	4	5
Availability of full line of products	2	3	5
Delivery time	4	4	5
Price	4	4	4

The quality of leather apparel from Uruguay was perceived by these purchasers as being better than imports from other countries (principally Korea and Taiwan), but poorer in quality than articles produced in the United States. Style and availability of a full line of products were ranked lower for Uruguayan articles than for all other imports or domestically produced articles. Although all three sources of leather wearing apparel received the same rating on price, data submitted by the purchasers indicate that articles imported from Uruguay have a lower unit value than those imported from other sources or produced in the United States.

Prices

Domestic producers and importers from Uruguay were requested to supply semiannual price data for 3 years for two items, a man's jacket and a woman's coat. The largest shipments occurred in July-December for both groups. The net selling prices for the largest shipments of the U.S.-produced and imported items in 1975-77 were as follows:

Item	1975	1976	1977
Man's jacket: 1/			
U.S.-made	$44.63	$48.42	$51.23
Imported from Uruguay	52.91	53.24	51.30
Woman's coat: 2/			
U.S.-made	72.47	76.47	81.53
Imported from Uruguay	57.00	53.73	47.52

1/ Soft-grain cowhide, approximately 32 inches in length, pigment finish, button front, unbelted, untrimmed, and rayon lined.

2/ Soft-grain cowhide, approximately 45 inches in length, pigment finish, button front, belted with buckle, notched collar, untrimmed, and acetate lined.

The domestic price for the specified man's jacket was less than that for a comparable jacket from Uruguay in all years; however, by 1977 the gap between the two sets of prices had narrowed to a few cents as more men's outerwear was exported from Uruguay. Price comparisons for the specified type of woman's coat are more meaningful since woman's outerwear has been a large part of Uruguayan exports over the period under investigation. The price for the Uruguayan coat was significantly lower than that of a domestically produced coat in all 3 years.

APPENDIX A

NOTICES OF INVESTIGATION AND HEARING

NOTICES

[7020-02]

[303-TA-2]

LEATHER WEARING APPAREL FROM URUGUAY

Investigation, Hearing, and Request for Written Views

Having received advice from the Department of the Treasury on January 24, 1978, that a bounty or grant is being paid with respect to leather wearing apparel imported from Uruguay, entered under item 791.7600 of the Tariff Schedules of the United States and accorded duty-free treatment under section 501 of Title V (Generalized System of Preferences) of the Trade act of 1974, the United States International Trade Commission on February 3, 1978, instituted investigation No. 303-TA-2 under section 303(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(b)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held in New York City, beginning at 9:30 a.m., e.s.t., on Tuesday, March 14, 1978. The place of the hearing will be announced later. All interested persons will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be addressed to the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and should be received not later than noon Thursday, March 9, 1978.

Written statements. In addition to, or in lieu of, an appearance at the hearing, interested persons are requested to submit to the Commission, in writing, any information pertinent to 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 the subject wearing apparel. Written statements should be addressed to the Secretary of the Commission at the Commission's office in Washington, D.C., and should be submitted not later than March 17, 1978.

Issued: February 6, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-3726 Filed 2-8-78; 8:45 am]

[7020-02]

[303-TA-2]

LEATHER WEARING APPAREL FROM URUGUAY

Place of Public Hearing

Notice is hereby given that the public hearing in this matter scheduled to begin at 9:30 a.m., e.s.t., on Tuesday, March 14, 1978, in New York City, will be held in the auditorium of the United States Mission to the United Nations, 799 U.N. Plaza, 45th Street and First Avenue, New York, N.Y. (please use 45th Street entrance). Requests for appearance should be filed with the Secretary of the United States International Trade Commission, in writing, at his office in Washington, D.C., not later than noon, Thursday, March 9, 1978.

Notice of the investigation and hearing was published in the FEDERAL REGISTER of February 9, 1978 (43 FR 5593).

Issued: February 23, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-5413 Filed 2-28-78; 8:45 am]

<u>Federal Register</u>, March 1, 1978
(43 F.R. 8306)

<u>Federal Register</u>, February 9, 1978
(43 F.R. 5593)

APPENDIX B

TREASURY DEPARTMENT'S NOTICES CONCERNING ITS COUNTERVAILING DUTY INVESTIGATION

LEATHER WEARING APPAREL FROM URUGUAY

Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: United States Customs Service, Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been started for the purpose of determining whether or not benefits are paid by the Government of Uruguay to manufacturers/exporters of leather wearing apparel which constitute the payment of a bounty or grant within the meaning of the U.S. countervailing duty law. A preliminary determination will be made not later than July 21, 1977, and a final determination no later than January 21, 1978.

EFFECTIVE DATE: On January 21, 1977, this investigation was initiated.

FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, Duty Assessment Division, Office of Operations, U.S. Customs Service, Washington, D.C. 20220, 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on January 21, 1977, alleging that benefits conferred by the Government of Uruguay upon the manufacture, production or exportation of leather wearing apparel from Uruguay constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

The leather wearing apparel specified in the petition is classifiable under item 791.7600 of the Tariff Schedules of the United States Annotated (TSUSA). Leather wearing apparel from Uruguay is eligible for duty free entry under the Generalized System of Preferences. In the event that it becomes necessary to refer this matter to the United States International Trade Commission pursuant to section 303(a)(2), Tariff Act of 1930, as amended, (19 U.S.C. 1301(a)(2)), there is evidence on record concerning injury to, or likelihood of injury to, or prevention of the establishment of an industry in the United States.

Pursuant to section 303(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1303 (a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition. Therefore, a preliminary determination on this petition will be made no later than July 21, 1977, as to whether or not the alleged payments or bestowals conferred by the Government of Uruguay upon the manufacturer, production, or exportation of the merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than January 21, 1978.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and § 159.47(c), Customs Regulations (19 CFR 159.47(c)).

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: April 19, 1977.

JOHN H. HARPER,
Acting Secretary of the Treasury.

[FR Doc.77-12046 Filed 4-26-77;8:45 am]

Federal Register, April 27, 1977
(42 F.R. 21531-32)

LEATHER WEARING APPAREL FROM URUGUAY

Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary countervailing duty determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of Uruguay has given benefits which are considered to be bounties or grants on the manufacture or exportation of leather wearing apparel. A final determination will be made by January 21, 1978. Interested persons are invited to comment on this action.

EFFECTIVE DATE: July 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, Duty Assessment Division, Office of Operations, U.S. Customs Service, Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On April 27, 1977, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (42 FR 21531). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of Uruguay upon the manufacture, production, or exportation of leather wearing apparel constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

On the basis of an investigation conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.47 (c)), it tentatively has been determined that benefits have been received by the Uruguayan manufacturers/exporters of leather wearing apparel which may constitute bounties or grants within the meaning of the Act. These benefits include the granting to maufacturers and exporters tax certificates upon export, income tax reductions on certain export related income, and preferential financing for export.

Programs tentatively determined not to be bounties or grants within the meaning of the Act include the exemption from the value added tax upon exportation, and the rebate of import duties paid on raw materials used in the production of leather wearing apparel to be exported.

Programs found not to be applicable to the leather wearing apparel manufacturers and exporters include government sponsored export credit insurance, a tax holiday for new industries, and benefits for locating within certain free ports and zones.

Before a final determination is made, consideration will be given to any relevant data, views or arguments submitted in writing with respect to this preliminary determination. Submission should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than August 26, 1977.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C 1303(a)).

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: July 21, 1977.
HENRY C. STOCKELL, Jr.,
Acting General Counsel.

[FR Doc.77-21531 Filed 7-26-77;8:45 am]

Federal Register, July 27, 1977
(42 F.R. 38251)

[4810-22]

Customs Service

LEATHER WEARING APPAREL FROM URUGUAY

Final Countervailing Duty Determination

AGENCY: Customs Service, U.S. Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that an investigation has resulted in a determination that the Government of Uruguay has given benefits considered to be bounties or grants within the countervailing duty law to manufacturers who export leather wearing apparel to the United States. Since this merchandise is duty-free, the case is being referred to the U.S. International Trade Commission for an injury determination. However, should the Commission's determination be affirmative, the Treasury would consider it appropriate to waive countervailing duties, based upon the criteria established by the Trade Act of 1974, including the actions taken and to be taken by the Government of Uruguay to reduce significantly the bounty or grant.

EFFECTIVE DATE: January 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On July 27, 1977, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (42 FR 38251). The notice stated that it preliminarily had been determined that benefits had been received by the Uruguayan manufacturers/exporters of leather wearing apparel which may constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act"). The benefits preliminarily determined to be bounties or grants were:

(1) Income tax exemptions on certain export-related income;

(2) Preferential financing for exports; and

(3) The granting of tax certificates, known as "reintegros," to manufacturers of leather wearing apparel, upon the exportation of the goods.

The rebate of value-added taxes upon export of goods and a rebate of import duties paid on raw materials used in the production of leather wearing apparel for export has been determined not to constitute a bounty or grant within the meaning of the Act.

Programs found not to have been utilized by the leather wearing apparel industry included government-sponsored export insurance, a tax holiday for new industries, and benefits for locating within certain free ports and zones.

The notice offered interested parties an opportunity to submit any relevant data, views or arguments in writing with respect to the preliminary determination in time to be received not later than August 26, 1977.

Subsequent investigation lead to the conclusion that the subsidy granted to the tanners upon the exportation of the finished leather wearing apparel constitute a bounty or grant within the meaning of the Act. Based on present information available, however, the tanners' subsidy serves to make Uruguayan tannery prices equal with neighboring country competition, which is readily available to leather wearing apparel manufacturers in Uruquay. Thus the net effect of the bounty or grant is zero since the cost of producing leather wearing apparel absent the subsidy would not be increased due to lower prices available from neighboring countries.

In addition, the effect of the export subsidy is offset by certain fiscal charges which are indirect taxes that are directly related to the exported leather wearing apparel. These taxes are not rebated on export, and under the Act would be eligible for rebate and thus act to reduce the effective export benefit. Such taxes include:

(1) Export taxes charged on the value of the leather wearing apparel plus a tax on the value of the export rebate certificates;

(2) Value-added taxes that are charged in manufacturing the leather wearing apparel (the Government of Uruguay generally rebates 75 percent of value-added taxes paid);

(3) Taxes on agricultural transactions which in this case involve a 4-percent tax on the value of the hide purchased by the tanner; and

(4) Import taxes and other special taxes which are assessed on the non-leather items of the leather apparel.

Finally, the export benefit is reduced due to a regular devalution of the peso to the dollar since the certificate tendering the benefit is not received before 90 days after application has been made for it.

After consideration of all information received, it is hereby determined that leather wearing apparel from Uruguay is subject to bounties or grants within the meaning of section 303 of the Act. The bounties or grants are in the form of the payments referred to in the preliminary determination, taking into account the offsets described in this notice. The net amount of the bounty or grant has been estimated and determined to be

Federal Register, January 30, 1978
(43 F.R. 3974-75)

approximately 12 percent of the f.o.b. price for export to the United States of leather wearing apparel from Uruguay.

Further, the leather wearing apparel subject to this determination is classified under item 791.7600 of the Tariff Schedules of the United States, Annotated (TSUSA), and is entered duty-free pursuant to the U.S. Generalized System of Preferences, authorized by Title V of the Trade Act of 1974 (19 U.S.C. 2461-2465, 88 Stat. 2066-2071).

In accordance with sec. 303(a)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2), countervailing duties may not be imposed upon any article of merchandise which is free of duty in the absence of a determination by the U.S. International Trade Commission that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such article or merchandise into the United States.

Accordingly, the U.S. International Trade Commission is being advised of this determination and the liquidation of entries, or withdrawals from warehouse, for consumption of the duty-free leather wearing apparel in question will be suspended pending the determination of the Commission.

Should the determination of the Commission be affirmative, the Treasury would consider it appropriate to waive countervailing duties under section 303(d) of the Act. The Government of Uruguay is committed to the total removal of the net bounty derived from the tax rebate certificate program (reintegro) for all leather products, except tanned leather, between January 1, 1978 and January 1, 1979. A 50-percent reduction in the effective bounty was accomplished December 29, 1977. A 50-percent reduction in the remaining effective export subsidy will be made on or before July 1, 1978, with total elimination accomplished on or before January 1, 1979. These actions will have the effect of removing almost completely the effective bounty or grant, thus satisfying the first waiver criteria under section 303(d) of the Act. Based on the very active role of the developing countries in the Multilateral Trade Negotiations in Geneva, combined with progress that is being made to negotiate agreements eliminating non-tariff barriers to trade, the remaining criteria governing the waiver provision would appear to be satisfied.

Effective on or after January 30, 1978, and until further notice, upon the entry for consumption of withdrawal from warehouse for consumption of such duty-free leather wearing apparel, liquidation will be suspended pending the determination of the U.S. International Trade Commission.

Pursuant to Regoranization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provisions of Treasury Department Order No. 165, Revised November 2, 1954, and section 159.47(d) of the Customs Regulations (19 CFR 159.47(d)), insofar as they pertain to the issuance of a countervailing duty order by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

JANUARY 24, 1978.

[FR Doc. 78-2468 Filed 1-27-78; 8:45 am]

APPENDIX C

TREASURY DEPARTMENT'S LETTER TO THE
COMMISSION OF JANUARY 24, 1978

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

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JAN 24 1978

DOCKET NUMBER

#492

Office of the Secretary Int'l Trade Commission

Dear Mr. Chairman:

In accordance with section 303(b) of the Tariff Act of 1930, as amended, you are hereby advised that a bounty or grant is being paid with respect to leather wearing apparel imported from Uruguay and entered under TSUS item number 791.7600, which merchandise from said country is accorded duty-free treatment under section 501 of the Generalized System of Preferences (Title V) of the Trade Act of 1974.

The U.S. Customs Service will make available to the U.S. International Trade Commission as promptly as possible its files on the instant bounties or grants being paid or bestowed for the Commission's use in the investigation as to whether an industry in the U.S. is being, or likely to be injured, or is prevented from being established, by reason of the importation of this merchandise into the United States.

In this connection, your attention is drawn to a statement on page 5 in the attached notice indicating the Treasury's belief that it is appropriate to waive countervaling duties on this item under section 303(d) in the event the Commission's decision is affirmative. Extensive conversations were held with Uruguayan Government officials in October 1977, which led to a formal commitment on their part to totally eliminate the effective export subsidy on all leather items exported from Uruguay. Such elimination is to be accomplished by a 50-percent reduction in the effective subsidy on January 1, 1978 (such action occurred on December 29, 1977); a 50-percent reduction in the remaining export subsidy on or before July 1, 1978, and total elimination on or before January 1, 1979. On the basis of these actions, the Treasury is waiving countervailing duties on imports of dutiable non-rubber footwear and leather handbags from Uruguay which were also the object of countervailing duty investigations by the Treasury. We are of the opinion that these actions provide a basis to waive for leather wearing apparel.

Since some of the data in this file is regarded by the Customs Service to be of a confidential nature, it is requested that the U.S. International Trade Commission consider all information therein contained for the official use of the U.S. International Trade Commission only, and not to be disclosed to others without prior clearance with Customs.

Sincerely yours,

Robert H. Mundheim
General Counsel

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

Attachment