

FROZEN FRENCH FRIED POTATOES FROM CANADA

**Determination of the Commission
in Investigation No. 731-TA-93
(Preliminary) Under the Tariff Act
of 1930, Together With
the Information Obtained
in the Investigaton**

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Data which would disclose confidential operations of individual concerns may not be published and therefore have been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

Investigation No. 731-TA-93 (Preliminary)
FROZEN FRENCH FRIED POTATOES FROM CANADA

Determination

On the basis of the record 1/ developed in investigation No. 731-TA-93 (Preliminary), the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, 2/ 3/ 4/ by reason of imports from Canada of frozen french fried potatoes, as provided for in item 141.86, of the Tariff Schedules of the United States (TSUS), which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On April 30, and May 3, 1982, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce, respectively, by counsel on behalf of McCain Foods, Inc., Washburn, Maine. The petition alleged that frozen french fried potatoes imported from Canada are being, or are likely to be, sold in the United States at less than fair value (LTFV). Accordingly, the Commission instituted a preliminary investigation under section 733(a) of the Tariff Act of 1930 to determine

1/ The "record" is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (47 F.R. 6190, Feb. 10, 1982).

2/ Commissioner Michael J. Calhoun determines that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of frozen french fried potatoes which are allegedly sold or likely to be sold at less than fair value.

3/ Commissioner Frank determined that there is a reasonable indication that an industry in the United States is materially injured.

4/ Commissioner Alberger did not participate.

whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded 1/ by reason of the importation of such merchandise into the United States.

Notice of the institution of the Commission investigation and of the conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register on May 12, 1982 (47 F.R. 20396). The conference was held in Washington, D.C. on May 25, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission voted on this case in public session on June 8, 1982.

1/ Material retardation of the establishment of an industry was not raised as an issue in this investigation.

VIEWS OF CHAIRMAN ALFRED E. ECKES, AND COMMISSIONERS PAULA STERN,
MICHAEL J. CALHOUN, AND VERONICA A. HAGGART

We have found that there is no reasonable indication that a domestic industry is materially injured or is threatened with material injury 1/ 2/ by reason of imports of frozen french fried potatoes from Canada which are allegedly being sold or likely to be sold at less than fair value (LTFV). Our determination in the present case is based on the considerations set forth below.

Domestic industry

In order to make a determination as to whether there is a reasonable indication that a domestic industry is materially injured or is threatened with material injury, we must first define the domestic industry. 3/ The domestic industry consists of the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product. A like product is defined as a product which is like or, in the absence of like, most similar in characteristics and uses with the article under investigation. 4/

The imported product which is the subject of this investigation is frozen french fried potatoes (hereinafter referred to as frozen french fries) from Canada. The vast majority of frozen french fries imported from Canada are

1/ Inasmuch as there is a domestic industry producing frozen french fries, the material retardation of the establishment of an industry is not an issue in this investigation.

2/ Former Chairman Alberger whose term expired on June 16, 1982, did not participate in the determination.

3/ Section 771(4)(A) of the Tariff Act of 1930.

4/ Id.

produced by Cavendish Farms, Moncton, New Brunswick. Cavendish informed the Commission that it produces and exports two grades of frozen french fries to the United States, the Cavendish Brand, Canada fancy grade (similar to U.S. Grade A, long) and the Scotch Maid Brand, Canada choice grade (similar to U.S. Grade B). 5/ Both the Cavendish grades are produced from potatoes from the same fields and processed by the same people. There is testimony on the record that they are interchangeable. 6/

Frozen french fries produced in the United States are sold in three different grades: U.S. Grade A, extra long; U.S. Grade A, long; and, U.S. Grade B. 7/ The petitioner, McCain Foods, Inc., Washburn, Maine, (hereinafter referred to as McCain), 8/ has requested that the Commission define the like product narrowly, i.e., to include only the french fries sold to food service distributors, excluding those sold to fast food chains and to retail supermarket chain stores. McCain claims that french fries which are suitable for sale to the food service market and retail supermarket chain stores do not meet the specifications for the fast food chains. McCain also alleges that there are different types of products based upon length, color, and texture. 9/ McCain also claims that the imported french fries are in direct competition with its Snowflake label, and distinguishes the Snowflake french

5/ Report p. A-2.

6/ Transcript of Public Conference, May 25, 1982 (hereinafter Tr.) at p. 68.

7/ Report A-2.

8/ The petitioner is McCain Foods, Inc., Washburn, Maine and is a wholly owned subsidiary of McCain Foods, Ltd., of Florenceville, N.B., Canada. Report at A-6.

9/ Tr. 68.

fries from its other french fries based upon both market destination and the size of its packaging. 10/

McCain processes frozen french fries and potato byproducts and considers the frozen french fry market to be made up of three different submarkets. 11/ These submarkets consist of the retail market; the restaurant and fast food chains; and, the food service distributors (which supply corner diners, sub-shops, hotels and restaurants). The petitioner describes the potatoes sold to the three submarkets in the following terms:

- a) Retail market: potatoes sliced in narrow sizes and types ranging from nine ounces to a five-pound bag with cooking instructions.
- b) Restaurant fast food chain: a very sophisticated operation with specifications which usually exceed USDA standards. Petitioner claims that this production differs completely from the retail market.
- c) Food service distributor - This market requires a five-pound bag and several different cuts made to specifications which are less stringent than those for fast food operators.

The imports which are the subject of this investigation are sold to distributors who sell both grades of imported french fries to the three submarkets delineated by petitioner. 12/ AKF does sell its french fries to the retail market as well as to food service distributors. 13/ These facts rebut McCain's argument that there are distinct types of potatoes sold to the three submarkets described by petitioner.

The information Petitioner has presented is not a relevant basis upon which to find a distinction between the imported and domestic french fries

10/ Report A-2.

11/ Tr. 66.

12/ Report A-2.

13/ Tr. 52.

for the purpose of defining the like product. The Petitioner's assertion that french fries sold to fast food chains and supermarkets should be eliminated from this investigation is based on a classification of the petitioner's customers rather than the characteristics and uses of the imported product. Minor differences in physical characteristics do not support the conclusion that there is more than one like product. Therefore, the like product consists of all frozen french fries produced in the United States.

Regional industry

McCain has requested that the Commission base its finding on a regional industry analysis. McCain argues that the region consists of the following northeastern states: Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, and Pennsylvania. 14/ The statute, Section 771(4)(C) of the Tariff Act of 1930, does not require the Commission to conduct a regional analysis. Therefore, any such analysis is discretionary. 15/

The statutory criteria for such a finding of regional industry are:

- (1) The producers within such market must sell all or almost all of their production of the like product in such market.

14/ The regional industry would consist, therefore, of the four producers located in the northeast region: AKF Foods Inc., d/b/a Potatoe Service Inc.; McCain Foods Inc., Interstate Food Processing Corp., and L. & S. Sales, Inc.

15/ In cases where the Commission finds that there is a regional industry, Section 771(4)(C) provides that "In appropriate circumstances . . . the producers within each market may be treated as if they were a separate industry . . ." (emphasis added). Commissioner Stern notes that the Commission exercises discretion in making a regional industry determination even in cases where the literal statutory elements for such a determination have been demonstrated. See Sugars and Sirups from Canada, Inv. No. 731-TA-3 (Final), Views of Commission Paula Stern, at p. 18.

(2) The demand in such market is not to a substantial degree supplied by producers located elsewhere in the United States.

(3) The dumped imports are concentrated in the regional market. 16/

Section 771 (4)(C) requires that the producers within a regional industry must sell all or nearly all of their products within the region. Responses to the Commission's questionnaires indicate that the producers in the northeast are shipping the product under investigation outside the region. Approximately one third of the total domestic shipments of the two largest producers in the northeast region were shipped outside the region in 1981. 17/ One of these two regional producers shipped approximately half of its domestic shipments outside of the region in 1981. 18/

With respect to the second criterion to be considered, there is information on the record that a substantial portion of the demand in the northeastern region for frozen french fried potatoes is served by producers outside the region. Combined shipments of AKF, McCain, and Interstate amounted to only a modest proportion of estimated apparent consumption in the northeast region in 1981. 19/ The record also indicates that reporting U.S. producers outside the northeast region shipped more frozen french fries into the region during the 1979-81 period than McCain shipped in the region during the same period. In fact, reporting U.S. producers outside the northeast region accounted for over 30 percent of reported domestic shipments in the northeast region in 1981 and January-March of 1982.

16/ In those cases in which the Commission has made a finding of regional industry, Commissioners have outlined factors constituting appropriate circumstances for exercising the discretionary finding. See views of Chairman Alberger, Vice Chairman Calhoun and Commissioner Stern in Certain Steel Wire Nails from the Republic of Korea, Inv. No. 731-TA-26.

17/ Report table 3.

18/ Report A-10.

19/ Report A-14.

Because the imposition of anti-dumping duties would affect imports of frozen french fried potatoes from Canada throughout the U.S., the statute requires that there must be a concentration of the alleged LTFV imports in the region. There is information on the record that a concentration of imports does enter the region, but that the imports are shipped directly to consignees outside the region 20/ and, therefore, do not compete for sales within the region.

For the foregoing reasons we find that there is no regional industry in this investigation. Consequently, we must examine the condition of the entire domestic industry.

National industry

Since there is no regional industry, our analysis focuses on all the domestic producers of the like product. There are approximately 20 producers of frozen french fries in the United States, with a concentration of facilities in Idaho, Oregon, and Washington. 21/ Although the Commission did send questionnaires to all known U.S. producers of frozen french fries, the response was negligible. 22/ Therefore, the Commission was forced to rely on published data for information regarding the national industry. The lack of response of the national industry despite numerous requests from the Commission seems to indicate that it is not being materially injured or threatened with material injury by reason of imports from Canada.

20/ Report A-14.

21/ Report at p. A-3.

22/ Report at A-11. Of the 23 questionnaires sent, only 6 domestic producers responded. These producers account for an estimated 19 percent of total U.S. production in 1981.

No reasonable indication of material injury

On a national basis, market penetration of these imports from Canada remained stable in 1979 and 1980 and then rose slightly in 1981. It has remained below one percent each year during the period under investigation. 23/ The ratio of imports to consumption was less than half of one percent during the period 1979 through 1981. Production of frozen french fries declined from 3.5 billion pounds in 1979 to 3.2 billion pounds in 1980, and then increased to nearly 3.6 billion pounds in 1981. 24/ Although the response to the Commission's questionnaires was not sufficient for a pricing comparison, we note that the U.S. Bureau of Labor Statistics Producers' Price Index for French Fried Potatoes and Frozen Vegetables for the period 1978 to March 1982 demonstrates a steady rise in the price of french fried potatoes each year.

While the Commission has already disposed of the regional industry contention, there are several factors which indicate that were the northeast region to be considered separately, imports of frozen french fries from Canada are neither causing material injury nor threatening the producers in this region with material injury. Cavendish's exports of frozen french fries to the northeast market declined during the 1979-81 period. 25/ The estimated market penetration in the northeast market of the alleged LTFV imports declined by nearly half from 1979 to 1981.

McCain indicated in its petition that only the alleged LTFV imports from Cavendish Farms were causing injury to the U.S. producers. 26/ In the

23/ Report at p. A-19.

24/ Report at p. A-12. A shortage of raw potatoes was given by industry sources as the reason for the decline in production in 1980.

25/ Id. at p. 21.

26/ Report at p. A-24.

northeast region, AKF and McCain accounted for the largest percentage of frozen french fried potato production. They have experienced irregular increases in production since 1979.

McCain alleged that it lost sales at six firms to Cavendish during 1979-81. 27/ The Commission contacted five of these purchasers, but was able to confirm a lost sale on the basis of price in one instance. The other purchasers contacted indicated that the imported french fries were superior to the domestic product. 28/ AKF also claimed lost sales to six purchasers. The Commission contacted four of those firms. It should be noted that one of the firms contacted indicated that it buys from McCain (Maine) because of its low prices. 29/ That firm did not purchase Canadian potatoes. The three remaining purchasers stated that they do not buy any imported products.

No reasonable indication of threat of material injury

In examining threat of material injury, the Commission is directed to look at the likelihood of a particular situation developing into actual material injury. 30/ In this regard, "the rate of increase of the . . . dumped exports to the U.S. market, capacity in the exporting country to generate exports, [and] the likelihood that such imports will be directed to the U.S. market taking into account the availability of other export markets," are important factors for the Commission to examine. 31/

27/ Report at 24.

28/ Report at p. 28.

29/ Id.

30/ Senate Report No. 96-249, 96th Cong., 1st Sess. (88-89) 1979.

31/ Id at 47.

During the 1979-81 period, Cavendish's production of and capacity to produce frozen french fries declined. 32/ Its capacity has decreased since the Commission's 1980 investigation of frozen potato products from Canada. 33/ In the prior investigation on frozen potato products, the Commission found that McCain Foods, Ltd., Canada's largest potato processor, accounted for almost half of Canadian capacity to produce frozen french fries in 1978. 34/ This company does not export to the United States. Information obtained during the current investigation indicates that Cavendish will increase its percentage of exports to countries other than the United States. 35/

Conclusion

For all of the above reasons, we find that there is no reasonable indication of material injury or threat of material injury to the domestic industry.

32/ Report at 27.

33/ Id.

34/ Inv. No. 701-TA-3 at p. 14.

35/ Cavendish Brief at p. 29.

VIEWS OF COMMISSIONER EUGENE J. FRANK

Affirmative - Material Injury

On the basis of the record in investigation No. 731-TA-93 (Preliminary), I determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of frozen french fried potatoes from Canada which are allegedly sold at less than fair value.

Overview

First, I would like to note that the statute and legislative history in title VII investigations require the Commission in its preliminary determinations for both antidumping and countervailing duty investigations to exercise only a low-threshold test based upon the best information available to it at the time of such determination that the facts reasonably indicate that an industry in the United States could possibly be suffering material injury, threat thereof, or material retardation. 1/

The 45-day preliminary injury determination compressed time period was, in my view, intended by Congress to screen out those petitions where it was readily apparent, albeit based on a necessarily incomplete record, that there was no indication of possibly establishing injury even with adequate time, a thorough and fully developed investigation and record, and comprehensive hearing before the Commission. As Chairman Alberger stated in testimony on November 12, 1981, before the House Ways and Means Trade Subcommittee:

The 'reasonable indication of material injury' standard is low enough that it does not force domestic industries to present more than a prima facie case before there is a full adjudication.

Such a standard applies equally to antidumping and countervailing duty investigations inasmuch as the statutory language is the same and given the

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1/ H.R. Report No. 96-317, 96th Cong., 1st Sess., p. 52 (1979).

intent of Congress for the ITC to follow the same general practices in both the antidumping and subsidy cases.

Of course, it is important to keep in mind that the Tariff Act of 1930 and its legislative history are quite clear that the "material injury" to be ascertained in these investigations is defined to mean harm which is "not inconsequential, immaterial, or unimportant". 1/ Section 771(7)(B) of the Act provides factors the Commission shall consider, among other factors:

- (i) the volume of imports of the merchandise which is the subject of the investigation,
- (ii) the effect of imports of that merchandise on prices in the United States for like products, and
- (iii) the impact of imports of such merchandise on domestic producers of like products. 2/

Within the context of evaluating the volume of imports of the merchandise which is subject to the investigation and its effect on prices, in assessing impact in the affected industry, the language of the statute makes it clear that economic factors cited therein are not all-inclusive to wit: ". . .the Commission should evaluate all relevant economic factors which have a bearing on the state of the industry, including but not limited to-. . ." 3/

Legislative history on this point is also quite clear:

In determining whether an industry is materially injured, as that phrase is used in the bill, the ITC will consider, to the extent permitted by information submitted to it in a timely manner, the factors set forth in section 771(7)(C) and (D) together with any other factors it deems relevant. 4/

1/ Report on H.R. 4537 of the Senate Committee on Finance, p. 88.

2/ 19 U.S.C. § 1677 (7)(B).

3/ 19 U.S.C. § 1677 (7)(C).

4/ Report on H.R. 4537 of the Senate Committee on Finance, p. 88.

There is also recognition in the Statute and legislative history that discretion necessarily must be given to the Commission to determine the significance to be assigned to a particular factor within the framework of other facts of each specific case.

Neither the presence nor the absence of any factor listed in the bill can necessarily give decisive guidance with respect to whether an industry is materially injured, and the significance to be assigned to a particular factor is for the ITC to decide. 1/

It is expected that in its investigation the Commission will continue to focus on the conditions of trade, competition, and development regarding the industry concerned. 2/

A word on the issue of causation is pertinent, because I feel there is some misunderstanding about just what is required by law in this crucial area in these preliminary investigations. The causation element is that material injury must be "by reason of" the subsidized or less-than-fair-value imports: the linkage language "by reason of" directing an examination of the effects of such imports on the domestic industry. Legislative history makes it clear that Congress did not intend for the Commission, in examining whether a causal link exists, to weigh the injury which might be incurred from such imports against other factors which may be contributing to the overall injury to an industry, although the Commission should take into account evidence alleging that such harm which was attributed to such imports was attributable to other factors. Moreover, the petitioner is not required to "bear the burden of proving the negative" that material injury is in fact not caused by such other factors. Further, the Commission is not required to make any precise

1/ Id., and 19 U.S.C. § 1677(7)(E).

2/ Senate report, p. 88.

mathematical calculations with respect to the harm associated by other factors. 1/ Finally, to quote directly from the House Report:

In short, the Committee does not view overall injury caused by unfair competition, such as dumping, to require as strong a causation link to unfairly competitive imports as would be required for determining the existence of injury under fair trade conditions. 2/

I would like to emphasize an important point, namely, that the Commission's charge in these preliminary investigations in evaluating the impact of alleged unfair imports, within the framework of the aforementioned discretion accorded it in analyzing relevant factors and establishing a causation link, must be undertaken within the less rigorous standard that the facts on the record and information available to it reasonably indicate that the affected domestic industry could possibly be suffering material injury, threat thereof, or material retardation. 3/

This less rigorous standard which was, as I have said earlier, intended by Congress in my view to be applied in a 45-day compressed time frame to screen petitions devoid of any merit where there was no indication of possibly establishing injury even with adequate time, must be applied with caution and equity, not in an arbitrary or capricious fashion, with the reasons set forth adequately documented.

Reasons for Affirmative Determination of Material injury

The basic reasons for my determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of frozen french fried potatoes from Canada which are allegedly sold at less than fair value are the following:

1/ Report of the House Ways and Means Committee on H.R. 4537, p. 47.

2/ Id.

3/ Having found a reasonable indication of material injury by reason of these imports in this investigation, I did not reach the issue of threat.¹⁵

1. Potatoes are generally "generic" and can be considered essentially to have "one overall demand" despite the fact that one segment of the potato market may be growing faster than other segments of the potato market, and prices for different types or styles of potatoes may vary significantly. The price of potatoes depends upon many factors such as: supply, weather, transportation costs, substitute non-potato foods, consumer diet or purchasing patterns, economic conditions, plant efficiencies, promotional costs and efforts, new uses, research and development achievements, productivity in plants or fields or yields, fertilizer costs, energy costs, packaging costs, U.S. or State governments' or foreign governments' agricultural-economic-social and other programs, buyer strength and purchasing power, marketing structures, alternative or opportunity cost beliefs or analyses, availability and utilization of transportation or other equipment and rates or price of other flexibilities of non-governmental sectors, financing or credit terms availabilities, ownership relationships within the industry. These are some of the factors which must be considered. What penetration or market shares or economies of scale or plant location criteria are to be applied is another matter. What market tactics or targets are chosen is important. What knowledge is there of what prices are offered or accepted and what does this do to the price frozen french fried potato processors are able to obtain from various types of customers or in certain markets? Frozen french fried potato processing plants operate based on certain breakeven or marginal unit levels. These levels vary from processor to processor and plant to plant of the same processor. Volume changes, even though slight, impact different processors differently, and this U.S. frozen french fried potatoes industry can be harmed significantly when one or several of these U.S. processors are materially

harmd by imports of frozen french fried potatoes from Canada which are alleged to be sold at less than fair value.

Based upon the U.S. Department of Commerce determination of sufficiency of the petitioner's application, my own review of the best available price data in this 45-day preliminary investigation, opinions in previous investigations 1/, the above mentioned and related factors, product quality considerations and price relationships, regional market analyses and criteria 2/ cumulative impacts, and other factors which when combined or cumulated render reasons to find a reasonable indication that an industry is materially injured from alleged less than fair value U.S. imports of Canadian frozen french fried potatoes. I believe this investigation is not frivolous, and should be allowed to continue in the form of a final investigation.

My following statements represent major portions of my preliminary investigation conclusions which I include in this opinion:

- a. A low-threshold criteria should apply to this preliminary investigation.
- b. I do not find a regional industry based on criteria which I believe apply to regional industries. 3/
- c. I find a relatively inelastic demand for potatoes in general and a cyclical demand for frozen french fried potatoes. I find incremental changes downward in production can influence profits, especially when other costs are rising and national demand levels are static or declining or rising only slowly.

1/ Based in part on portions of the analysis as expressed in "Views of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, and Commissioner Alfred Eckes", "Sugars and Sirups from Canda," Second Redetermination of Material Injury in Investigation No. 731-TA-3 (Final) under the Tariff Act of 1930, May 1982, pp. 5-7, and "Views of Commissioner Eugene J. Frank " "Chlorine from Canada" Determination of the Commission in Investigation No. 731-TA-90 (Preliminary) under the Tariff Act of 1930, May 1982, pp. 19-20.

2/ "Statement of Reasons of Vice Chairman Bill Alberger and Commissioner Calhoun" "Sugars and Sirups from Canada" Determination of Material Injury in Investigation No. 731-TA-3 (Final) under the Tariff Act of 1930, March 1980, pp. 3-5 and other sources.

- d. I do not reach the issues of threat or retardation of an industry as shown in footnote 1/ following the second from last paragraph of my Overview section above.
- e. I find concentration of imports of Canadian frozen french fried potatoes price impacts and volume increases reflected in the first quarter of 1982 in particular and to a lesser extent in other quarters or years. I do not find it necessary that a protracted number of quarters or years be observed to determine in this preliminary investigation that there is a reasonable indication of material injury by reason of imports from Canada of frozen french fried potatoes which are allegedly sold at less than fair value.
- f. I find other factors besides Canadian exports of frozen french fried potatoes are responsible for a declines in price, production or profits in this industry in the United States. These include the cyclical changes and other changes referred to in this point number 1. Some of these changes may relate to forward contracts to purchase potatoes from farmers or others, or to spot prices, and the timing and prices paid as reflected in these contract and processor management decisions.
- g. I find that certain frozen french fried potatoes were being shipped into the United States in a large measure by Cavendish Farms, but the staff of the U.S. International Trade Commission which handled the research in this preliminary investigation advised me and my involved staff that they could not identify what quality of Canadian frozen french fried potatoes relative to U.S. frozen french fried potatoes actually entered primarily into the Northeastern United States area. These unknown quality Canvendish frozen french fried potatoes competed with this local area and Northwestern U.S. area processed frozen french fried potatoes. I certainly contend: How can a low threshold not be applied in this preliminary investigation when the quality is unknown? Hence, the proper price is really unknown. Hence, there could be either a justified or an alleged less than fair value price charged. Certainly this preliminary investigation should not be aborted by such lack of data and action on incomplete data. The burden of such proofs or evidence should not rest upon the petitioner. The petitioner has already indicated several lost sales which were confirmed by Commission staff as a reasonable indicator of being one of the factors causing price suppression or price depression.
- On page A-28 in the Lost Sales section of the Report, it states:
 * * * purchasing companies advised that imported frozen french fries from Cavendish are superior to the domestic product." On the same page, it was stated that * * * was losing a customer (firm) to McCain Foods because of McCain's lower prices. 2/

1/ Ibid. and other sources.

2/ * * * indicates confidential. Much of the material on which my opinion is based relies upon the confidential data supplied by a small number of companies.

- h. There is evidence in the report that AKF Food prices were higher than those of McCain Foods, Inc. and Cavendish Farms, Ltd. Some of this price reaction may have been caused by efforts of McCain to meet or compete with the prices for the quality offered or sold by Cavendish. Hence, there was an indirect effect on AKF from Cavendish's export efforts to the United States in its frozen french fried potatoes sales and competition with McCain. The U.S.-based McCain Foods, Inc. is a wholly-owned subsidiary of McCain Foods, Ltd. of Canada which is one of the largest producers of frozen french fried potatoes in Canada, and competes in Canada and the U.S. with Cavendish Farms which recently has been one of the largest Canadian exporters of frozen french fried potatoes to the U.S. McCain Foods, Ltd. bought its two U.S. frozen french fried potatoes processing facilities in 1975 and 1976. Reportedly this was also in part to avoid potential future anti-dumping litigations. McCain Foods, Ltd. reportedly does not export Canadian frozen french fried potatoes to the United States. However, Cavendish Farms does compete vigorously in Canada and the U.S. with McCain Foods, Ltd. and McCain Foods, Inc.
- i. I find that there is about 80% of the frozen french fried potatoes going into the food service trades. I do not draw the separate chain fast food service versus other food service or retail frozen french fried potato distinctions which are drawn by the petitioner, McCain, in this investigation. I do not distinguish between these markets, but I do realize prices are different and that there are accommodative sales to chains' distribution points in regions other than the Northeastern states. I do not find a regional market, but in this preliminary investigation the Commission did not have full costing and profit data on sales by states or regions and this in part reflects transportation to destination cost differentials.
- j. I am not vitally concerned in this preliminary investigation with United States-Canadian trade balances in frozen french fried potatoes, but rather with reviewing the available data and governing, existing statutes or rules that apply to alleged less than fair value sales. I am not applying analysis of any subsidies as may exist on either side of the United States-Canadian border. This is an analysis of "dumping" allegations brought by the petitioner. The petitioner alleges the amount of "underselling" exceeds even the amount of decline in the value of the Canadian dollar versus the United States dollar. Recently, this amount for the first time in the post-World War II era declined to where less than 80 U.S. cents equaled one Canadian dollar. However, in the fourth quarter of 1981 and the first quarter of 1982, the rate of exchange was in the 80 to 85 U.S. cents equaling one Canadian dollar range. I find the rate of exchange factor and the impact does not diminish the reasonable indication in this preliminary investigation that an industry in the United States is materially injured by reason of imports of frozen french fried potatoes from Canada which are allegedly sold at less than fair value.

- k. I find there is probability that chain and other food service purchasing agents or distributors or others involved in the entire frozen french fried potatoes distribution "network" are aware of prices offered and act quickly based upon this awareness to obtain whatever price or quality benefits they can for their distribution or sales organization or corporation. Hence, even price quotations or offers, besides actual sales, can have a rapid impact on prices, financial conditions, operating levels, and other factors which influence the viability of corporations or particular plants. The shutting of a plant in turn has an impact on the community and state in which the plant is located. For example, the planned closing of the McCain Foods, Inc. frozen french fried potatoes plant at Washburn, Maine, will idle over 100 workers according to public newspaper reports. More than just 111 direct jobs, which are extremely important, is at stake in any alleged dumping case. "Life-blood" of communities and indirect jobs, ability to supply and process food or other articles locally with reasonably assured supplies that are not "siphoned-off" to "the highest-bidding" country during food or product shortage periods are the "factors" that the Commission must realize are involved in our opinions and decisions in such preliminary cases where low-threshold criteria should apply, especially in the absence of adequate data and comparisons. The Members of Congress from Maine in their May 27, 1982, letter to Mr. Mason provided information and identified their concerns. Their expressed points are cognizable comments to me.
- l. I do not draw the conclusion that the shutting of the McCain Foods, Inc. food plant at Washburn, Maine did not involve the potential impacts of imports of frozen french fried potatoes from Canada for which there is a reasonable indication that an industry in the United States is materially injured by reason of imports of frozen french fried potatoes from Canada which are allegedly sold at less than fair value. No matter what public or phone comments may be stated or omitted by the U.S. or Canadian parent company, the fact remains and the record clearly shows that that McCain Foods, Inc. was a petitioner in this investigation.
- m. I find there is no need in a dumping case to find a sole cause or "majority" cause factor, but rather it is sufficient to find that imports are a significant factor. This significance is evaluated not by just measuring of the market penetration level of the entire United States frozen french fried potatoes market, but by the impact of pricing by those who engage in trying to increase their market share and have an increase in quantities shipped in 1982 or change the prices offered in specific markets or distribution channels they target within the national U.S. market. Knowledge of offers or sales prices is widespread in the food industry, especially since companies want to "advertise or advise" to obtain business. If there were higher quality products shipped than was paid for, even assuming there was not a less than fair value issue relative to the earlier "assumed" or "stated" products, then this could be a form of unintentional or intentional "underbilling" on the shipment(s) and it could be a form of less than fair value import if all Canadian costs

were not included for some reason or if different, unjustified pricing took place in the U.S. than in Canada or if other conditions applied.

- n. I am not relying on capacity changes or capacity utilization rates except as these influence price possibilities and profits of U.S. producers and are related to research and development and capital spending opportunities and are influenced by imports of frozen french fried potatoes from Canada which are allegedly sold at less than fair value.
- o. I understand that U.S. Producer Price Indexes as related to this and other investigations do not necessarily consider all discounts offered by food processors or other corporations.
- p. I realize that in a "rushed" 45-day preliminary investigation there is a potential for sampling or research bias in selecting companies to be contacted or sources and information to be researched or presented. I do not state such a bias definitely existed in this case, either intentionally or unintentionally, but in my opinion it is more possible in a preliminary investigation for such biases to exist.
- q. In my opinion, there is evidence that indicates Cavendish Farms has recently and frequently been a "price leader" and conditions in Canada and other Canadian export marketing areas-- other than the United States-- caused the respondent to seek markets in the United States on a sustained marketing effort and in areas which may represent new target areas for increased efforts. A final investigation, if it was carried out, could confirm such evidence and whether my opinion is well-founded and if there is merit in any charges regarding the less than fair value imports of frozen french fried potatoes from Canada.
- r. I realize there has been testimony and other information indicating there are some whole or partial ownership relationships and potential antagonisms between different, outside the Commission, groups involved in this investigation. These outside groups were either in support of or against the petition. This has not altered my opinion.

2. Although, the volume of imports of frozen french fried potatoes from Canada has been and is small in percentage terms, I conclude there is a reasonable indication that such a volume of imports because of the nature of the market is not insignificant or de minimus in its impact on the national U.S. frozen french fried potato industry. I determine that there is a reasonable indication that this industry is materially injured by reason of imports of frozen french fried potatoes from Canada which are allegedly sold at less than fair value.

3. Point number 1 above has discussed my opinion of the impacts of imports of frozen french fried potatoes from Canada which are allegedly sold at less than fair value relative to the effect of such imports of that merchandise on prices in the United States for like products. It is sufficient to add at this point that frozen french fried potatoes are considered as like product despite different quality standards that apply in the United States and Canada and this investigation failed reasonably to assure just what quality of frozen french fried potatoes were and are being imported from Canada. The impacts of these imports from Canada of such frozen french fried potatoes has not been insignificant, inconsequential, immaterial or unimportant on domestic producers of like product-- in some significant portion of the industry-- in such measured areas as: profits, cash flow, capital spending, research and development spending capabilities, capacity utilization rates, employment and wage matters (including hours worked) or other areas which I conclude are important.

I conclude that this preliminary investigation is not based on de minimus levels of imports and impacts of frozen french fried potatoes from Canada. A low-threshold test should apply and a final investigation should result. Such a final investigation will allow clarification and resolution of important omission of data and other factors which I believe should be resolved. I determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of frozen french fried potatoes from Canada which are allegedly sold at less than fair value.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On April 30 and on May 3, 1982, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce, respectively, by counsel on behalf of McCain Foods, Inc., Washburn, Maine. The petition alleges that frozen french fried potatoes imported from Canada are being, or are likely to be, sold in the United States at less than fair value (LTFV). Accordingly, on May 3, 1982, the Commission instituted investigation No. 731-TA-93 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)). The purpose of this investigation is to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the importation from Canada of frozen french fried potatoes provided for in item 141.86 of the Tariff Schedules of the United States (TSUS).

The statute directs that the Commission make its determination within 45 days of receipt of the petition by both the Commission and the Department of Commerce, or in this case, by June 17, 1982. Notice of the institution of the Commission's investigation and of the public conference held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register of May 12, 1982 (47 F.R. 20396). 1/ A public conference was held in Washington, D.C., on May 25, 1982, at which all interested parties were afforded the opportunity to present information for consideration by the Commission. 2/

Nature and Extent of Alleged Sales at
Less Than Fair Value

The petition states that the vast majority of U.S. imports of frozen french fries from Canada are produced by Cavendish Farms, Ltd., Moncton, New Brunswick, Canada. The petition alleges that sales at less than fair value have continued from October-December of 1981 to the present, and have virtually all been imported and sold to food service distributors in the northeast region of the United States. 3/ The LTFV margin is alleged by the petitioner to be 22 percent based on the official Cavendish price list and 34 percent based on an invoice of January 13, 1982. Furthermore, the petition also alleges the Cavendish "Scotch Maid" brand of frozen french fries being exported to the United States are not similar to U.S. Grade B (as maintained by Cavendish) but rather are of a higher quality than the product sold in Canada under the same brand. Thus, according to the petition, sales of the

1/ A copy of the Commission's notice of investigation is presented in app. A.

2/ A list of witnesses appearing at the public conference is presented in app. B.

3/ The petitioner defines the northeast region as Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, and New Jersey.

Scotch Maid brand should be compared with products rated as U.S. Grade A, long, such as the McCain "Snowflake" brand. In response to that allegation, Cavendish acknowledged that the Canadian grading system is different from the one used by the U.S. Department of Agriculture (USDA), but it advised that the quality of its Scotch Maid-brand product sold in Canada and the United States is the same. Thus, Cavendish maintains its Scotch Maid brand is actually below the standards of U.S. Grade A, long, but somewhat above U.S. Grade B.

On May 24, 1982, the Department of Commerce issued a notice announcing that it had found the petition to be properly filed within the meaning of its rules and that it was instituting an investigation. Notice to such effect was published in the Federal Register (47 F.R. 23505) on May 28, 1982. The scope of the Department of Commerce investigation is the same as that of the Commission investigation.

The Product

Description and uses

The imported product which is the subject of the petition is frozen french-fried potatoes (hereinafter referred to as frozen french fries) from Canada. The vast majority of frozen french fries imported from Canada are produced by Cavendish Farms. Cavendish informed the Commission that it produces and exports two grades of frozen french fries to the United States, the Cavendish brand, Canada fancy grade (similar to U.S. Grade A, long 1/), and the Scotch Maid Brand, Canada choice grade (similar to U.S. Grade B 2/). The frozen french fries produced in the United States are generally sold in three grades, U.S. Grade A, extra long, 3/ U.S. Grade A, long, and U.S. Grade B. 4/ The domestic producers in the northeast region cited in the petition produce all three grades of frozen french fries. According to Cavendish, in Canada, the term "Canada fancy" is closest to the U.S. Grade A, and the term "Canada choice" is actually between U.S. Grade A and U.S. Grade B.

French-fried potatoes are made from mature white or Irish potatoes. The whole potatoes are first subjected to a series of washing, peeling, sorting, and trimming operations before they are cut into pieces, in either a straight or crinkled configuration. After the cutting operation, the potatoes are blanched to destroy enzyme activity and leach out constituents responsible for

1/ Frozen french fries are designated as "long" when 70 percent or more are 2 inches in length or longer, and 15 percent or more are 3 inches in length or longer.

2/ U.S. Grade B is the quality designation for frozen french fries below U.S. Grade A, but above the "Substandard" grade.

3/ Frozen french fries are designated as "extra long" when 80 percent or more are 2 inches in length or longer and 30 percent or more are 3 inches in length or longer.

4/ There are four distinct grades for quality; however, little of the frozen product is sold at the fourth or Substandard grade. A detailed description of the U.S. Standards for Grades of Frozen French Fried Potatoes is included in app. C.

off colors and bad flavors. The potato strips are then ready to be partially deep fried in oil. The majority of U.S. producers use vegetable oil for their deep frying operations. However, the fast food restaurants such as McDonald's and Burger King require their supplying producers to use an animal fat and vegetable oil mixture. Cavendish Farms generally uses * * *. The two largest U.S. producers in the northeast region (McCain and AKF Foods) informed the Commission that they * * * in order for their frozen french fries to be certified as a kosher product under Rabbinical supervision.

The degree of frying by the processor depends on the requirements of the consumer. For example, restaurants prefer to finish-fry french fries in deep fat to develop proper color and crispness, so they order partially fried (par-fried) potatoes. Home consumers, on the other hand, purchase frozen french fries that have been more extensively par-fried by the processor. The latter product does not need to be refried but can be prepared for consumption by being heated in an oven; french fries prepared in this manner, however, differ in taste from those that are finish-fried in deep fat. After frying, the french fries are frozen and packed in various sizes of institutional and retail containers. Generally, the institutional containers hold from 4.5 to 50 pounds of product, whereas the containers for the retail trade hold from 9 ounces to 5 pounds. Cartons, polybags, and kraft bags are used for institutional containers, and cartons and polybags are used for retail containers.

Byproduct material from french fry production (e.g., raw, thin slices and broken pieces) may be shredded or diced, cooked, and frozen to make hash-brown potatoes. Hash-brown potatoes, which are made primarily from shredding whole cooked potatoes, rank second in importance among the frozen potato products consumed in the United States. Other frozen potato products are of much less importance and include potato puffs (a potato mixture usually extruded in the form of croquettes), baked potatoes, and whole, blanched potatoes.

U.S. tariff treatment

Frozen french fries are classified for tariff purposes under item 141.86 in the Tariff Schedules of the United States (TSUS). The rates of duty applicable to frozen french fries entered under item 141.86 1/ are 14.7

1/ Prior to Jan. 1, 1980, the articles now entered under item 141.86 were provided for under item 141.81; the change reflects the establishment of a new tariff category owing to a modification in the rate of duty.

percent ad valorem (col. 1) 1/ and 35 percent ad valorem (col. 2). 2/ The current col. 1 rate became effective on January 1, 1982, and is the third of eight stages of annual rate modifications resulting from concessions granted by the United States in the Tokyo round of trade negotiations under the General Agreement on Tariffs and Trade. 3/ The final (eighth) stage will result in a duty of 10.0 percent ad valorem. Imports of frozen french fries under item 141.86, if entered from least developed developing countries (LDDC), 4/ are dutiable at 10 percent ad valorem; however, there have been no known imports of frozen french fries from LDDC's in recent years. Imports of frozen french fries under item 141.86 are not eligible for duty-free treatment under the Generalized System of Preferences. 5/

U.S. Market

Apparent U.S. consumption of frozen french fries declined from 3.5 billion pounds in 1979 to 3.2 billion pounds in 1980, but then rebounded to 3.7 billion pounds in 1981, as shown in the following tabulation (in millions of pounds):

<u>Year</u>	<u>Frozen french fries</u>	<u>Other frozen potato products</u>	<u>All frozen potato products</u>
1979-----	3,533	473	4,006
1980-----	3,248	615	3,863
1981-----	3,653	541	4,194

1/ The rates of duty in rate of duty column numbered 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

2/ The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

3/ The first of the staged rate modifications became effective Jan. 1, 1980.

4/ The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items which are the products of least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for an item, the rate of duty provided in the column numbered 1 applies.

5/ The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985.

There is no published data on apparent consumption of frozen french fries in the northeast region of the United States. However, at the public conference both the petitioner and the respondent agreed that 21 to 22 percent of total U.S. consumption, based on the ratio of northeast population to total U.S. population, would be an appropriate estimate for apparent consumption in the northeast region. 1/ On the basis of this formula, estimated apparent consumption of frozen french fries in the northeast region in 1979-81 was--

	<u>Estimated range</u> <u>(million pounds)</u>
1979-----	742 to 777
1980-----	682 to 711
1981-----	767 to 804

U.S. producers

Approximately 20 firms in the United States produce frozen french fries, as well as other frozen potato products. Their processing facilities are located throughout the United States, although there is a concentration of facilities in Idaho, Oregon, and Washington. Five U.S. producers of frozen french fries account for approximately * * * percent of total U.S. production. Their names and locations are as follows:

Name and location

- (a). J.R. Simplot Co.
Caldwell, Idaho
- (b). Ore-Ida Foods, Inc.
Boise, Idaho
- (c). Lamb-Weston, Inc.
Portland, Oreg.
- (d). Carnation Co.
Los Angeles, Calif.
- (e). Chef-Reddy Foods Corp.
Othello, Wash.

The J.R. Simplot Co. is the largest processor of frozen french fries, and according to industry sources, accounts for approximately * * * percent of U.S. production annually. Simplot is the predominant supplier of frozen french fries to the McDonald's fast food restaurant chain. The processing industry is concentrated in the northwestern United States because it is in that region that the elongated Russet potato is primarily grown. This potato

1/ Transcript of conference.

is favored by processors for making french fries. Most domestic producers process a full line of frozen potato products, e.g., french fries, hash browns, and miscellaneous frozen processed potatoes.

In the northeast region of the United States (as defined by the petition), there are four known producers of frozen french fries. Their names and the locations of their production facilities are as follows:

<u>Name and location</u>	<u>Production facilities</u>
AKF Foods, Inc. d/b/a Potato Service Inc. Roslyn Heights, N.Y.	Presque Isle, Maine
McCain Foods, Inc. Washburn, Maine	Washburn, Maine Easton, Maine
Interstate Food Processing Co. Fort Fairfield, Maine	Fort Fairfield, Maine
L & S Sales, Inc. Ashland, Maine	Caribou, Maine

AKF Foods, Inc., is the largest producer of frozen french fries in the northeast region of the United States. In 1975, the company filed a petition under chapter XI of the Bankruptcy Act, and was discharged from chapter XI proceedings in 1978. As a result of these proceedings, AKF sold its Grand Forks, N.D. production plant; later, in 1980, it sold its Caribou, Maine plant. The J.R. Simplot Co. owns 35 percent of AKF Foods; McCain Foods, Ltd., of Florenceville, New Brunswick, Canada owns 5 percent of AKF Foods.

McCain Foods, Inc., is a wholly owned subsidiary of McCain Foods, Ltd., of Florenceville, New Brunswick, Canada, the largest producer of frozen french fries in Canada. McCain (USA) was established in 1975 with the purchase of Tater State, a Maine producer of frozen french fries. In 1977, McCain (USA) bought an additional processing plant, located in Easton, Maine. Currently, McCain (USA) * * *. 1/ On June 4, 1982, McCain announced that it was closing its Washburn, Maine production facility, because of "the present economic climate". McCain did not blame alleged LTFV imports as a reason for closing the plant, in the article reporting the plant closing. 2/

Interstate Food Processing Co. started production of frozen french fries in August 1981, after it acquired production facilities in Fort Fairfield, Maine from the Great Atlantic & Pacific Tea Co. (A&P). L & S Sales, Inc., Ashland, Maine, a food service distributor, acquired a processing plant in Caribou, Maine and began to produce frozen french fries * * * December 1981.

1/ * * *.

2/ Bangor Daily News, June 5, 1982.

U.S. importers

In 1981, Cavendish Farms' exports of frozen french fries accounted for * * * percent of all U.S. imports of frozen potato products from all sources. Cavendish uses * * *. After * * * makes the official entry, the imported frozen french fries are shipped to the intended purchasers * * *. Cavendish maintains its own sales force and network of food brokers in the United States to facilitate the sale of its product. Cavendish supplied the Commission with a list of its five largest U.S. customers of frozen french fries. Their names and locations are as follows:

- (1) * * *
- (2) * * *
- (3) * * *
- (4) * * *
- (5) * * *

Consideration of Injury or Likelihood Thereof

The McCain petition raised the issue of the impact of the alleged LTFV imports on a regional industry. ^{1/} Furthermore, the petition alleges that sales of the LTFV imports had been targeted to food service distributors in the northeast region and it is in this segment of the market that the domestic industry is being or is threatened with material injury. AKF, in testimony at the Commission's conference, however, stated that the injury it is suffering is by reason of sales of Canadian french fries to retail supermarket chains. The respondent in this investigation, Cavendish Farms, has argued that there is no regional industry and, alternatively, if there was a regional industry, the Commission should not subdivide the regional market into three separate segments (food service distributors, retail supermarket chains, and fast food restaurants) for the purpose of analysis. Since the Commission will consider whether this case meets the legal criteria of a regional industry, all data relating to injury to the domestic industry (wherever possible) will be presented on a regional basis and on a national basis. The Commission sent questionnaires to 23 U.S. processors of frozen potato products. However, only 6 domestic producers (* * *) returned the questionnaires. These responding producers accounted for an estimated * * * percent of northeast region production and an estimated * * * percent of total U.S. production in 1981. Therefore, the data on the overall domestic industry that is presented in this report was obtained from published data and that applicable to the northeast region was obtained from responses to the Commission's questionnaires.

^{1/} The northeast region as defined by the petitioner is Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, Connecticut, New York, New Jersey, and Pennsylvania. A-7

U.S. production

U.S. production of frozen french fries declined from 3.5 billion pounds in 1979 to 3.2 billion pounds in 1980, and then rebounded to nearly 3.6 billion pounds in 1981. A shortage of raw potatoes was given by industry sources as the reason for the decline in production in 1980. The majority of frozen french fries are packed for the food service distributors. In 1981, food service distributors accounted for 85 percent of all packed frozen french fries. Table 1 sets forth total U.S. production of frozen potato products by type.

Table 1.--Frozen potato products: U.S. production, by styles of pack, 1977-81

(In millions of pounds)					
Period	French fries	Hash browns	Miscellaneous potato products 1/	Total	
1977-----	3,134.3	204.3	284.2	3,622.8	
1978-----	3,265.5	222.0	361.3	3,848.8	
1979-----	3,488.0	235.5	366.2	4,089.7	
1980-----	3,182.4	2/	670.8	3,853.2	
1981-----	3,577.9	2/	658.3	4,236.2	

1/ Includes "tater" products, cottage fries, au gratin, patties, and oven-baked potatoes.

2/ Not separately reported. Included in miscellaneous potato products.

Source: American Frozen Food Institute.

In the northeast region, AKF and McCain account for approximately * * * percent of production of frozen french fries. *** AKF and McCain experienced * * * production from 1979 to 1980, and then *** companies experienced * * * production in 1981, as shown in the following tabulation:

Firm	Production of frozen french fries				
	1979	1980	1981	January-March--	
				1981	1982
	Million pounds-----				
AKF-----	***	***	***	***	***
McCain-----	***	***	***	***	***
Total-----	***	***	***	***	***

McCain's production * * * during January-March 1982, *** AKF's production * * *. AKF informed the Commission that during 1979-81, the company had * * *.

U.S. capacity and capacity utilization

According to industry sources, U.S. capacity to produce frozen french fried potatoes has been approximately 5 billion pounds annually during 1979-81. As previously stated, U.S. production of frozen french fries during the period ranged from 3.2 to 3.6 billion pounds. Thus, the U.S. industry's capacity utilization can be estimated as follows:

	<u>Production</u> <u>(billion pounds)</u>	<u>Capacity</u> <u>(billion pounds)</u>	<u>Capacity</u> <u>utilization</u> <u>(percent)</u>
1979-----	3.5	5	70
1980-----	3.2	5	64
1981-----	3.6	5	72

In the northeast region, McCain's capacity utilization * * * at approximately * * * percent from 1979 to 1980, * * * percent in 1981. AKF reported that its capacity utilization * * * from * * * percent in 1979 to * * * percent in 1980, * * * percent in 1981. Details of AKF and McCain's capacity and capacity utilization are set forth in table 2.

Table 2.--Frozen french-fried potatoes: U.S. production, capacity, and capacity utilization, by firms, 1979-81, January-March 1981, and January-March 1982

Year and company	Production	Capacity	Capacity utilization
	-----Million pounds-----		Percent
1979:			
McCain-----	***	***	***
AKF-----	***	***	***
Total-----	***	***	***
1980:			
McCain-----	***	***	***
AKF-----	***	***	***
Total-----	***	***	***
1981:			
McCain-----	***	***	***
AKF-----	***	***	***
Total-----	***	***	***
January-March 1981:			
McCain-----	***	***	***
AKF-----	***	***	***
Total-----	***	***	***
January-March 1982:			
McCain-----	***	***	***
AKF-----	***	***	***
Total-----	***	***	***

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

The * * * producer of frozen french fries in the northeast is Interstate Food Processing Co. (formerly A.&P). Interstate informed the Commission that it has the capacity to produce * * * pounds of frozen french fries annually and that it estimates that it will produce * * * pounds in 1982 for a capacity utilization rate of * * * percent.

Northeast regional shipments

In its petition and at the public conference, McCain Foods, Inc., maintained that it is suffering material injury or threat thereof from allegedly LTFV imports of frozen french fries from Canada that have been sold to the food service distributor market in the northeast region of the United States. Tables 3 and 4 set forth domestic shipments, by region and type of customer, for McCain, AKF, and four other reporting producers that responded to the Commission's questionnaire. These four firms are located outside the northeast region. During 1979-81, * * * percent of McCain's domestic shipments were to customers in the northeast region of the United States. These sales in the northeast region are * * * the food service distributor market and the retail outlets for home consumption market. However, AKF, * * * domestic producer in the region, has * * * its share of domestic shipments out-

Table 3.--Frozen french-fried potatoes: Domestic shipments of AKF Foods, Inc., McCain Foods, Inc., and 4 other domestic producers, by regions, 1979-81, January-March 1981, and January-March 1982

(In thousands of pounds)						
Region and firm	1979	1980	1981	January-March--		
				1981	1982	
Northeast Region:						
AKF-----	***	***	***	***	***	***
McCain-----	***	***	***	***	***	***
Subtotal-----	***	***	***	***	***	***
Other U.S. producers--	***	***	***	***	***	***
Total-----	***	***	***	***	***	***
Regions outside the northeast:						
AKF-----	***	***	***	***	***	***
McCain-----	***	***	***	***	***	***
Subtotal-----	***	***	***	***	***	***
Other U.S. producers--	***	***	***	***	***	***
Total-----	***	***	***	***	***	***
All regions:						
AKF-----	***	***	***	***	***	***
McCain-----	***	***	***	***	***	***
Subtotal-----	***	***	***	***	***	***
Other U.S. producers--	***	***	***	***	***	***
Total-----	***	***	***	***	***	***

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

Table 4.--Frozen french-fried potatoes: Domestic shipments of AKF Foods, Inc., McCain Foods, Inc., and 4 other domestic producers, by regions and by markets, 1979-81, January-March 1981, and January-March 1982

(In thousands of pounds)						
Region and market	1979	1980	1981	January-March--		
				1981	1982	
Northeast region:						
AKF:						
Food service dis-						
tributors-----	***	***	***	***	***	***
Retail outlets for						
home consumption--	***	***	***	***	***	***
Restaurants and fast						
food outlets-----	***	***	***	***	***	***
McCain:						
Food service dis-						
tributors-----	***	***	***	***	***	***
Retail outlets for						
home consumption--	***	***	***	***	***	***
Restaurants and fast						
food outlets-----	***	***	***	***	***	***
Subtotal:						
Food service distri-						
butors-----	***	***	***	***	***	***
Retail outlets for						
home consumption--	***	***	***	***	***	***
Restaurants and fast						
food outlets-----	***	***	***	***	***	***
U.S. producers out-						
side the Northeast:						
Region:						
Food service						
distributors-----	***	***	***	***	***	***
Retail outlets for						
home consump-						
tion-----	***	***	***	***	***	***
Restaurants and						
fast food out-						
lets-----	***	***	***	***	***	***
Total U.S. producers:						
Food service distri-						
butors-----	85,977	92,034	92,059	25,358	24,749	
Retail outlets for						
home consumption--	97,161	94,223	75,938	20,615	22,024	
Restaurants and fast						
food outlets-----	63,419	57,528	65,747	16,816	15,943	

Table 4.--Frozen french-fried potatoes: Domestic shipments of AKF Foods, Inc., McCain Foods, Inc., and 4 other domestic producers, by regions and by markets, 1979-81, January-March 1981, and January-March 1982--Continued

(In thousands of pounds)						
Region and market	1979	1980	1981	January-March--		
				1981	1982	
Regions outside the						
Northeast:						
AKF:						
Food service distri-						
butors-----	***	***	***	***		***
Retail outlets for						
home consumption--	***	***	***	***		***
Restaurants and fast						
food outlets-----	***	***	***	***		***
McCain:						
Food service distri-						
butors-----	***	***	***	***		***
Retail outlets for						
home consumption--	***	***	***	***		***
Restaurants and fast						
food outlets-----	***	***	***	***		***
Subtotal:						
Food service distri-						
butors-----	***	***	***	***		***
Retail outlets for						
home consumption--	***	***	***	***		***
Restaurants and fast						
food outlets-----	***	***	***	***		***
U.S. producers out-						
side the Northeast:						
Region:						
Food service						
distributors-----	***	***	***	***		***
Retail outlets for						
home consump-						
tion-----	***	***	***	***		***
Restaurants and						
fast food out-						
lets-----	***	***	***	***		***
Total U.S. producers:						
Food service distri-						
butors-----	82,570	117,057	129,140	61,872		45,916
Retail outlets for						
home consumption--	78,466	38,688	66,467	16,776		17,799
Restaurants and fast						
food outlets-----	196,000	253,500	215,200	52,000		48,800

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

side the northeast region from * * * percent in 1979 to * * * percent in 1981. AKF sells the majority of its frozen french fries to retail outlets for home consumption.

The * * * producer in the northeast region is Interstate, which informed the Commission that it estimates its 1982 domestic shipments to be about * * * * * pounds. Interstate also stated that it sells * * * percent of its frozen french-fried potato production in the northeast, with * * * percent of total sales going into the retail supermarket trade and * * * percent to food service distributors. The * * * producer in the northeast, L & S sales, informed the Commission that it expects to produce and sell * * * pounds of frozen french fries in 1982.

Total consumption of frozen french fries for the northeast region has been estimated to be in the range of 767 million to 804 million pounds in 1981. Thus, in 1981, the combined shipments of AKF, McCain, and Interstate 1/ would have been able to supply * * * percent of apparent consumption in the region. As shown in table 3, the four U.S. producers' located outside the region, that responded to the Commission's questionnaire, provided for over * * * percent of reported domestic producers' shipments in the region in 1981 and in January-March 1982.

In the food service distributor market in the northeast region, the market where McCain alleges injury, shipments * * * show that * * * this market is serviced from domestic producers outside the northeast region. In the retail outlet market (sales for home consumption), the Food Operating Item Detailed Report published by Selling Areas Marketing, Inc. (SAMI), of July 25-October 16, 1981, reported that Ore-Ida Foods, Inc., of Boise, Idaho, a firm that did not respond to the Commission questionnaire, had a 38.9-percent share of the Boston/Providence retail market. Another nonresponding producer outside the Northeast, Heinz Co., had almost a 10-percent share of the aforementioned retail market 2/. At the public conference, AKF stated that its product does not compete with the nationally advertised brands of frozen french fries. AKF stated that the brand-name products sell for much higher prices than its store brand product. 3/

In the fast food restaurant market, none of the U.S. producers in the northeast region have supplied this market except for * * *. Cavendish informed the Commission that it had supplied * * * with * * * pounds in 1979, and that it currently holds the * * * account. In Canada, Cavendish supplied * * *.

1/ Using estimated 1982 domestic shipment figures as an indicator for 1981 sales of A.&P./Interstate production facility.

2/ Brief of Verner, Liipfert, Bernhard and McPherson, p. 12.

3/ Transcript p. 60.

McCain has supplied * * * frozen french fries since 1977. These sales were * * *. Details of McCain's sales * * * are as follows:

<u>Period</u>	<u>Quantity</u> (<u>Million pounds</u>)
1977-----	***
1978-----	***
1979-----	***
1980-----	***
1981-----	***
January-March--	
1981-----	***
1982-----	***

After the public conference, the Commission became aware that * * *. AKF informed the Commission that * * *. Details of AKF's * * * frozen french fries are as follows:

	<u>Quantity</u> (<u>Million pounds</u>)
1979-----	***
1980-----	***
1981-----	***

U.S. imports

During 1979-81, almost all U.S. imports of frozen potato products (which include frozen french fries) came from Canada (table 5). U.S. imports of such products declined from 16.4 million pounds in 1979 to 10.9 million pounds in 1980 and then rebounded to 15.0 million pounds in 1981. In January-March 1982, U.S. imports of frozen potato products were 3.8 million pounds, which was slightly below the import level in the corresponding period of 1981. According to industry sources, imports of frozen potato products from Canada rose sharply in 1978 and 1979, partly in response to increased Canadian production due to a large potato crop and to favorable exchange rates between the Canadian and U.S. dollars. The increase in Canadian exports to the United States coincided with sharply reduced exports to the United Kingdom, formerly Canada's major foreign market for frozen potato products (table 6).

Currently, Japan is Canada's second largest market for frozen potato products. As shown in table 7, the vast majority of imports of frozen potato products enter the United States in the northeast region, with Portland, Maine being the customs district where the largest volume of imports are entered. The only significant port of entry outside the northeast region is Detroit, Mich. Customs further informed the Commission that the imports of frozen french fries from Canada entering the United States through Detroit, Mich. and Buffalo, N.Y. are * * *. Neither McCain (Canada) nor Cavendish Farms * * *.

Table 5.--Frozen potato products: U.S. imports for consumption, by sources, 1979-81, January-March 1981, and January-March 1982

Source	1979	1980	1981	January-March--	
				1981	1982
	Quantity (1,000 pounds)				
Canada-----	16,406	10,915	14,989	3,868	3,795
Mexico-----	18	0	0	0	0
Japan-----	1/	0	0	0	0
Netherlands-----	0	0	0	0	23
Total-----	16,424	10,915	14,989	3,868	3,818
	Value (1,000 dollars)				
Canada-----	3,378	2,302	2,939	694	762
Mexico-----	3	-	-	-	-
Japan-----	1	-	-	-	-
Netherlands-----	-	-	-	-	6
Total-----	3,382	2,302	2,939	694	768
	Unit value (cents per pound)				
Canada-----	21	21	20	18	20
Mexico-----	17	-	-	-	-
Japan-----	09	-	-	-	-
Netherlands-----	-	-	-	-	24
Average-----	21	21	20	18	20

1/ Less than 500 pounds.

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

Table 6.--Frozen potato products: Canadian exports of domestic merchandise,
by principal markets, 1979-81

Market	1979	1980	1981
Quantity (1,000 pounds)			
United States-----	17,084	11,075	13,133
Japan-----	12,485	9,208	9,011
Australia-----	15	0	5,178
Trinidad-Tobago-----	4,458	4,695	3,396
Puerto Rico-----	43	1,403	3,078
Netherlands Antilles-----	1,806	1,236	1,155
Bahamas-----	1,194	1,072	1,045
United Kingdom-----	6,957	3,515	2,780
All other-----	6,272	17,340	2,561
Total-----	55,314	49,544	41,337
Value (1,000 Canadian dollars)			
United States-----	3,883	2,648	3,699
Japan-----	3,318	2,462	2,678
Australia-----	10	-	2,057
Trinidad-Tobago-----	1,330	1,499	1,194
Puerto Rico-----	8	404	994
Netherlands Antilles-----	390	299	335
Bahamas-----	307	323	312
United Kingdom-----	1,922	1,069	958
All other-----	3,057	5,548	705
Total-----	14,225	14,252	12,932
Unit value (cents per pound)			
United States-----	23	24	28
Japan-----	27	27	30
Australia-----	68	-	40
Trinidad-Tobago-----	30	32	35
Puerto Rico-----	19	29	32
Netherlands Antilles-----	22	24	29
Bahamas-----	26	30	30
United Kingdom-----	28	30	34
All other-----	49	32	28
Average-----	26	29	31

Source: Compiled from official statistics of Statistics Canada.

Table 7.--Frozen potato products: U.S. imports for consumption, by customs' districts and by quarters, 1979-81, January-March 1981, and January-March 1982

(In thousand of pounds)							
Year and quarter	Portland, Maine	Ogdens- burg, N.Y.	Buffalo, N.Y.	St. Albans, Vt.	Detroit, Mich.	All Other	Total
1979:							
Jan.-Mar-----	4,447	0	152	0	536	188	5,323
Apr.-June-----	3,997	8	84	44	208	5	4,346
July-Sept-----	3,133	0	98	0	79	9	3,319
Oct.-Dec-----	3,000	0	126	0	269	41	3,436
Total-----	14,577	8	460	44	1,092	243	16,424
1980:							
Jan.-Mar-----	3,073	41	493	0	337	35	3,979
Apr.-June-----	2,188	0	247	40	349	0	2,823
July-Sept-----	2,050	44	74	0	330	0	2,498
Oct.-Dec-----	1,027	196	124	0	240	28	1,615
Total-----	8,338	281	939	40	1,256	62	10,915
1981:							
Jan.-Mar-----	2,309	1,056	126	0	337	0	3,868
Apr.-June-----	2,906	1,207	282	66	329	0	4,790
July-Sept-----	1,786	395	120	0	246	30	2,578
Oct.-Dec-----	2,445	1,025	81	0	202	0	3,753
Total-----	9,445	3,683	609	66	1,255	30	14,989
1982: Jan.-Mar--	2,403	784	317	36	255	23	3,818

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

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

According to customs estimates and industry sources, the vast majority of U.S. imports of frozen potato products consisted of frozen french fries. Cavendish Farms supplied the Commission with its estimated exports of frozen french fries, as shown in table 8.

Table 8.--Frozen french-fried potatoes: Exports by Cavendish Farms to the United States, by regions, and to all other countries, 1979-81, January-March 1981, and January-March 1982

(In thousands of pounds)						
Country and region	1979 <u>1/</u>	1980	1981	January-March--		
				1981	1982	
Northeast region-----	***	***	***	***	***	***
Regions outside the						
Northeast-----	***	***	***	***	***	***
Total, United States:	***	***	***	***	***	***
Exports to other						
countries-----	***	***	***	***	***	***
Total exports to all:						
countries-----	***	***	***	***	***	***

1/ Estimated.

Source: Compiled from data submitted by Cavendish Farms, Moncton, New Brunswick, Canada.

While Cavendish's exports to the United States * * *, the share of Cavendish exports sold to purchasers in the northeast region of the United States * * *. * * *, in January-March 1982, while total exports to the United States * * * * * in the corresponding period of 1981, the share of such exports sold in the northeast region * * * percent from the * * * percent share experienced in 1981.

U.S. exports

During 1979-81, U.S. exports increased by 57 percent, from 55.3 million pounds in 1979 to 86.7 million pounds in 1981. Japan is, by far, the largest export market for U.S.-produced frozen french fries, as shown in table 9.

Table 9.--Frozen french-fried potatoes,: U.S. exports of domestic merchandise, by principal markets, 1979-81, January-March 1981, and January-March 1982

Market	1979	1980	1981	January-March--	
				1981	1982
	Quantity (1,000 pounds)				
Japan-----	39,215	55,708	66,616	16,282	16,282
Hong Kong-----	3,867	5,710	6,508	1,219	1,045
Singapore-----	1,025	1,627	2,420	526	705
Venezuela-----	484	757	1,951	763	456
Netherlands Antilles----	1,037	1,481	1,530	441	544
Trinidad-----	271	1,335	1,221	245	349
Saudi Arabia-----	500	447	1,063	654	320
Mexico-----	229	301	1,032	157	235
All other-----	8,653	5,962	4,371	1,383	1,233
Total-----	55,281	73,328	86,711	21,669	21,170
	Value (1,000 dollars)				
Japan-----	11,143	16,230	20,585	4,685	5,864
Hong Kong-----	1,048	2,045	1,926	349	289
Singapore-----	316	560	766	163	270
Venezuela-----	111	278	731	255	239
Netherlands Antilles----	393	571	479	142	156
Trinidad-----	56	501	431	92	96
Saudi Arabia-----	177	194	408	237	143
Mexico-----	53	90	287	41	101
All other-----	1,989	1,578	1,607	470	364
Total-----	15,287	22,048	27,220	6,433	7,522
	Unit value (cents per pound)				
Japan-----	28	29	31	29	36
Hong Kong-----	27	36	30	29	28
Singapore-----	31	34	32	31	38
Venezuela-----	23	37	37	33	52
Netherlands Antilles----	38	39	31	32	29
Trinidad-----	21	38	35	37	28
Saudi Arabia-----	35	43	38	36	45
Mexico-----	23	30	28	26	43
All other-----	23	26	37	34	30
Average-----	28	30	31	30	36

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

U.S. inventories

During 1979-81, inventories (stocks in cold storage) of frozen french fries nationwide declined 16 percent, from 687.6 million pounds in 1979 to 575.5 million pounds in 1981. Inventories held in the Northeast ^{1/} increased * * * percent, from * * * pounds in 1979 to * * * pounds in 1980, before declining * * * percent between 1980 and 1981 to * * * pounds in 1981, as shown in the following tabulation (in thousand of pounds): ^{2/}

<u>Held on Dec. 31</u>	<u>Northeast</u>	<u>United States</u>
1979-----	***	687,600
1980-----	***	622,400
1981-----	***	575,500

The overall decline in inventories held in the Northeast between 1979-81 included a decrease of * * * * * pounds in inventories held in the Middle Atlantic States (New York, New Jersey, and Pennsylvania) alone, and those held in New England increased * * * * * pounds during the same period.

Employment and wages in the northeast region

From 1979 to 1981, the average number of production and related workers involved in processing frozen french fries in the northeast region * * * percent, from * * * in 1979 to * * * in 1981, with * * * in January-March 1982, compared with January-March 1981 (table 10). The hours worked by production and related workers engaged in the processing of frozen french fries * * * percent, from * * * hours in 1979 to * * * in 1981.

Financial experience of U.S. producers

Profit-and-loss data were received from only two producers--AKF and McCain Foods--accounting for about * * * percent of total U.S. production of frozen french fries and an estimated * * * percent of production in the northeast region in 1981. Both producers provided financial data on their operations by allocating all processing costs and other expenses on * * *. Net sales of frozen french fries, as a percent of net sales of overall operations, ranged from * * * percent for AKF, and ranged * * * percent for McCain Foods, during the period 1979 through January-March 1982. Profit-and-loss data of both producers on their overall establishment operations, within which frozen french fried potatoes are produced, are presented in table 11.

^{1/} Includes all of New England, New York, New Jersey, and Pennsylvania.

^{2/} Inventory figures were compiled from statistics gathered by the American Frozen Foods Institute.

Table 10.--Frozen french-fried potatoes: Average number of all employees and of production and related workers, hours worked, hourly wages and fringe benefits paid to them, and total employment costs charged to production and related workers, for the northeast region, 1979-81, January-March 1981, and January-March 1982

Item	1979	1980	1981	January-March--	
				1981	1982
Average number of all employees-----	***	***	***	***	***
Average number of production and related workers-----	***	***	***	***	***
Hours worked					
1,000 hours--	***	***	***	***	<u>1/</u> ***
Hourly wages					
1,000 dollars--	***	***	***	***	***
Fringe benefits					
1,000 dollars--	***	***	***	***	***
Total employment cost					
1,000 dollars--	***	***	***	***	***

1/ Not available.

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

Aggregate net sales * * * percent from * * * in 1979 to * * * in 1981. In January-March 1982, aggregate net sales * * * percent to * * * compared with net sales of * * * in the corresponding period of 1981. Aggregate operating profit * * * from an operating * * * * * in 1979 to an operating * * * * * in 1980, before * * * in 1981. In the same period, the ratio of operating profit or (loss) to net sales * * * from a * * * percent to a * * * percent and then * * * percent. In January-March 1982, the combined operations of both firms were at * * * with respect to operating profit, compared with an aggregate operating * * * in the corresponding period of 1981.

Aggregate interest expense * * * (* * * percent of net sales) in 1979 to * * * (* * * percent of net sales) in 1980 and * * * (* * * percent of net sales) in 1981. After taking into account interest expense and other income, aggregate net profit or (loss) margins before income taxes * * * in 1979 to a * * * percent in 1980, before * * * percent in 1981. Such * * * margins were slightly * * * percent in January-March 1982, as compared with the * * * percent in the corresponding period of 1981.

Table 11.--Profit-and-loss experience of U.S. producers on their overall establishment operations within which frozen french fried potatoes are produced, by firms, accounting years 1979-81, January-March 1981, and January-March 1982

Period and firm	Net sales	Cost of goods sold	Gross profit or (loss)	General, selling, and administrative expenses	Operating profit or (loss)	Interest expense	Other income or (expenses)	Net profit or (loss) before income taxes	Ratio of operating profit or (loss) to net sales	Ratio of net profit or (loss) before income taxes to net sales
-----1,000 dollars-----										
1979:										
AKF Foods Inc-----	***	***	***	***	***	***	***	***	***	***
McCain Foods-----	***	***	***	***	***	***	***	***	***	***
Total or average:	***	***	***	***	***	***	***	***	***	***
1980:										
AKF Foods Inc-----	***	***	***	***	***	***	***	***	***	***
McCain Foods-----	***	***	***	***	***	***	***	***	***	***
Total or average:	***	***	***	***	***	***	***	***	***	***
1981:										
AKF Foods Inc-----	***	***	***	***	***	***	***	***	***	***
McCain Foods-----	***	***	***	***	***	***	***	***	***	***
Total or average:	***	***	***	***	***	***	***	***	***	***
January-March 1981:										
AKF Foods Inc-----	***	***	***	***	***	***	***	***	***	***
McCain Foods-----	***	***	***	***	***	***	***	***	***	***
Total or average:	***	***	***	***	***	***	***	***	***	***
January-March 1982:										
AKF Foods Inc-----	***	***	***	***	***	***	***	***	***	***
McCain Foods-----	***	***	***	***	***	***	***	***	***	***
Total or average:	***	***	***	***	***	***	***	***	***	***
1/ ***.										

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

* * * AKF and McCain--showed * * * in profitability as reflected by their aggregate data for 1980, compared with that in 1979. * * *, in 1981, AKF Foods reported * * * before income taxes of * * * * * (a * * * percent of net sales) compared with * * * before income taxes of * * * (* * * percent of net sales) in 1980. AKF attributed this to * * *. In 1981, the operating * * * of McCain Foods was * * * it was in 1980. Its net * * * before income taxes in 1981 was * * * (* * * percent of net sales) compared with * * * before income taxes of * * * (a * * * percent of net sales) in 1980. McCain attributed * * *. In January-March 1982, AKF showed * * *, whereas McCain Foods reported * * * compared with what it was in January-March 1981.

To provide an additional measure of profitability, the ratio of net profit or (loss) before income taxes to original cost and book value of fixed assets, for establishments in which frozen french fries are produced, are presented in table 12. These ratios * * * the ratios of net profit or (loss) before income taxes for each firm as well as for aggregate data during the period 1979 to January-March 1982.

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

Market penetration of alleged LTFV imports in all regions

On a national basis, the market penetration of alleged LTFV frozen french fries from Canada remained stable at *** percent in 1979 and 1980, and then rose slightly to *** percent in 1981 (table 13).

Market penetration of alleged LTFV imports in the northeast region

In its petition and at the public conference, McCain Foods, Inc., alleged that only LTFV imports from Cavendish Farms of Canada were causing injury to the U.S. producers in the northeast region. Cavendish Farms provided the Commission with data on its exports of frozen french fries (see section on U.S. imports).

For all frozen potato products, the import penetration of Canadian imports was 0.4 percent in 1979 and 1981, as shown in table 14.

Table 12.--Investment in productive facilities by U.S. producers for their establishments in which frozen french fries are produced, net profit or (loss) before income taxes, by firms, accounting years 1979-81, January-March 1981, and January-March 1982

	Fixed assets		Net	Ratio of net profit or	
	Original	Book	profit	(loss) before income taxes	
	cost	value	or (loss)	Net	Original: Book
			before	sales	cost : value
			income		
			taxes		
	1,000 dollars			Percent	
1979:					
AKF Inc-----	***	***	***	***	***
McCain Foods----	***	***	***	***	***
Total or					
average-----	***	***	***	***	***
1980:					
AKF Inc-----	***	***	***	***	***
McCain Foods----	***	***	***	***	***
Total or					
average-----	***	***	***	***	***
1981:					
AKF Inc-----	***	***	***	***	***
McCain Foods----	***	***	***	***	***
Total or					
average-----	***	***	***	***	***
January-March					
1981:					
AKF Inc-----	***	***	***	***	***
McCain Foods----	***	***	***	***	***
Total or					
average-----	***	***	***	***	***
January-March					
1982:					
AKF Inc-----	***	***	***	***	***
McCain Foods----	***	***	***	***	***
Total or					
average-----	***	***	***	***	***

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

Table 13.--Frozen french fries: U.S. production, exports, imports, and apparent consumption, 1979-81

Year	Production	Exports	Imports	Apparent consumption ^{1/}	Ratio of imports to consumption
	Million pounds				Percent
1979-----	3,488	55.3	***	3,445.0	***
1980-----	3,182	73.3	***	3,118.2	***
1981-----	3,578	86.7	***	3,505.5	***

^{1/} Apparent consumption figures include the difference between beginning and ending stocks. Thus, the figures presented for production, exports, and imports will not compute exactly to the apparent consumption figures.

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.

Table 14.--Frozen potato products, : U.S. stocks, production, exports, imports, and apparent consumption, 1979-81

Year	Beginning stocks	Production	Exports	Imports	Ending stocks	Apparent consumption	Ratio of imports to consumption
	Million pounds						Percent
1979-----	777.5	4,089.7	66.7	16.4	812.2	4,004.7	0.4
1980-----	812.2	3,853.2	84.5	10.9	729.9	3,861.9	0.3
1981-----	729.9	4,236.2	102.4	15.0	687.1	4,191.6	0.4

Source: Beginning and ending stocks, compiled from official statistics of the U.S. Department of Agriculture; production, American Frozen Food Institute; exports and imports, compiled from official statistics of the U.S. Department of Commerce.

Using Cavendish's export shipments into the northeast region of the United States and estimated apparent consumption in the northeast region (see section on U.S. market), the market penetration of the alleged LTFV imports can be estimated, as follows:

	Apparent northeast consumption (million pounds)	Imports (million pounds)	Ratio of imports to consumption (percent)
1979-----	742-777	***	***
1980-----	682-715	***	***
1981-----	767-804	***	***

As shown in the above tabulation, Cavendish's exports of frozen french fries to the northeast region took a * * * share of that market during 1979-81. However, it should be noted that in January-March 1982, Cavendish * * * its exports to the northeast region as compared with January-March 1981.

Threat of injury

Foreign capacity and production.--* * *:

	*	*	*	*	*	*	*
	<u>Production</u>			<u>Capacity</u>		<u>Capacity</u>	
	1,000 pounds					utilization	
						(Percent)	
1979-----	***			***		***	
1980-----	***			***		***	
1981-----	***			***		***	
January-March--							
1981-----	***			***		***	
1982-----	***			***		***	

Other factors.--According to industry sources, the Canadian frozen french fry industry has two main advantages over its U.S. counterparts. The Canadian dollar/U.S. dollar exchange rates make the Canadian product less expensive. During 1977-82, the Canadian dollar experienced a declining exchange rate with the U.S. dollar, as shown in the following tabulation:

	:	Current exchange rate:
Effective as of Jan. 1--	:	U.S. dollar/Canadian dollar
1977-----	:	\$0.9909
1978-----	:	.9137
1979-----	:	.8432
1980-----	:	.8561
1981-----	:	.8370
1982-----	:	.8439
	:	

The 14.8 percent depreciation of the Canadian dollar from 1977 to 1982 ^{1/} means that a Canadian producer selling frozen french fries in 1977 valued at \$99.09 in the United States and receiving Can\$100 can now sell the same product for \$84.39 in the United States and receives Can\$100. Thus, the U.S. market has become more attractive to Canadian producers. Furthermore, Canadian potato farmers are alleged to receive subsidies which enable them to sell their potatoes to Canadian processors at lower prices than their U.S. counterparts can do. Thus, the Canadian frozen french fry industry is alleged to have a cheaper source of fresh potatoes and a favorable currency exchange rate. These advantages, according to McCain and AKF, enable Canadian processors such as Cavendish or Hardee Farms to sell their product at prices far below those of their U.S. competition.

Lost sales

* * * supplied the Commission with a list of * * * firms to which it allegedly lost sales of frozen french fries during 1979-81 because of alleged LTFV imports from Canada. The Commission contacted * * * firms, which accounted for * * * alleged lost sales, and was able to confirm lost sales totaling * * * pounds * * *. In this instance, price was given by the purchaser as the reason for switching to the imported product. The purchasing company estimated that it saved 60 cents per case of frozen french fries by buying the imported product.

* * * companies advised that imported frozen french fries from Cavendish are superior to the domestic product. * * * the purchasers contacted stated that the lower priced imports was a factor in moderating the prices of domestic frozen french fries.

* * * supplied the Commission with a list of * * * firms to which it allegedly lost sales of frozen french fries because of alleged LTFV imports from Canada. The Commission contacted * * * the purchasing firms. One firm stated that it presently buys from * * *, and not from Cavendish Farms, because of * * * lower prices. However, it is considering buying from * * * in the near future to diversify its brands. * * * firms stated that they do not buy any imported product.

Prices

Industry sources indicate that in addition to the quality of frozen french fries, the length of the french fry is important to some purchasers. Generally, longer french fries are reported to be sold at higher prices than shorter fries of the same quality. Sources indicate that the length standards used in distinguishing the grade of french fry in the United States may be slightly different from those used in Canada. For example, french fries considered to be long in Canada, may meet the U.S. standards for extra long grade.

^{1/} As of June 1, 1982, the Canadian dollar had fallen even further to a record of 80.05 cents per U.S. dollar. A-28

Prices of frozen french fries were requested from domestic producers and the Canadian exporter for three U.S. specifications: Grade A fancy, extra long, Grade A fancy, long, and Grade B, medium. The data provided by the Canadian firm and the four U.S. producers which responded to the Commission's questionnaire are shown in table 15. Cavendish Farms, the Canadian producer, provided information * * *. Cavendish reported that * * *. The petitioner contends that this is not actually the case.

The petitioner, McCain Foods, Inc., alleged in its petition that the long and medium grades exported by Cavendish are comparable to McCain's extra long and long grades, respectively. Cavendish, however, argues that its two lengths sold in the United States are long and medium and should be compared with the U.S. long and medium lengths. 1/

To examine the Canadian producer's and the domestic producers' selling prices, the Commission's staff made comparisons in two ways. The first comparison is based on the petitioner's contention that its extra long and long grades are comparable to Cavendish's long and medium grades, respectively. The second comparison is based on the respondent's contention that the petitioner's long and medium grades are comparable to Cavendish's long and medium grades.

Comparison of prices based on the petitioner's allegations.--Cavendish provided 1980 price data on long-grade french fried potatoes for * * *.

* * * * *

Price data supplied by Cavendish for its medium-length french fries covered * * *.

1/ The petitioner stated during the conference on this investigation that Cavendish offers two labels in the U.S. market. One is "Scotch Maid" which in his opinion is a higher grade than Cavendish sells under the same brand name in Canada. Another spokesman for the petitioner stated that "The imported product from Cavendish Farms comes in with a Canadian label which is Canada Fancy, which is a top Canadian label. There are three grades in Canada--fancy, choice, and standard." (Transcript, p. 45.)

Table 15.--Frozen french-fried potatoes: Prices of the exporter of Canadian-produced items and of the domestic producers, by grades and by quarters, January 1980-March 1982

Period	Domestic producers											
	Cavendish Farms Ltd., New Brunswick, Canada			McCain Foods, Maine			AKF Foods, Inc. d/b/a Potato Service, New York					
	Extra long	Long	Medium	Extra long	Long	Medium	Extra long	Long	Medium	Extra long	Long	Medium
Dollars and cents per case 4/												
1980:												
Jan.-Mar----	***	***	***	***	***	***	***	***	***	***	***	***
Apr.-June----	***	***	***	***	***	***	***	***	***	***	***	***
July-Sept----	***	***	***	***	***	***	***	***	***	***	***	***
Oct.-Dec----	***	***	***	***	***	***	***	***	***	***	***	***
1981:												
Jan.-Mar----	***	***	***	***	***	***	***	***	***	***	***	***
Apr.-June----	***	***	***	***	***	***	***	***	***	***	***	***
July-Sept----	***	***	***	***	***	***	***	***	***	***	***	***
Oct.-Dec----	***	***	***	***	***	***	***	***	***	***	***	***
1982:												
Jan.-Mar----	***	***	***	***	***	***	***	***	***	***	***	***
1/ *** *												
2/ *** *												
3/ *** *												
4/ *** *												

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

Comparison of prices based on Cavendish's allegations.--Cavendish's price for long frozen french fries was * * * per case in April-June 1980. No price data was supplied by the domestic producer for this period. In October-December of the same year, Cavendish sold its brand at * * * per case while the petitioner sold its brand at * * * per case. In 1981, the Canadian producer provided price data for * * *. In April-June, Cavendish sold its brand at * * * while the petitioner sold its brand at * * * per case. In October-December, Cavendish sold its brand at * * * while the petitioner sold its brand at * * * per case. * * *.

No price comparison could be made between Cavendish's medium grade french fries and the petitioner's medium grade since no comparable price data were provided for the period under investigation. * * *.

Prices reported by other northeast region producers.--AKF Foods, Inc., a producer from the State of Maine, provided price data for the long and medium grades. Comparing this producer's prices of long-grade french fries with Cavendish's prices of the same grade shows that in April-June 1980, AKF's prices * * * than the exporter's * * *. However, in October-December, Cavendish's prices * * * than AKF's * * *. In 1981, Cavendish * * * AKF in April-June and October-December by margins of * * * and * * * per case, or by * * * percent and * * *, respectively.

* * * * *

Prices of AKF long grade * * * McCain's prices over the entire period of investigation. AKF's prices of medium-grade fries * * * than McCain's medium-grade prices.

Prices reported by producers in other regions.-- * * * a producer from the State of * * * provided price data for long grade frozen french fries. However, this producer stated in a telephone conversation with the Commission's staff that the data reported for long grade include prices for other lengths as well. The data show that french fries were sold by this producer at prices ranging from \$9.01 to \$11.25 per case

* * * than those at which either McCain or Cavendish sold their extra long or long grades. 1/

* * * * * a producer from the State of
 * * * provided price data for the long-grade brand on a f.o.b. basis rather than a delivered basis. Those data were adjusted by adding shipping costs per pound provided by this producer during a telephone conversation with the Commission's staff. * * * * * prices of french fries ranged in price from \$15.67 to \$18.46 per case, * * * than either Cavendish's or McCain's prices.

1/ Because * * * * * price data included grades other than the long grade, these data are not strictly comparable with those reported by other producers.

APPENDIX A

COMMISSION'S NOTICE OF INVESTIGATION AND CONFERENCE

SUPPLEMENTARY INFORMATION: The investigation was conducted in order to determine whether there was a violation of section 337 of the Tariff Act of 1930 in the importation of certain hot air corn poppers and components thereof into the United States, or in the sale of such articles, which were alleged to infringe claims 1, 2, 3, and 5 of U.S. Letters Patent 4,178,843, the effect or tendency of which was to destroy or substantially injure an industry, efficiently and economically operated, in the United States. These proceedings were initiated on the basis of a complaint filed on behalf of Wear-Ever Aluminum, Inc., a wholly owned subsidiary of the Aluminum Company of America and the assignee of the patent in question.

On January 5, 1982, the complainant and respondents Yamada Electric Industries, Ltd., Sunbeam Corp., and Maxim Associates Corp. filed joint motions to terminate the investigation with respect to those respondents. Supplements to the motions were filed on January 12, 1982. Termination was sought on the basis of settlement agreements which the complainant had entered into with each of the respondents concerned. The motions were supported by the Commission investigative attorney. On January 19, 1982, the presiding officer issued an order recommending that the Commission accept the settlement agreements and that Motions Nos. 101-41 be granted.

Before taking final action on this matter, the Commission published notice of the motions along with nonconfidential summaries of the agreements in the *Federal Register* and solicited written comments on the proposed termination from the public and other Federal agencies. (47 FR 17348, Feb. 18, 1982) No comments adverse to termination were received.

On April 27, 1982, the Commission voted to grant Motions Nos. 101-41 and to issue an order dismissing Yamada, Sunbeam, and Maxim as respondents in these proceedings. Prior to the granting of those motions, the Commission had issued orders dismissing each of the other party respondents. Consequently, upon the granting of Motions Nos. 101-41, no respondents remained in the proceedings. Thus, the investigation was terminated in its entirety.

Copies of the motions, the settlement agreements (except for the confidential business information contained therein), the Commission's Action and Order, and all other nonconfidential documents on the record of this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15

p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

FOR FURTHER INFORMATION CONTACT:

P. N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Room 224, Washington, D.C. 20436, telephone 202-523-0350.

Issued: May 4, 1982.

By Order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-12946 Filed 5-11-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-3]

Doxycycline; Denial of Motion To Modify Exclusion Order

AGENCY: International Trade Commission.

ACTION: Denial of motion to modify exclusion order.

SUPPLEMENTARY INFORMATION: On April 12, 1979, the Commission issued an order prohibition the importation into the United States of doxycycline falling within claim 10 of U.S. Letters Patent 3,200,149 for the remaining term of the patent except under license. That order is now in force.

On November 5, 1981, Danbury Pharmacal, Inc., filed a motion with the Commission seeking modification of the doxycycline exclusion order to permit the importation of small quantities of doxycycline to be used for the purpose of obtaining Food and Drug Administration certification under 21 U.S.C. 357, and not for sale to the consuming public.

On May 4, 1982, the Commission denied the Danbury motion as moot in light of a Federal court decision enjoining Danbury from seeking modification of the Commission's exclusion order.

FOR FURTHER INFORMATION CONTACT:

Laird M. Street, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0124.

Issued: May 5, 1982.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-12946 Filed 5-11-82; 8:45 am]

BILLING CODE 7020-02-M

[332-73]

Extension of Period for Public Comment on Explanatory Notes to Certain Provisionally Adopted Chapters of the Harmonized Commodity Description and Coding System

AGENCY: International Trade Commission.

ACTION: Extension of period for public comment, pursuant to Commission Investigation No. 332-73, on volumes 3, 4, and 5f Explanatory Notes to sixteen provisionally adopted chapters of the Harmonized Commodity Description and Coding System (Harmonized System), as described in the Commission's public notice of April 14, 1982 (47 FR 17135, April 21, 1982).

WRITTEN SUBMISSIONS: Parties wishing to submit written comments should do so by filing them with the Secretary of the Commission at his office, 701 E Street, NW., Washington, DC 20436, no later than the close of business on June 15, 1982. Copies of the Explanatory Notes are available for public inspection at that office or may be sent upon request. Previously, the deadline for submission of written comments was April 30, 1982.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, or Holm Kappler, Deputy Director, Office of Tariff Affairs, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436, telephone (202) 523-0370 or 0362.

Issued: May 5, 1982.

By order of the Commission.

Kenneth Mason,
Secretary.

[FR Doc. 82-12944 Filed 5-11-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-93 (Preliminary)]

Frozen French Fried Potatoes From Canada

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigation and scheduling of a conference to be held in connection therewith.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-93 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially

injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of frozen french fried potatoes, provided for in item 141.86 of the Tariff Schedules of the United States, which are allegedly being sold in the United States at less than fair value (LTFV).

EFFECTIVE DATE: April 30, 1982.

FOR FURTHER INFORMATION CONTACT: Bill Schechter, Office of Investigations, U.S. International Trade Commission, telephone 202/523-0300.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted following receipt of a petition filed by counsel for McCain Inc., Washburn, Maine. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by June 14, 1982 (19 CFR 207.17). This investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR Part 207, 44 FR 76457 and 47 FR 6190), and particularly subpart B thereof. A nonconfidential copy of the petition is available for public inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, Telephone 202/523-0448.

Written Submissions

Any person may submit to the Commission on or before May 28, 1982, a written statement of information pertinent to the subject matter of this investigation. A signed original and fourteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10:00 a.m., on May 25, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington,

D.C. Parties wishing to participate in the conference should contact the supervisory investigator for the investigation, John Mac Hatton, telephone 202/523-0439, not later than May 20, 1982, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of this investigation rules and general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR Part 207), and part 201, subparts A through E (19 CFR Part 201), 47 FR 6182, February 10, 1982. Further information concerning the conduct of the conference will be provided by Mr. MacHatton.

This notice is published pursuant to § 207.12 of the Commission's Rules of Practice and Procedure (19 CFR 207.12).

Issued: May 5, 1982.

By order of the Commission.

Kenneth P. Mason,
Secretary.

[FR Doc. 82-12947 Filed 5-11-82; 8:45 am]

BILLING CODE 7023-02-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Inter-Arts Advisory Panel (Challenge); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Challenge) to the National Council on the Arts will be held on June 23, 1982, from 9:00 a.m.-5:30 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr.

John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.
May 5, 1982.

[FR Doc. 82-12886 Filed 5-11-82; 8:45 am]

BILLING CODE 7537-01-M

Museum Advisory Panel (Policy); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Policy) to the National Council on the Arts will be held on June 8-9, 1982, from 9:00 a.m.-5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E. Street, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on June 8, 1982, from 9:00 a.m.-5:30 p.m. to discuss policy and future directions.

The remaining sessions of this meeting on June 9, 1982, from 9:00 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.
May 5, 1982.

[FR Doc. 82-12687 Filed 5-11-82; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel (Challenge); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Challenge) to the National Council on the Arts will be held

APPENDIX B

**DEPARTMENT OF COMMERCE'S NOTICE OF INITIATION
OF ANTIDUMPING INVESTIGATION**

Room 100, 1825 Connecticut Avenue, Washington, D C 20428 Persons outside the metropolitan area may send a postcard request to the above address. **FOR FURTHER INFORMATION CONTACT:** For Orders 82-5-112, -126, -136, and 137: Ms Patti Szrom, (202) 673-5088, and for Orders 82-5-87 and -117: Ms Anne Stockvis, (202) 673-5198; Bureau of Domestic Aviation, Civil Aeronautics' Board, 1825 Connecticut Avenue, Washington, D C 20428.

By the Civil Aeronautics Board: May 25, 1982

Phyllis T Kaylor,
Secretary.

[FR Doc. 82-14649 Filed 5-27-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40511]

North American Airlines, Inc Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated at Washington, D C., May 25 1982.

Elias C Rodriguez,
Chief Administrative Law Judge

[FR Doc. 82-14651 Filed 5-27-82; 8:45 am]

BILLING CODE 6320-01-M

Order Concerning Mail Rates

Order 82-5-104, May 20, 1982, Dockets 40597 and 40598, establishes temporary intra-Alaska service mail rates for Hermens Air, Inc and Cape Smythe Air Service, Inc at the same level as authorized for Wien Air Alaska, Inc by Order 80-12-152.

Copies of this order are available from the C A B Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T Kaylor,
Secretary.

[FR Doc. 82-14653 Filed 5-27-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-5-124; Docket 37392]

Order Establishing Temporary Service Mail Rates

Order 82-5-124, May 24, 1982, Docket 37392 established temporary rates of compensation for the transportation of mail by aircraft by Eastern in Latin America pending establishment of final rates. The order also proposes to establish these temporary rates as final rates for Eastern.

Eastern is instituting service in certain Latin American markets as replacement for Braniff. Since Eastern will be providing the same service that Braniff formerly provided and requires a mail rate for its services, the Board concluded that the application of Braniff's rates will provide fair and reasonable compensation to Eastern.

Copies of the Board's order are available from the C A B Distribution Section, Room 100, 1825 Connecticut Avenue, NW, Washington, D C. 20428. Persons outside the metropolitan area may send a postcard request.

Phyllis T Kaylor,

Secretary.

[FR Doc. 82-14648 Filed 5-27-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Frozen French Fried Potatoes from Canada; Initiation of Antidumping Investigation

AGENCY: International Trade Administration, Commerce

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether frozen french fried potatoes are being or are likely to be, sold in the northeastern region of the United States at less than fair value. We are notifying the United States International Trade Commission ("ITC") of this action so that it may determine whether imports of this merchandise are materially injuring, or threatening to materially injure, a United States industry in the northeastern region of the United States. If the investigation proceeds normally, the ITC will make its preliminary determination on or before June 18, 1982, and we will make ours on or before October 12, 1982.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Paul Nichols, Office of Investigation, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D C 20230 (202) 337-1768.

SUPPLEMENTARY INFORMATION:

The Petition

On May 3, 1982, we received a petition from counsel for McCain Foods, a producer of frozen french fried potatoes in the northeastern region of

the United States. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Canada are being, or are likely to be sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a United States industry in the northeastern United States. The allegation of sales at less than fair value is supported by comparisons of United States prices (developed from actual sales invoices and published price lists) on sales of the merchandise in the United States with Canadian home market prices (obtained from a published price list by the Canadian producer) on sales made in Canada.

Initiation of Investigation

Under section 732(c) of the Tariff Act of 1930, as amended (19 U S C 1673a) ("the Act"), we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition filed by the industry, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping investigation to determine whether frozen french fried potatoes from Canada are being, or are likely to be, sold at less than fair value in the northeastern region of the United States. If our investigation proceeds normally, we will make our preliminary determination by October 12, 1982.

Scope of Investigation

The merchandise covered by this investigation is frozen french fried potatoes from Canada, currently classifiable under item 141.86, *Tariff Schedules of the United States* ("TSUS"). The petitioner alleges that the product is primarily sold by producers of frozen french fried potatoes to the food service distributor market.

Notification to ITC

Section 731(d) of the Act requires us to notify the United States International Trade Commission of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential

information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine within 45 days whether there is a reasonable indication that imports of frozen french fried potatoes from Canada are materially injuring, or are threatening to materially injure, the industry in the northeastern region of the United States. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 21, 1982.

[FR Doc. 82-14513 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-25-M

Cadmium From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On March 11, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on cadmium from Japan. The review covered the seven known exporters of this merchandise and the period September 5, 1979 through July 31, 1981.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. The Department received comments from the petitioner. After analysis of those comments, the results remain unchanged.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5289).

SUPPLEMENTARY INFORMATION:

Background

On August 4, 1972, a dumping finding with respect to cadmium from Japan was published in the Federal Register as Treasury Decision 72-206 (37 FR 15670). On March 11, 1982, the Department of Commerce ("the Department")

published in the Federal Register (47 FR 10613) a notice of the preliminary results of its administrative review of that finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of cadmium, currently classifiable under items 632.1420 and 632.1440 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of seven exporters of Japanese cadmium to the United States. The review covers all seven for the period September 5, 1979 through July 31, 1981. There were no known shipments to the United States by these seven firms during the period of review. One small shipment that could not be associated with any particular Japanese firm was imported in late 1979 but was inadvertently liquidated by the Customs Service. There are no known unliquidated entries.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. We received comments from the petitioner noting that, although we indicated in our preliminary results that there were no known shipments (except the one inadvertently liquidated by Customs), there was two other shipments in the period. However, we had previously found that these 2 shipments were of non-Japanese origin and had noted this in the final results of our last review of this case.

Therefore, the final results of our review are the same as those presented in the preliminary results of review.

As provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of zero shall be required on all shipments of cadmium from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of August 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C.

1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,
Deputy Assistant Secretary Import Administration.

May 20, 1982.

[FR Doc 82-14679 Filed 5-27-82; 8:45 am]

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Calcium Pantothenate From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On February 19, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on calcium pantothenate from Japan. The review covered the 21 manufacturers or exporters and 10 of the 12 third-country shippers of Japanese calcium pantothenate to the United States presently covered by the finding, generally for the period January 1, 1980 through December 31, 1980.

Interested parties were given an opportunity to submit written comments or request a hearing on these preliminary results. Based on comments from one third-country shipper the Department has made adjustments which result in a new weighted-average margin for that firm. The margins in the preliminary results of review remain unchanged for the remaining firms.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Susan Crawford or Sheila E. Forbes, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2209/5255).

SUPPLEMENTARY INFORMATION:

Background

On January 17, 1974, an antidumping finding with respect to calcium pantothenate from Japan was published in the Federal Register as Treasury Decision 74-34 (39 FR 2086). On February 19, 1982, the Department of Commerce ("the Department") published in the Federal Register (47 FR 7476-78) the preliminary results of its administrative review of the findings. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of calcium pantothenate. A

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APPENDIX C

**UNITED STATES STANDARDS FOR GRADES
OF FROZEN FRENCH FRIED POTATOES**

The U.S. Standards for Grades of Frozen French-Fried Potatoes, issued by the U.S. Department of Agriculture (USDA) under the authority of the Agricultural Marketing Act of 1946, which provides for the development of official U.S. grades to designate different levels of quality, are for the voluntary use of producers, suppliers, buyers, and consumers. These standards are designed to facilitate orderly marketing by providing a convenient basis for buying and selling, for establishing quality control programs, and for determining loan values. These standards also serve as a basis for the inspection and grading of frozen french fried potatoes by the Federal inspection service.

The "Standards" begin with a detailed product description, followed by the provisions for identification of products based upon "fry color" types, "intended end use" types, styles (based on size, shape, or other physical characteristics), length designations, and grades. The latter two, length designations and grades, are the criteria most frequently referred to in the marketing of frozen french fries.

Frozen french-fried potatoes are designated as to length in accordance with the following criteria, with "percent", as used in this section, meaning the percent, by count, of all pieces of potato that are one-half inch in length, or longer: (a) extra long when 80 percent or more are 2 inches in length or longer, and 30 percent or more are 3 inches in length or longer; (b) long when 70 percent or more are 2 inches in length or longer, and 15 percent or more are 3 inches in length or longer; (c) medium when 50 percent or more are 2 inches in length or longer; and (d) short when less than 50 percent are 2 inches in length or longer.

Grade designations are defined as "U.S. Grade A," "U.S. Grade A short," "U.S. Grade B," and "Substandard." "U.S. Grade A" (or "U.S. Fancy") is the quality of frozen french fried potatoes of "strip" style, "short" length that: (1) have a good flavor; (2) have a good color; (3) are practically uniform in size and symmetry; (4) are practically free from defects; (5) possess a good texture; and (6) score not less than 90 points when scored in accordance with the scoring system outlined in subsection 52.2396 of the Standards. U.S. Grade A (or U.S. Fancy) Short is the quality of frozen french fried potatoes of "strip" style, "short" length that: (1) have a good flavor; (2) have a good color; (3) are practically uniform in size and symmetry; (4) are practically free from defects; (5) possess a good texture; and (6) score not less than 90 points when scored in accordance with the scoring system outlined in subsection 52.2396 of the Standards. "U.S. Grade B" (or "U.S. Extra Standard") is the quality of frozen french fried potatoes that: (1) have a reasonably good flavor; (2) have a reasonably good color; (3) are reasonably uniform in size and symmetry; (4) are reasonably free from defects; (5) possess a reasonably good texture; and (6) score not less than 80 points when scored in accordance with the scoring system outlined in subsection 52.2396 of the Standards. Substandard is the grade of frozen french fried potatoes that fail to meet the requirements of "U.S. Grade B."

APPENDIX D

LIST OF WITNESSES APPEARING AT THE CONFERENCE

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigation No. 731-TA-93 (Preliminary)
FROZEN FRENCH FRIED POTATOES FROM CANADA

Schedule of Appearances at Conference

Sunshine Room (Room 117), U.S.I.T.C. Building
Tuesday, May 25, 1982

In Support of Petition:

McCain Foods, Inc., Washburn, Maine:
Terry Young, President, B.N. Reid, Vice President, Sales,
William Mabe, Vice President, Finance

Of counsel:

Williams & Ince, Washington, DC:
William K. Ince
William Wright

Potato Service, Inc., Roslyn Heights, NY
Jules Salzbank, President

In Opposition to the Petition:

Cavendish Farms, Moncton, New Brunswick, Canada:

Of counsel:

Verner, Liipfert, Bernhard & McPherson, Washington, DC:
R. Michael Gadbaw