

# **THERMOSTATICALLY CONTROLLED APPLIANCE PLUGS AND INTERNAL PROBE THERMOSTATS THEREFOR FROM CANADA, JAPAN, MALAYSIA, AND TAIWAN**

Determination of the Commission in  
Investigation No. 701-TA-292  
(Final) Under the Tariff Act of  
1930, Together With the  
Information Obtained in  
the Investigation

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Determinations of the Commission in  
Investigations Nos. 731-TA-400 and  
402-404 (Final) Under the Tariff  
Act of 1930, Together With the  
Information Obtained in the  
Investigations

United States International Trade Commission  
Washington, DC 20436

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**Rubin Moller, Office of Industries**

**Jeffrey Anspacher, Office of Economics**

**Marshall Wade, Office of Investigations**

**Mitchell Dale, Office of the General Counsel**

**Robert Carpenter, Supervisory Investigator**

**Address all communications to  
Kenneth R. Mason, Secretary to the Commission  
United States International Trade Commission  
Washington, DC 20436**

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## UNITED STATES INTERNATIONAL TRADE COMMISSION

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WASHINGTON, D.C. 20436

February 2, 1989

### NOTICE OF ERRATA

The attached report contains the "Additional Views of Acting Chairman Anne E. Brunsdale" which was inadvertently omitted from USITC Publication 2152, Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor from Canada, Japan, Malaysia, and Taiwan: Determination of the Commission in Investigation No. 701-TA-292 (Final) . . . Determinations of the Commission in Investigations Nos. 731-TA-400 and 402-404 (Final) . . . Please destroy any previously issued versions of this report that you may have.



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.





UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 701-TA-292 (Final)  
and 731-TA-400 and 402-404 (Final)

THERMOSTATICALLY CONTROLLED APPLIANCE PLUGS AND INTERNAL PROBE THERMOSTATS  
THEREFOR FROM CANADA, JAPAN, MALAYSIA, AND TAIWAN

Determinations

On the basis of the record <sup>1/</sup> developed in the subject investigations, the Commission unanimously determines, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)) and section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Canada, Japan, Malaysia, and Taiwan of thermostatically controlled appliance plugs and/or internal probe thermostats provided for in subheadings 9032.10.00, 9032.20.00, 9032.89.60, 9032.90.60, and 9033.00.00 of the Harmonized Tariff Schedule of the United States (these products were previously provided for in item 711.78 of the Tariff Schedules of the United States), that have been found by the Department of Commerce to be subsidized and sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective July 22, 1988, and September 28, 1988, following preliminary determinations by the Department of Commerce that imports of thermostatically controlled appliance plugs and internal probe thermostats from Taiwan were being subsidized within the meaning of section 701 of the act (19 U.S.C. § 1671) and that such products from Canada, Japan, Malaysia, and Taiwan were being sold at LTFV within the meaning of section 731 of the act (19 U.S.C. § 1673). Notice of the institution of the

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<sup>1/</sup> The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(i)).

Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the Federal Register of August 17, 1988 (53 F.R. 31115) and of October 19, 1988 (53 F.R. 40973). The hearing was held in Washington, DC, on December 15, 1988, and all persons who requested the opportunity were permitted to appear in person or by counsel.

# VIEWS OF THE COMMISSION

We determine that an industry in the United States is not materially injured, or threatened with material injury, by reason of thermostatically controlled appliance plugs and internal probe thermostats therefor from Canada, Japan, Malaysia, and Taiwan which are being sold at less than fair value (LTFV). We also determine that an industry in the United States is not materially injured, or threatened with material injury, by reason of subsidized imports of thermostatically controlled appliance plugs and internal probe thermostats therefor from Taiwan. <sup>1/</sup>

## Like product

As a prerequisite to its material injury analysis, the Commission must first define the relevant domestic industry against which to assess the impact of unfairly trade imports. Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as 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 . . . ." <sup>2/</sup> "Like product" is defined as "a product which is like,

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<sup>1/</sup> Because we determine that there exists a domestic industry producing the like product, material retardation is not an issue in these investigations.

<sup>2/</sup> 19 U.S.C. § 1677(4)(A).

or in the absence of like, most similar in characteristics and uses with, the article subject to [an] investigation. . . ." <sup>3/</sup>

The imported articles subject to this investigation are thermostatically controlled appliance plugs ("thermo plugs") and probe thermostats therefor. Thermostatically controlled appliance plugs are used to connect an electrical outlet (typically a common wall receptacle) with small cooking appliances, such as electric griddles, deep fryers, frying pans, multicookers, and woks. They enable the user to regulate the flow of electricity, and thus the temperature, produced in such cooking appliances. <sup>4/</sup> A probe thermostat is a component part that performs the actual thermostatic control function within a thermo plug and consists of a stainless steel tube that connects to the heating apparatus of the appliance, and other electrically activated subcomponents. <sup>5/</sup>

In determining the domestic like product, the Commission typically examines the following factors: (1) physical characteristics and uses,

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<sup>3/</sup> 19 U.S.C. § 1677(10).

<sup>4/</sup> See Commerce Department Final Determination of Sales at Less than Fair Value: Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor from Taiwan, 53 Fed. Reg. 50068 (December 13, 1988); Staff Report of the Commission (Report) at A-3.

<sup>5/</sup> Id.

(2) interchangeability, (3) channels of distribution, (4) customer perceptions of the articles, (5) the use of common manufacturing facilities and production employees, and (6) in some cases, price. <sup>6/</sup> In considering the somewhat different question of whether a semifinished or component part is "like" the finished product, the Commission has examined: (1) the necessity for further processing, (2) the costs of such processing and the value added thereby, (3) whether the article at an earlier stage of production embodies or imparts to the finished product an essential characteristic or function, (4) whether there are independent markets for the finished and unfinished or component articles, and (5) the degree of interchangeability of the articles at different stages of production. <sup>7/</sup> In examining the factors relevant to the like product determination, the Commission looks for "clear dividing lines among products in terms of distinct characteristics and uses. Minor variations in products are insufficient to find separate like products." <sup>8/</sup>

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<sup>6/</sup> See *Asociacion Colombiana de Exportadores de Flores v. U.S.*, 12 CIT \_\_\_\_, 693 F. Supp. 1165 (1988); 3.5" Microdisks and Media Therefor from Japan, Inv. No. 731-TA-389 (Preliminary), USITC Pub. 2076 (1988); Certain Forged Steel Crankshafts from the Federal Republic of Germany and the United Kingdom, Invs. Nos. 731-TA-351 and 353 (Final), USITC Pub. 2014 (1987).

<sup>7/</sup> See, e.g., *Digital Readout Systems and Subassemblies Thereof from Japan*, Inv. No. 731-TA-390 (Preliminary), USITC Pub. 2081 (1988); *Color Picture Tubes from Canada, Japan, The Republic of Korea and Singapore*, Invs. Nos. 731-TA-367-370 (Final), USITC Pub. 2046 (1987); *Cellular Mobile Telephones and Subassemblies Thereof from Japan*, Inv. No. 731-TA-207 (Final), USITC Pub. 1786 (1985); *Certain Forged Undercarriage Components from Italy*, Inv. No. 701-TA-201 (Final), USITC Pub. 1465 (1983).

<sup>8/</sup> *Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore*, Inv. Nos. 731-TA-367-370 (Preliminary), USITC Pub. 1937 (1987) at 4.

In the Commission's preliminary investigations, we determined there is a single like product consisting of thermostatically controlled appliance plugs and probe thermostats therefor. <sup>9/</sup> In these final investigations, Canadian respondent ATCO Controls Inc., the only respondent to appear at the Commission hearing or file a brief in these proceedings, contends that the Commission should find two like products. ATCO claims that probe thermostats and fully assembled thermo plugs do not look alike, are not interchangeable, and are not manufactured in common manufacturing facilities or by common production employees. Further, ATCO argues that probe thermostats are not dedicated exclusively for use as a component of thermo plugs, but may be sold as a device to keep coffee warm or as regulators in small water heaters. <sup>10/</sup>

We begin our analysis of this issue by noting that individual purchasers of thermo plugs may require particular product specifications with respect to cord length, size, temperature range, and the configuration of the thermo plug housing. <sup>11/</sup> To a certain extent, this factor may, as ATCO argues, limit the interchangeability of the thermo plugs produced by different manufacturers. Interchangeability, however, is only one of the criteria for

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<sup>9/</sup> Thermostatically Controlled Appliance Plugs and Probe Thermostats Therefor From Canada, Hong Kong, Japan, Malaysia, and Taiwan, Invs. Nos. 701-TA-290-292 (Preliminary) and 731-TA-400-404 (Preliminary), USITC Pub. 2087 (1988) at 6-7.

<sup>10/</sup> Posthearing Brief on Behalf of ATCO Controls Inc. at 9A, 18A-19A.

<sup>11/</sup> Report at A-4.

making a like product determination and no single criterion is determinative. Moreover, imported thermo plugs and internal probe thermostats generally have the same uses as their domestic counterparts <sup>12/</sup> and "[t]here do not appear to be any major restrictions on any known producer's ability to manufacture a thermostatically controlled appliance plug for any appliance[.]" <sup>13/</sup>

Second, we note that "virtually all" imported and domestically produced thermo plugs and internal probe thermostats therefor sold in the United States are sold to small appliance manufacturers and therefore are distributed in the same channels of distribution. <sup>14/</sup> With respect to the allegation that probe thermostats may have commercial uses other than as a component in a fully assembled thermo plug, the record indicates that there are "no significant applications for thermostatically controlled appliance plugs and internal probe thermostats other than with small appliances, and there are no products that may substitute for these articles." <sup>15/</sup>

Finally, there is no information in these final investigations to contradict the Commission's conclusion in the preliminary investigations that the internal probe thermostat is the primary component of a thermo plug (reflecting roughly 50 percent of the value of the finished plug), and imparts

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<sup>12/</sup> Report at A-32.

<sup>13/</sup> Id. at A-4.

<sup>14/</sup> Id. at A-7.

<sup>15/</sup> Id. at A-4. See also Hearing Transcript (Tr.) at 23.

to the finished plug the principal characteristic that distinguishes it from other appliance plugs (viz., its ability to regulate the temperature of a cooking device over a given range). <sup>16/</sup> For these reasons, in these final investigations, we find one like product consisting of thermostatically controlled appliance plugs and probe thermostats therefor.

#### Domestic Industry

Petitioner, Triplex Inter Control (USA) Inc., suggests that the Commission limit the scope of the domestic industry in this case to domestic producers that "manufacture[] both the complete probe thermostat and . . . the internal probe thermostat for the 'open market[.]'" <sup>17/</sup> The Commission in numerous investigations, however, has determined that the domestic industry must include all domestic production of the like product, whether captively consumed or sold in the open market. As the Commission noted in Industrial Phosphoric Acid from Belgium and Israel:

There is no statutory basis for excluding captive production. The statute defines the term "industry" as "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.]" 19 U.S.C. § 1677(4)(A). The statute further instructs the Commission, as a general rule, that "[t]he effect of the subsidized or dumped imports shall be assessed in relation to the United States production of a like product . . ." 19 U.S.C. § 1677(4)(D). Thus, the statute defines industry in terms of production, not in terms of markets, distribution

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<sup>16/</sup> See Report at A-3-A-4.

<sup>17/</sup> Anti-Dumping Duty Petition at 1.



channels, or similar factors. <sup>18/</sup>

Therefore, we determine the domestic industry to be all domestic producers of thermostatically controlled appliance plugs and probe thermostats therefor.

#### Related Parties

Petitioner has urged that the West Bend Co. and Toastmaster Inc. be excluded from the domestic industry under the "related parties" provision because these companies import thermo plugs or internal probe thermostats. <sup>19/</sup> Section 771(4)(B) of the statute provides: "When some producers are related to the exporters or importers, or are themselves importers of the allegedly subsidized or dumped merchandise, the term 'industry' may be applied in appropriate circumstances by excluding such producers from those included in that industry." <sup>20/</sup> Application of the "related parties" provision is within the Commission's discretion based on the

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<sup>18/</sup> Inv. Nos. 701-TA-285-286 (Preliminary) and 731-TA-365-366 (Preliminary), USITC Pub. 1931 (1986) at 7, n.20. Accord, Industrial Phosphoric Acid from Belgium and Israel, Inv. Nos. 701-TA-286 (Final) and 731-TA-365-366 (Final), USITC Pub. 2000 (1987) at 7-8, aff'd, Negev Phosphates, Ltd. v. United States, 12 CIT \_\_\_\_\_, 699 F. Supp. 938 (1988). See also Iron Ore Pellets from Brazil, Inv. No. 701-TA-235 (Final), USITC Pub. 1880 (1986) at 6; 64K Dynamic Random Access Memory Components from Japan, Inv. No. 731-TA-270 (Final), USITC Pub. 1862 (1986) at 11; Electrolytic Manganese Dioxide from Greece, Ireland, and Japan, Invs. Nos. 731-TA-406-408 (Preliminary), USITC Pub. 2097 (1988) at 7 n.19; Titanium Sponge from Japan and the United Kingdom, Invs. Nos. 731-TA-161-162 (Final), USITC Pub. 1600 (1984).

<sup>19/</sup> Hearing Transcript at 16-17; Anti-Dumping Petition at 4.

<sup>20/</sup> 19 U.S.C. § 1677(4)(B).

facts presented in each case. 21/

Among the factors that the Commission typically considers in determining whether appropriate circumstances exist to exclude a U.S. producer from the domestic industry are:

- (1) the percentage of domestic production attributable to related producers;
- (2) the reason why importing producers choose to import the articles under investigation (viz., whether they import in order to benefit from the unfair trade practice or in order simply to be able to compete in the domestic market); and
- (3) the competitive position of the related domestic producer vis-a-vis other domestic producers. 22/

In addition, the Commission considers whether a firm's exclusion from the domestic industry might skew the data bearing on the performance trends and condition of the domestic industry. 23/

There is confidential information in the record concerning the precise extent to which, and the reasons why, various domestic producers of the like

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21/ Empire Plow Co. v. United States, 11 CIT \_\_\_, 675 F. Supp. 1348, 1352 (1987).

22/ See, e.g., Granular Polytetrafluoroethylene Resin from Italy and Japan, Inv. 731-TA-385-386 (Final), USITC Pub. 2112 (1988); Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 (1986). See also, S. Rep. No. 249, 96th Cong., 1st Sess. 83 (1979).

23/ See Certain Table Wine from France and Italy, Invs. Nos. 701-TA-210-211 (Preliminary) and 731-TA-167-168 (Preliminary), USITC Pub. 1502 (1984) at 11 ("The Commission is not to include domestic producers if their relation to the importers protects them from injury and if their inclusion would skew economic data. Nor are domestic producers to be excluded if they constitute such a major proportion of the total industry that their exclusion would severely distort industry data."); Iron Construction Castings from Canada, Inv. No. 731-TA-263 (Final), USITC Pub. 1811 (1986).

Product purchase imports subject to investigation. <sup>24/</sup> We have considered this information, as well as the fact that the share of total domestic production accounted for by these producers is substantial and has increased annually over the period of investigation. <sup>25/</sup> We believe these firms have made a significant commitment to U.S. production and clearly have interests as U.S. producers. <sup>26/</sup> In addition, we believe that exclusion of these companies would skew our economic analysis of the condition of the domestic industry. <sup>27/</sup> For these reasons, we determine that the circumstances are not appropriate for excluding these companies from the domestic industry as related parties.

#### Condition of the Domestic Industry <sup>28/</sup>

Initially, we note that in these investigations, we have considered the condition of the domestic industry and the impact of the subject imports in

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<sup>24/</sup> See, e.g., Commission Memorandum GC-M-006 (Jan. 12, 1989) at 11; Report at A-11-A-12.

<sup>25/</sup> See Report at A-12.

<sup>26/</sup> See Granular Polytetrafluoroethylene Resin from Italy and Japan, Inv. No. 731-TA-385-386 (Final), USITC Pub. 2112 (1988) at 6.

<sup>27/</sup> Acting Chairman Brunsdale and Commissioners Rohr and Lodwick note that even if the U.S. producers that purchase the subject imports were excluded from the domestic industry as related parties, that would not alter their determination that a domestic industry is not injured, nor threatened with material injury, by reason of the subject imports.

<sup>28/</sup> In these investigations, all of the individual company data and much of the aggregate data regarding the performance of the domestic industry are confidential and therefore can only be discussed in very general terms.

light of the fact that the great majority of domestic production is captivel consumed in the production of small cooking appliances. <sup>29/</sup> Further, the demand for thermo plugs (and their internal probe thermostats) is driven by the demand for electrical cooking appliances, and a significant portion of open market purchases are made by U.S. firms that also produce these products. <sup>30/</sup>

In determining the condition of the domestic industry, the Commission considers, among other factors, U.S. production, capacity, capacity utilization, shipments, inventories, employment, and profitability. <sup>31/</sup> The Commission has collected data bearing on the condition of the domestic industry for the period 1985 through September 1988. These data show that the volume of thermostatically controlled appliance plugs produced by the domestic industry increased from 2.33 million in 1985 to 2.65 million in 1987. Production in interim (January-September) 1988 showed a slight decline from interim 1987. <sup>32/</sup> Average capacity to produce thermo plugs increased from 5.66 million units in 1985 to 5.67 million in 1986, and declined to 5.61

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<sup>29/</sup> Report at A-7, A-11.

<sup>30/</sup> See Report at A-32, A-11-A-12; Commission Memorandum EC-M-010 (Jan. 13, 1989) at 13.

<sup>31/</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>32/</sup> Report at A-9.

million in 1987. <sup>33/</sup> Capacity utilization was 41 percent in 1985, 38 percent in 1986, and 47 percent in 1987, and showed a slight increase in interim 1988 as compared to interim 1987. <sup>34/</sup>

Production of internal probe thermostats increased throughout the period of investigation, rising from 1.70 million units in 1985, to 1.83 million in 1986 and 2.32 million in 1987. Production of probe thermostats also increased in interim 1988, as compared to interim 1987. <sup>35/</sup> Average capacity to produce probes remained constant at 4.44 million from 1985 to 1987, and at 3.33 million in the interim periods. <sup>36/</sup> Capacity utilization rose from 38 percent in 1985 to 52 percent in 1987, and was significantly higher in interim 1988. <sup>37/</sup>

With respect to employment trends, the available data show that the number of production and related workers producing thermostatically controlled appliance plugs increased over the period 1985 to 1987, but declined slightly

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<sup>33/</sup> Id. Average capacity was 3.81 million units in interim 1988 as compared with 4.20 million in interim 1987.

<sup>34/</sup> Id. We note that one small-appliance manufacturer, Munsey Products, commenced production of thermo plugs for captive consumption in 1988. In addition, there is evidence that another firm will soon enter the market as an open market producer of thermo plugs. Report at A-7, A-8, A-32.

<sup>35/</sup> Id. at A-10.

<sup>36/</sup> Id.

<sup>37/</sup> Id.

in interim 1988 as compared to interim 1987. <sup>38/</sup> The number of hours worked by employees producing thermostatically controlled appliance plugs at reporting firms increased by 31 percent from 1985 to 1987. <sup>39/</sup> Hourly wages increased by 9 percent from 1985 to 1987 and by another 13 percent from January-September 1987 to January-September 1988. <sup>40/</sup> Total hourly compensation decreased by 1 percent from 1985 to 1986, increased by 13 percent from 1986 to 1987, and increased by 15 percent from January-September 1987 as compared to January-September 1988. <sup>41/</sup> Productivity in the production of thermo plugs increased by 9 percent over the period 1985 to 1987, and increased 8 percent in interim 1988 as compared to interim 1987. <sup>42/</sup>

With regard to the financial performance of U.S. producers, usable overall establishment data and product data are available only with respect to

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<sup>38/</sup> Report at A-15. The available data do not reflect employment figures with respect to Sunbeam Appliance Co., which could not provide allocated employment figures for workers producing thermo plugs and which ceased production in 1987, when it sold its line of small appliances that used thermo plugs. Further, employment figures are unavailable for Leviton Manufacturing Co., Inc. and American Thermostat Corp., which ceased production in 1986 and 1985, respectively. Report at A-8. Thus, the trends with respect to the number of production and related workers in the domestic industry likely declined somewhat, rather than increased, over the period of investigation.

<sup>39/</sup> Report at A-14.

<sup>40/</sup> Id.

<sup>41/</sup> Id.

<sup>42/</sup> Id.

petitioner's operations. <sup>43/</sup> The financial data concerning petitioner, however, is confidential and, therefore, cannot be discussed in detail.

We note that these data do show that although petitioner's performance trends are somewhat mixed, it has experienced difficulty throughout the period of investigation. <sup>44/</sup> However, as noted, petitioner is the only open market domestic producer of the like product and accounts for only a small portion of total domestic production. Further, in analyzing the issue of material injury to the domestic industry by reason of imports, the Commission considers the impact of imports on both the overall market and the open market, where possible. <sup>45/</sup>

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<sup>43/</sup> Petitioner is the only domestic producer who sells in the open market, and the bulk of whose overall establishment sales is accounted for by thermo plugs and probe thermostats. Report at A-8; A-14. Three captive producers, accounting for the great majority of domestic production of the like product, provided their overall establishment data. However, fully assembled thermo plugs reflect a relatively modest share of the total cost of the appliances with which they are used (EC-M-010 (Jan. 13, 1989) at 15), and these captive producers also manufacture other products that do not contain thermostatically controlled appliance plugs. Therefore, although the overall establishment data indicate upward performance trends for these captive producers, we do not consider such data to be a particularly useful indicator of the condition of the domestic industry. Further, because the production of probe thermostats and thermo plugs represents such a small portion of these firms' total operations, two of these companies do not maintain and therefore could not provide specific product financial information, and the product data submitted by the third captive producer was found to be unusable. See Report at A-14, A-16-A-22.

<sup>44/</sup> See Report at A-14, A-16-A-22.

<sup>45/</sup> See, e.g., Electrolytic Manganese Dioxide from Greece, Ireland, and Japan, Inv. No. 731-TA-406-408 (Preliminary), USITC Pub. 2097 (1988) at 7 n.19; Hydrogenated Castor Oil from Brazil, Inv. No. 731-TA-236 (Final),  
(Footnote continued on next page)

In these investigations, the data show that the trends for the domestic industry as a whole are favorable. Therefore, we conclude that the domestic industry as a whole is not experiencing material injury. <sup>46/</sup> Moreover, even assuming, arguendo, that the domestic industry is materially injured, we are not persuaded that such injury is by reason of the subject imports. <sup>47/</sup>

#### Cumulation

Section 771(7)(C)(iv) of the statute, as amended by the Trade and Tariff Act of 1984, directs the Commission to "cumulatively assess the volume and

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(Footnote continued from previous page)

USITC Pub. 1804 (1986) at 4 n.10. The statute instructs the Commission to "evaluate all relevant economic factors which have a bearing on the state of the industry," 19 U.S.C. § 1677(7)(C)(iii), not merely upon individual producers. The statute further defines the domestic industry as "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 like product[.]" 19 U.S.C. § 1677(4)(A).

<sup>46/</sup> Acting Chairman Brunsdale concurs in the description of the domestic industry, and finds it relevant to her determination. She does not, however, believe that a separate legal determination regarding injury is appropriate in this case. While Commissioner Cass agrees with the Commission's factual findings concerning performance trends regarding the domestic industry, he also does not believe it is necessary to reach a separate conclusion as to the condition of the industry.

<sup>47/</sup> Commissioners Eckes and Rohr note that the Court of International Trade has held that, in cases where a majority of the Commission correctly determines that a domestic industry is not materially injured, the Commission can be affirmed regardless of whether it has made additional findings with respect to causation. See American Spring Wire Corp. v. United States, 8 CIT 20, 590 F. Supp. 1273 (1984), aff'd sub nom. Armco, Inc. v. United States, 760 F.2d 249 (Fed. Cir. 1985); National Ass'n of Mirror Manufacturers v. United States, 12 CIT \_\_\_\_\_, 696 F. Supp. 642 (1988).



effect of imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market." <sup>48/</sup> To determine the existence of competition among the imports and the domestic like product, the Commission has considered, among other things, the following factors:

- the degree of fungibility between imports from different countries and between said imports and the domestic like product, including such factors as specific customer requirements and quality related differences;
- the presence of sales or offers to sell in the same geographical markets;
- the existence of common or similar channels of distribution for both imports and the domestic like product; and
- whether the imports are simultaneously present in the market.

This list of factors is not exhaustive and no single factor is determinative.

Respondent ATCO makes several arguments with respect to whether the conditions for mandatory cumulation are met in this case. First, ATCO notes that a significant portion of the thermo plugs it exports from Canada to the United States is approved by the Canadian Standards Association (CSA). These plugs, which are imported primarily for incorporation into finished small appliances produced by U.S. manufacturers for export and sale in Canada, have bilingual labeling on the control knob and contain three prongs (rather than two prongs designed for use in electrical outlets in the United States). <sup>49/</sup>

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<sup>48/</sup> 19 U.S.C. § 1677(7)(C)(iv).

<sup>49/</sup> Hearing Tr. at 66; ATCO Posthearing Brief at 9A.

ATCO argues that because, to its knowledge, no U.S. producers manufacture three-prong plugs that are CSA-approved, these ATCO plugs "simply do not compete head-to-head in the U.S. marketplace." 50/

ATCO also argues that most plugs sold in the United States are produced to the particular specifications of each individual purchaser, which restricts the substitutability of --- and competition among -- the thermo plugs sold by different producers. Finally, ATCO contends that because of specific design features associated with its plugs, as well as differences in the marketing approaches employed by ATCO and petitioner, ATCO is able to sell its thermo plugs within a "niche market" where other foreign and domestic producers cannot or do not choose to compete. 51/

We are not persuaded that Canadian imports should not be cumulated with imports from the other countries under investigation. 52/ First, we note that although some thermo plugs exported to the United States by ATCO are specially designed for use in Canada, most are not CSA-approved, but are designed for use in small cooking appliances for sale in the United States. 53/ Second, although there may be minor differences in the

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50/ ATCO Posthearing Brief at 9A.

51/ Id. at 10A-11A.

52/ On the basis of the record, we also find it appropriate to cumulatively assess the impact of imports from all the other countries under investigation.

53/ ATCO Posthearing Brief at 20A.

thermostatically controlled appliance plugs that are sold to different purchasers, imported thermostatically controlled appliance plugs and internal probe thermostats generally have the same uses as their domestic counterparts, and are considered highly competitive with the domestic products. <sup>54/</sup>

Indeed, there appears to be strong competition among all open market producers in bidding for sales to major purchasers, and purchasers have reported buying thermo plugs and probe thermostats from several different sources, both foreign and domestic. <sup>55/</sup> Finally, thermo plugs were imported from all countries under investigation over a substantial portion of the period under investigation. <sup>56/</sup>

Thus, we are not persuaded that there is no meaningful competition among imports subject to investigation and the domestic like product and we, therefore, cumulatively assess the price and volume effects of all imports subject to investigation.

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<sup>54/</sup> Report at A-32. Moreover, as noted, there do not appear to be any major restrictions upon any known producer's ability to manufacture thermo plugs for any appliance. See Report at A-4; Commission Memoranda EC-M-010 (Jan. 13, 1989) at 10 and EC-M-011 (Jan. 13, 1989) at 2.

<sup>55/</sup> See Report at A-35-A-37; Commission Memorandum EC-M-011 (Jan. 13, 1989) at 3.

<sup>56/</sup> Report at A-28.

Material Injury by Reason of LTFV and Subsidized Imports

The statute provides that, when making a determination of whether an industry in the United States is materially injured, or threatened with material injury, by reason of imports,

the Commission, in each case--

(i) shall consider--

- (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, . . . <sup>57/</sup>

U.S. imports of thermostatically controlled appliance plugs increased roughly 20 percent measured in terms of both volume and value over the period of 1985 to 1987. In interim 1988, such imports increased 6 percent by volume, and 1 percent by value, as compared to interim 1987. <sup>58/</sup> Imports of internal probe thermostats increased from 1985 to 1986, before declining precipitously in 1987 <sup>59/</sup> and again in interim 1988. <sup>60/</sup>

The ratio of imported thermo plugs to total U.S. consumption remained fairly stable over the period of investigation. The ratio of such imports to

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<sup>57/</sup> 19 U.S.C. § 1677(7)(B).

<sup>58/</sup> Report at A-27.

<sup>59/</sup> Id. at A-27. The data show similar trends with respect to the value of imported probe thermostats.

<sup>60/</sup> Id.

the total quantity of U.S. consumption increased from 32 percent in 1985 to 35 percent in 1986 and then declined to 33 percent in 1987. <sup>61/</sup> As a percentage of the total value of U.S. consumption, such imports increased from 36 percent in 1985 to 37 percent in 1986, before dropping to 34 percent in 1987. <sup>62/</sup> Similar trends are reported with respect to import penetration levels for probe thermostats. <sup>63/</sup> Thus, import penetration levels have not increased significantly over the period of investigation.

The Commission collected pricing data for both the subject imports and the domestic products sold in the open market. <sup>64/</sup> Thermostatically controlled appliance plugs and probe thermostats therefor are usually sold on a contractual basis, although large spot sales sometimes occur. <sup>65/</sup> Contracts usually cover a period of six months to a year, with prices remaining fixed during the contract period. <sup>66/</sup> The record shows that

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<sup>61/</sup> Report at A-27. In interim 1988, the import penetration level was 39 percent, up from 33 percent in interim 1988.

<sup>62/</sup> Id. at A-29. Import penetration in interim 1988 was 37 percent as compared to 35 percent in interim 1987.

<sup>63/</sup> Id. at A-30-A-31.

<sup>64/</sup> As noted, captive producers generally do not assign a "transfer price" to the thermo plugs and probe thermostats they captively consume, because these products reflect such a small portion of their overall operations. Report at A-14, A-32.

<sup>65/</sup> Id. at A-32.

<sup>66/</sup> Id.

petitioner's prices fluctuated sharply during the period of investigation. <sup>67/</sup> Generally, the prices of the subject imports remained fairly stable, or increased, over the period of investigation. <sup>68/</sup> Direct quarterly price comparisons show a mixed pattern of underselling and overselling. <sup>69/</sup> We note, however, although petitioner claims that it has suffered price suppression and price depression due to unfairly traded imports, at the Commission's hearing representatives for both petitioner and respondent ATCO agreed that the recognized price leader in U.S. open market sales of these products is Advance Thermo Control of Hong Kong, <sup>70/</sup> whose exports Commerce has determined are not being sold at less than fair value. <sup>71/</sup>

In addition, although the Commission is not to weigh various causes of material injury, we do consider information indicating that harm may be caused

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<sup>67/</sup> Report at A-33.

<sup>68/</sup> *Id.* at A-34.

<sup>69/</sup> *Id.* at A-33-A-35. Acting Chairman Brunsdale does not believe that the quarterly pricing comparisons developed in this case are probative evidence of the price effect of the subject imports. She notes that petitioner attributes the variations in its production levels to the acquisition and subsequent loss of one large account. Petitioner further notes that the purchaser split its order between a Japanese producer and a Hong Kong producer. Tr. at 37-38. As noted *infra*, imports from Hong Kong are considered to be the current price leaders in the industry, but were not dumped according to the Department of Commerce calculations.

<sup>70/</sup> Hearing Transcript at 30, 78-79.

<sup>71/</sup> Commerce Determination of Sales at Not Less than Fair Value; Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor From Hong Kong, 53 Fed. Reg. 50064 (Dec. 13, 1988).

by factors other than subsidized or LTFV imports. <sup>72/</sup> In this regard, we note that petitioner has not passed qualification testing by some of the larger small-appliance manufacturers, and there is evidence that some firms do not purchase thermo plugs or probe thermostats from petitioner due to problems in timely delivery, production capacity, and the quality of petitioner's products. <sup>73/</sup>

Finally, we note that a significant portion of the subject imports sold in the United States are sold to U.S. small-appliance manufacturers who also produce the like product but do not compete with imports for sales on the open market. <sup>74/</sup> Under the circumstances presented in this case, we cannot conclude that domestic producers who choose to purchase the imported articles are injured by those imports. Although import sales may be at the expense of open market sales by petitioner, petitioner represents a very small portion of total U.S. production. <sup>75/</sup> As stated, the statute instructs us to assess whether there is material injury to the domestic industry by reason of the subject imports. Inasmuch as the majority of domestic producers purchase the subject imports themselves and/or do not compete with imports for open market

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<sup>72/</sup> See S. Rep No. 249, 96th Cong., 1st Sess. 57-58 (1979).

<sup>73/</sup> See Report at A-35-A-37; EC-M-011 (Jan. 13, 1989) at 2.

<sup>74/</sup> See Report at A-11, A-13. Tr. at 35, 36.

<sup>75/</sup> As noted, some of the "lost sales" alleged by petitioner appear to have been lost for reasons unrelated to the price of the subject imports. See Report at A-37-A-38.

sales, we simply cannot conclude that these producers are injured by reason of the subject imports. 76/

For these reasons, we do not consider the subject imports to be a cause

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76/ Although Commissioner Cass believes imports do compete with domestic production of open market sales, he does not believe that competition is sufficient in this case to cause material injury by reason of these imports. Given the magnitude of sales in the U.S. as a share of total importers' production, relatively little of the LTFV margins reported by Commerce are likely to be reflected in lower U.S. prices. Furthermore, those imports do not compete sufficiently closely in the domestic production to cause a material reduction in the prices or quantities of domestic production. It is therefore implausible that domestic employment, wages, profits, or other indicators of injury have been reduced by reason of the subject imports.



of material injury to the domestic industry as a whole. 77/ 78/ 79/ 80/

### Threat of Material Injury

In making a determination as to whether a domestic industry is threatened with material injury, the Commission is required to consider, among other factors:

- (1) the nature of the subsidies provided by a foreign country and their likely effects,

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77/ As held by the Court of International Trade in *Copperweld Corp. v. United States*, 12 CIT \_\_\_\_, 682 F. Supp. 552, 569 (1988), the statute "makes manifestly clear that Congress intended the ITC determine whether or not the domestic industry (as a whole) has experienced material injury due to the imports."

78/ Commissioner Eckes did not rely on elasticity estimates or the results of the CADIC model in making his determination. In these investigations, he considers those results too speculative. See Transcript of Commission meeting of January 17, 1989, at 4-10.

79/ Respondent ATCO has challenged petitioner's standing to petition for relief under the statute, on the grounds that the lack of affirmative support for the petition by other domestic producers shows that Triplex is not acting "on behalf of [the] industry." 19 U.S.C. § 1671a(b). See ATCO Posthearing Brief at 4A; Report at A-7 n.1. In accordance with prior Commission practice, see e.g., *Certain Granite from Italy and Spain*, Inv. Nos. 701-TA-288-289 and 731-TA-381-382 (Preliminary), USITC Pub. 2016 (1987) at 17, we defer to Commerce's statutory authority to determine the sufficiency of petitions filed under the statute and therefore do not rule on petitioner's standing. See also 19 U.S.C. § 1671a; *Florex, et al. v. United States*, Court No. 87-05-00686, Slip Op. 89-4 (CIT Jan. 6, 1989); *Citrosuco Paulista, S.A. v. United States et al.*, Court No. 87-06-00703, Slip Op. 88-176 (CIT Dec. 30, 1988). However, Acting Chairman Brunsdale and Commissioner Cass regard the lack of active support for the petition as at least arguable evidence that other domestic producers, who account for the majority of domestic production of the like product, do not consider themselves materially injured, or threatened with material injury, by reason of the subject imports.

80/ Commissioner Cass believes that standing presents difficult issues regarding the Commission's authority, the division of responsibility between the Commission and the Department of Commerce, and the appropriate standard for decisions on standing. See *Certain Electrical Conductor Aluminum Redraw Rod from Venezuela*, Inv. No. 701-TA-287 (Final), USITC Pub. 2103 (1988) (Additional Views of Commissioner Cass) at 20-22. In light of the disposition of the case on substantive grounds, Commissioner Cass does not believe it necessary to resolve these issues in this case.

- (2) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,
- (3) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,
- (4) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,
- (5) any substantial increase in inventories of the merchandise in the United States,
- (6) the presence of underutilized capacity for producing the merchandise in the exporting country;
- (7) other demonstrable adverse trends; and
- (8) the potential for product shifting. <sup>81/</sup>

A finding of threat of material injury, however, must be based not on supposition or conjecture, but "on the basis of evidence that the threat of material injury is real and that actual injury is imminent." <sup>82/</sup>

We note that the subsidies found by Commerce to be conferred upon Taiwanese producers of the subject imports are export subsidies. <sup>83/</sup> In addition, there is evidence of existing unused capacity to produce the subject imports. <sup>84/</sup> However, although imports of thermostatically controlled appliance plugs have increased throughout the period of investigation, <sup>85/</sup>

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<sup>81/</sup> 19 U.S.C. § 1677(7)(E) and (F).

<sup>82/</sup> 19 U.S.C. § 1677(7)(F)(ii); S. Rep. No. 249, 96th Cong., 1st Sess. 88-89 (1979); *Jeanette Sheet Glass Corp. v. United States*, 11 CIT \_\_\_\_, 654 F. Supp. 179, 184 (1987).

<sup>83/</sup> See Final Affirmative Countervailing Duty Determination: Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor from Taiwan, 53 Fed. Reg. 50060-63 (Dec. 13, 1988).

<sup>84/</sup> See Report at A-24-A-26.

<sup>85/</sup> Id. at A-27.

data show no rapid increase in U.S. import penetration. <sup>86/</sup> Moreover, Toshiba, which is reportedly the largest supplier of thermostatically controlled appliance plugs in the world and has plant locations in Taiwan and Japan, has indicated that it will cease further shipments to the United States in the fourth quarter of 1988. <sup>87/</sup> In addition, ATCO, the sole producer in Canada, has indicated that its production capacity will not increase in 1989 as compared to 1988, and that its exports of the subject merchandise to the United States are likely to decline in 1989. <sup>88/</sup>

With regard to U.S. importers' inventories, we note that shipments of the subject imports to the United States are made in response to specific orders from domestic appliance manufacturers and, thus, in effect, are already sold or committed to specific end users. The record shows that over the period of investigation no inventories of thermostatically controlled appliance plugs were reported. <sup>89/</sup> Further, over most of the period of investigation, there have been no significant inventories of probe thermostats. <sup>90/</sup>

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<sup>86/</sup> Although imports of thermostatically controlled appliance plugs increased by 20 percent from 1985 to 1987, and by 6 percent from January-September 1987 to January-September 1988, the ratio of imports to both total U.S. consumption and U.S. open market consumption have remain relatively constant. See Report at A-27-A-30. The ratio of imported probe thermostats to total U.S. consumption and U.S. open market consumption decreased over the period of investigation. Id. at A-30.

<sup>87/</sup> Report at A-25.

<sup>88/</sup> Id. at A-25.

<sup>89/</sup> Id. at A-24.

<sup>90/</sup> Id.

In several cases the price of the subject imports has increased over the period of investigation. We note that future imports may be sold in the United States at prices that undercut the prices offered by petitioner. <sup>91/</sup> Nevertheless, particularly in view of the absence of direct competition between the majority of domestic producers and the importers, we find no likelihood that imports pose a real and imminent threat of material injury to a significant portion of the domestic industry. <sup>92/</sup>

Accordingly, we conclude there is no threat of material injury by reason of imports from Canada, Japan, Malaysia, and Taiwan.

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<sup>91/</sup> Acting Chairman Brunsdale notes in this regard that the Taiwanese subsidy is only 2.41 percent ad valorem.

<sup>92/</sup> As stated above, Commissioner Cass does believe the imports compete with domestic production. However, he does not believe there is any reason to expect that the minimal magnitude of the injury described in note 76 will change, nor does he believe that any of the factors mentioned in the statute indicate that a threat of failure material injury exists.

## ADDITIONAL VIEWS OF ACTING CHAIRMAN ANNE E. BRUNSDALE

Thermostatically Controlled Appliance Plugs and  
Internal Probe Thermostats Thereof from  
Canada, Japan, Malaysia and Taiwan

Inv. Nos. 701-TA-292 (Final), 731-TA-400 (Final)  
and 731-TA-402-404 (Final)

January 25, 1989

I join in my colleagues' determination that an industry in the United States has not been materially injured or threatened with material injury by reason of imports of dumped and subsidized thermostatically controlled appliance plugs and probes therefor. I note particularly the recognition by petitioner (1) that Hong Kong's imports, determined by the Commerce Department not to have been dumped or subsidized, are setting the price in the open market for plugs and probes and (2) that petitioner's fortunes are in large measure attributable to the loss of an account to Hong Kong imports.<sup>1/</sup> I write separately only to make a few points about the economics of this particular market.

The Commission's Office of Economics, through study of the evidence in the record and the domestic market for plugs and probes, has drawn certain conclusions regarding the sensitivity of supply and demand to changes in price.<sup>2/</sup> These sensitivities, expressed as elasticities, can be used to assess the impact of the dumped and subsidized imports on the domestic market in a systematic fashion. I find an analysis of the market in terms of elasticity information to be a useful tool in fulfilling the statutory

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<sup>1/</sup> Transcript at 38-39.

<sup>2/</sup> Office of Economics Memorandum EC-M-010 (January 13, 1989) ("Economics Memorandum").

mandate to determine whether an industry has been injured or threatened with injury "by reason of" the imports under investigation.<sup>3/</sup>

The impact of the subject imports on the domestic price of the product largely depends on the elasticity of domestic supply. The higher the elasticity of supply, the smaller is the change in price that will occur as domestic suppliers adjust their output in response to competition from the subject imports. In this case, the Office of Economics estimated the domestic supply elasticity to be in the moderate to high range, 3 to 5.<sup>4/</sup> This estimate is based primarily on the existence of unused capacity in the domestic market. I agree with the estimate and, particularly in light of the price-setting role of the Hong Kong imports, conclude that the price effect, if any, of the dumped and subsidized imports is too small to be material.

The volume effects of the imports under investigation depend on the elasticity of substitution between the domestic and foreign product and the elasticity of domestic demand for the overall product category. The Office of Economics estimated the elasticity of substitution for plugs and probes to be in the 1 to 3 range.<sup>5/</sup> While I recognize that all producers of plugs and probes are capable of producing plugs and probes for any appliance manufacturer, I believe that the elasticity of substitution probably lies at the lower end of the spectrum. The open market is characterized by

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<sup>3/</sup> 19 U.S.C. §§ 1671d(b), 1673d(b). For a recent discussion concerning my use of elasticities, see Digital Readout Systems and Subassemblies Thereof from Japan, Inv. No. 731-TA-390 (Final), USITC Pub. 2150 (1989) at 35-51 (Views of Acting Chairman Anne E. Brunsdale).

<sup>4/</sup> Economics Memorandum, supra, at 4-7.

<sup>5/</sup> Id. at 10-13.

contract relationships of six months to a year, reducing the substitutability during contract periods. Furthermore, open-market manufacturers must pass a manufacturer's qualification test; in this case, not all open-market manufacturers of plugs and probes were qualified to sell to all appliance manufacturers. Finally, the domestic market for plugs and probes is overwhelmingly dominated by captive producers. These producers face a demand that is less price sensitive than that of non-captive producers. These three characteristics of the market indicate that very large swings in relative prices would be required to have a material impact on volumes produced in the United States, i.e., the elasticity of substitution is at least at the very low end of the range identified by the Office of Economics.

The Office of Economics concluded that the overall domestic demand for plugs and probes was relatively inelastic, between 0.5 and 1.0 for plugs and 0.2 and 0.5 for probes.<sup>6/</sup> In the absence of contrary indications, inelastic demand is evidence that the domestic industry is injured by the imports because consumers of the product would purchase from domestic producers in the absence of the dumped and subsidized imports. In this case, contrary evidence is overwhelming that the demand characteristics of the market have little weight in the overall impact of the dumped and subsidized imports under investigation. Domestic purchasers in the open market for plugs and probes, some of whom are themselves substantial plug and probe producers, can choose between domestic open-market production and imports, dumped and subsidized or otherwise. In the absence of dumped and

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<sup>6/</sup> Id. at 13-15.

subsidized imports, the purchasers might choose to produce domestically or purchase from domestic open-market producers. However, the impressive showing of other imports in the domestic market in recent years, particularly from Hong Kong and Australia, indicates that domestic manufacturers would not have realized a material increase in their volume of shipments in the absence of dumped and subsidized imports.

Therefore, for the foregoing reasons and the reasons expressed in the Views of the Commission, I conclude that an industry in the United States is not materially injured or threatened with material injury by reason of the dumped and subsidized imports.



## INFORMATION OBTAINED IN THE INVESTIGATIONS

## Introduction

Following preliminary determinations by the U.S. Department of Commerce (Commerce) that imports from Taiwan of thermostatically controlled appliance plugs and internal probe thermostats therefor, provided for in subheadings 9032.10.00, 9032.20.00, 9032.89.60, 9032.90.60, and 9033.00.00 of the Harmonized Tariff Schedule of the United States (HTS), 1/ are being subsidized, and that such imports from Canada, Japan, Malaysia, and Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV), the U.S. International Trade Commission, effective July 22, 1988, instituted investigation No. 701-TA-292 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)), and effective September 28, 1988, instituted investigations Nos. 731-TA-400 and 402-404 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)). These investigations were instituted to determine whether an industry in the United States is materially injured or threatened with material injury, or whether the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Notice of the institution of the Commission's final investigations, and of the public hearing to be held in connection therewith, was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the Federal Register of August 17, 1988 (53 F.R. 31115) and of October 19, 1988 (53 F.R. 40973). 2/ The public hearing was held in Washington, DC on December 15, 1988. 3/ The Commission's briefing and vote were held on January 17, 1989.

In its final determinations, 4/ published in the Federal Register of December 13, 1988 (53 F.R. 50055), Commerce determined that imports of thermostatically controlled appliance plugs and internal probe thermostats from Taiwan are being subsidized, whereas those from Canada and Malaysia are not. Commerce also determined that such imports from Canada, Japan, Malaysia, and Taiwan are being sold at LTFV, whereas those from Hong Kong are not.

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1/ For purposes of these investigations, the term "thermostatically controlled appliance plug" refers to any device designed to connect an electrical outlet (typically, a common wall receptacle) to a small cooking appliance of 2,000 watts or less (typically, a griddle, deep fryer, fry pan, multicooker, or wok) and to regulate the flow of electricity, and thus the temperature, therein; consisting of 1) a probe thermostat encased in a single housing set with a temperature control knob (typically a dial calibrated with various temperature settings) and 2) a cord set. The term "internal probe thermostat" refers to any device designed to regulate automatically the flow of electricity, and thus the temperature, in small heating apparatus of 2,000 watts or less (typically, small cooking appliances), consisting of a stainless steel tube (which connects to the heating apparatus) and other components used for thermostatic control. The products were previously provided for in items 711.7820 and 711.7840 of the Tariff Schedules of the United States Annotated (TSUSA).

2/ Copies of the Commission's notices are presented in app. A.

3/ A list of witnesses who appeared at the hearing is presented in app. B.

4/ Copies of Commerce's notices are presented in app. C.

## Background

These investigations result from petitions filed by Triplex Inter Control (USA) Inc., St. Albans, VT, on April 15, 1988, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of thermostatically controlled appliance plugs and internal probe thermostats therefor from Canada, Malaysia, and Taiwan, and LTFV imports of these products from Canada, Hong Kong, Japan, Malaysia, and Taiwan. In response to those petitions the Commission instituted countervailing duty investigations Nos. 701-TA-290-292 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)) and antidumping investigations Nos. 731-TA-400-404 under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) and, on May 31, 1988, determined that there was a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of such imports. Thermostatically controlled appliance plugs and internal probe thermostats have not been the subject of any other investigations conducted by the Commission.

## Nature and Extent of Subsidies and Sales at LTFV

### Subsidies

In its final determinations, 1/ published on December 13, 1988, Commerce found that no benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters of thermostatically controlled appliance plugs and internal probe thermostats in Canada and Malaysia. However, Commerce issued a final affirmative determination in the investigation involving Taiwan. Using the best information available in the absence of questionnaire responses, the following benefits were found by Commerce to confer subsidies to manufacturers, producers, or exporters in Taiwan of thermostatically controlled appliance plugs and/or internal probe thermostats: preferential export financing, export loss reserves, preferential income tax rate ceiling of 25 percent for big trading companies, overrebate of duty drawback on imported materials physically incorporated into export merchandise, and rebate of import duties and indirect taxes on imported materials not physically incorporated into export merchandise. The estimated net subsidy for the subject products is 2.41 percent ad valorem.

### Sales at LTFV

On December 13, 1988, Commerce issued a final determination that thermostatically controlled appliance plugs and internal probe thermostats from Hong Kong are not being, nor are likely to be, sold in the United States at LTFV. Commerce also issued final determinations 2/ that such products from Canada, Japan, Malaysia, and Taiwan are being, or are likely to be, sold in the United States at LTFV. The estimated margins of sales at LTFV presented in the following tabulation (in percent) were based on examinations of sales of

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1/ Copies of Commerce's Federal Register notices of these final determinations are presented in app. C.

2/ Copies of Commerce's Federal Register notices of these final determinations are presented in app. C.

thermostatically controlled appliance plugs and internal probe thermostats from Canada, Japan, Malaysia, and Taiwan during the period November 1, 1987, through April 30, 1988:

<u>Country</u>	<u>LTFV margin</u>
Canada.....	29.27
Japan.....	63.64
Malaysia.....	28.13
Taiwan.....	34.47

For Canada, Commerce compared the United States price with the foreign market value of such merchandise, using data provided by ATCO Controls, Inc. (Canada). ATCO's U.S. sales examined by Commerce for the period November 1, 1987, through April 30, 1988, amounted to \* \* \* units, valued at \* \* \*. Commerce found \* \* \* units, valued at \* \* \*, to have been sold at LTFV. For Japan, Malaysia, and Taiwan, Commerce compared the United States price, based on the best information available, with the foreign market value, also based on the best information available. The best information available was used, as required by section 776(c) of the act, because no questionnaire responses were submitted. According to Commerce, the following companies accounted for virtually all exports of thermostatically controlled appliance plugs and internal probe thermostats to the United States from Canada, Japan, Malaysia, and Taiwan during the period of investigation: ATCO Controls, Inc. (Canada), Toshiba Heating Appliance Co., Ltd. (Japan), Power Electronics Sdn. (Malaysia), Cheng Da Electronics Co., Ltd. (Taiwan), Etowah Taiwan Enterprises Co., Ltd. (Taiwan), Inwardness Enterprise Co., Ltd. (Taiwan), and Shin Chin Industrial Co., Ltd. (Taiwan).

### The Product

#### Description and uses

The imported products subject to the petitioner's complaint are thermostatically controlled appliance plugs and internal probe thermostats therefor. Thermostatically controlled appliance plugs are devices designed to connect an electrical outlet (typically, a common wall receptacle) to a small cooking appliance of 2,000 watts or less (typically, a griddle, deep fryer, fry pan, multicooker, or wok) and to regulate the flow of electricity, and thus the temperature produced, therein according to the demands of the user. (Currently, there are no thermostatically controlled appliance plugs designed for appliances above 1,650 watts. Temperature-controlling mechanisms for larger appliances are generally built into the appliance.)

A thermostatically controlled appliance plug consists of three major components: an internal probe thermostat--the primary component; a housing for the internal probe thermostat; and a built-in cord set. The internal probe thermostat is the actual mechanism of thermostatic control, and consists of a stainless-steel tube, which connects directly to the heating apparatus of the appliance, and other electrically activated subcomponents. The probe thermostat housing consists of two halves of a shell, typically of hard plastic, in which the internal probe thermostat is encased, and a temperature control knob or dial calibrated with various temperature settings, which

connects to the internal probe thermostat and allows the user to select the desired cooking temperature. The cord set consists of an electrical cord fixed at one end to the internal probe thermostat and at the other end to a plug for use in a common electrical outlet. The internal probe thermostat accounts for about half of the cost of producing a thermostatically controlled appliance plug; the cord set accounts for most of the remainder.

Because voltage requirements, electrical outlet configurations, and performance and safety standards vary from country to country, thermostatically controlled appliance plugs and internal probe thermostats are specific to the country for which they are made. Most countries have organizations like Underwriters Laboratories, Inc. in the United States, which test and approve electrical components according to national standards. The design and specifications of appliance plugs and internal probe thermostats are also specific to individual manufacturers of small appliances. For the most part, the use of these articles is restricted to the appliances of a single manufacturer because of company specifications with respect to cord length, size and configuration of the internal probe thermostat, and size and configuration of the housing (including minimum/maximum temperature calibrations and angle of temperature settings). These articles are generally not, however, specific to a single appliance. Typically, one thermostatically controlled appliance plug is designed for all of a manufacturer's product line.

There do not appear to be any major restrictions on any known producer's ability to manufacture a thermostatically controlled appliance plug for any appliance, although there are certain technical details of the internal probe thermostat that may characterize certain producers, and there may be significant retooling costs associated with changing production to suit a different firm's appliances. The production of thermostatically controlled appliance plugs generally involves the sourcing of the cord set, housing, and subcomponents of the internal probe thermostat from outside manufacturers and the assembling of these components into the complete plug. In some cases the internal probe thermostat is acquired from outside sources fully assembled. Currently, there are no significant applications for thermostatically controlled appliance plugs and internal probe thermostats other than with small appliances, and there are no products that may substitute for these articles.

#### U.S. tariff treatment

Thermostatically controlled appliance plugs and internal probe thermostats are provided for in subheadings 9032.10.00, 9032.20.00, 9032.89.60, 9032.90.60, and 9033.00.00 of the HTS, <sup>1/</sup> under a heading that includes all automatic regulating or controlling instruments and apparatus, and parts and accessories thereof. Such articles are used for controlling flow, depth, pressure, temperature, and other variables in liquids and gases. These products were previously classifiable in TSUS item 711.78. The column 1-general or

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<sup>1/</sup> The Harmonized Tariff Schedule of the United States replaced the previous Tariff Schedules of the United States effective Jan. 1, 1989. Chapters 1 through 97 are based upon the internationally adopted Harmonized Commodity Description and Coding System through the 6-digit level of product description, with additional U.S. product subdivisions at the 8-digit level. Chapters 98 and 99 contain special U.S. classification provisions and temporary rate provisions, respectively.

most-favored-nation (MFN) rate of duty for these HTS subheadings, applicable to some imports from Canada and all from Japan and Taiwan, ranges from 4.7 to 4.9 percent ad valorem. 1/ Goods originating in the territory of Canada are eligible for duty rates of either 4.3 or 4.4 percent ad valorem, depending on the applicable subheading, under the U.S.-Canada Free-Trade Agreement. 2/ The column 1 special duty rate, applicable to qualifying imports from Malaysia under the Generalized System of Preferences (GSP), is free under all these subheadings. 3/ Taiwan lost GSP beneficiary status as of January 1, 1989.

### The U.S. Market

#### Apparent U.S. consumption

Data on apparent U.S. consumption of thermostatically controlled appliance plugs and internal probe thermostats were compiled from information submitted in response to questionnaires of the U.S. International Trade Commission. These data, presented in tables 1 and 2, consist of reported shipments of U.S.-produced thermostatically controlled appliance plugs and internal probe thermostats, shipments of such imports from Australia, Canada, Hong Kong, Japan, Malaysia, and Taiwan, and U.S. intracompany consumption. From 1985 to 1987, apparent U.S. consumption of thermostatically controlled appliance plugs increased by 16 percent. Consumption rose from 3.4 million units in 1985 and 1986 to 4.0 million units in 1987. However, consumption fell from 2.9 million units in January-September 1987 to 2.6 million units in January-September 1988, a decrease of 9 percent.

With regard to internal probe thermostats, apparent U.S. consumption increased by 29 percent during 1985-87. It rose from \* \* \* units in 1985 to \* \* \* units in 1986 and further increased to \* \* \* units in 1987. Probes

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1/ The rates of duty in rate column 1-general of the HTS are MFN rates and in general represent the final stage of the reductions granted in the Tokyo Round of the Multilateral Trade Negotiations. Column 1-general duty rates are applicable to imported products from all countries except those Communist countries and areas enumerated in general note 3(b) to the HTS, whose products are dutied at the rates set forth in column 2; China, Hungary, Poland, and Yugoslavia are the only Communist countries eligible for MFN treatment. Among articles dutiable at column 1-general rates, particular products of enumerated countries may be eligible for reduced rates of duty or for duty-free treatment under one or more preferential tariff programs. Such tariff treatment is set forth in the special rates of duty subcolumn of column 1.

2/ Preferential rates of duty in the special duty rates subcolumn of column 1 followed by the symbol "CA" are applicable to eligible goods originating in the territory of Canada under the United States-Canada Free-Trade Agreement of 1988, as provided in general note 3(c)(vii) to the HTS.

3/ The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after Jan. 1, 1976, and before July 4, 1993. Indicated by the symbol "A" or "A\*" in the special duty rates subcolumn of column 1, the GSP provides duty-free entry to eligible articles produced in and imported directly from designated beneficiary developing countries, as set forth in general note 3(c)(ii) to the HTS.

Table 1

Thermostatically controlled appliance plugs: U.S.-produced domestic shipments, U.S. intracompany consumption, shipments of imports, and apparent U.S. consumption, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September-- 1987	1988
Quantity (1,000 units)					
U.S.-produced domestic shipments.....	***	***	***	***	***
U.S. intracompany consumption..	***	***	***	***	***
U.S. shipments of imports.....	***	***	***	***	***
Apparent U.S. consumption .....	3,430	3,442	3,989	2,918	2,649
Value (1,000 dollars)					
U.S.-produced domestic shipments.....	***	***	***	***	***
U.S. intracompany consumption .....	***	***	***	***	***
U.S. shipments of imports .....	***	***	***	***	***
Apparent U.S. consumption .....	7,605	8,116	9,707	6,923	6,541

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

Table 2

Internal probe thermostats: U.S.-produced domestic shipments, U.S. intracompany consumption, shipments of imports, and apparent U.S. consumption, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September-- 1987	1988
Quantity (1,000 units)					
U.S.-produced domestic shipments.....	***	***	***	***	***
U.S. intracompany consumption.	***	***	***	***	***
U.S. shipments of imports.....	***	***	***	***	***
Apparent U.S. consumption.....	***	***	***	***	***
Value (1,000 dollars)					
U.S.-produced domestic shipments.....	***	***	***	***	***
U.S. intracompany consumption.	***	***	***	***	***
U.S. shipments of imports.....	***	***	***	***	***
Apparent U.S. consumption.....	***	***	***	***	***

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

showed a decrease similar to that of plugs from January-September 1987 to January-September 1988, falling from \* \* \* units to \* \* \* units.

#### Channels of distribution

There are many--at least 27--major manufacturers of small cooking appliances in the United States, but most do not manufacture, at least domestically, the types of appliances that require the subject articles, and imports of such appliances, whether by appliance manufacturers or others, are invariably prepackaged with the subject article included. Of the remaining 11 or so small-appliance manufacturers, 4--Munsey Products, Little Rock, AR; National Presto Industries, Inc., Eau Claire, WI; Toastmaster, Inc., Boonville, MO; and The West Bend Co., West Bend, WI--produce for themselves either most (\* \* \* and \* \* \*) or all (\* \* \* and \* \* \*) of the thermostatically controlled appliance plugs they require. \* \* \*.

Virtually all thermostatically controlled appliance plugs and internal probe thermostats sold in the United States by U.S. and foreign producers are sold directly or indirectly to unrelated manufacturers of small cooking appliances. Most are then packaged with and included in the sale of the appliance, the remainder being sold separately to appliance dealers for repair and replacement purposes. With respect to sales of imports from Canada, U.S. appliance manufacturers order directly from the manufacturer, or manufacturer's agent, and receive the articles directly from the point of manufacture. With respect to sales of imports from Japan, Malaysia, and Taiwan, U.S. appliance manufacturers order through Texas Instruments, Inc., Dallas, TX (for articles manufactured by Texas Instruments Japan), or Nissho Iwai, Chicago, IL (for articles manufactured by Toshiba), which take title to the articles upon their entry into the United States and are the importers of record, although the articles are generally shipped directly from the foreign producer to the appliance manufacturer.

#### U.S. producers

The petitioner and the four firms cited above--National Presto, Munsey Products, Toastmaster, and West Bend--are currently the only producers of the subject articles in the United States. 1/ Each produces at a single plant location. The petitioner, National Presto, and West Bend produce both thermostatically controlled appliance plugs and internal probe thermostats. Toastmaster and Munsey produce the finished appliance plug only, relying on the market for their necessary complement of internal probe thermostats. Munsey began such production in 1988.

The petitioner, a Delaware corporation, is related to two German firms which are among the largest thermostat manufacturers in Europe. The sole stockholder for the two German firms is also the major shareholder in Triplex. In addition, Triplex relocated in 1978 from Canada to St. Albans, VT, and remains affiliated with a Canadian firm. The affiliation consists of sharing some of the same investors. Unlike the other American producers, which are large, multiproduct firms that produce exclusively for their own lines of appliances, the petitioner is a relatively small, single-product firm

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1/ \* \* \*.

(specializing in temperature control devices) and produces exclusively for the market. Thermostatically controlled appliance plugs and internal probe thermostats account for about \* \* \* percent of the petitioner's sales. The petitioner is also one of the smallest producers, accounting for \* \* \* percent of reported U.S. production of thermostatically controlled appliance plugs and \* \* \* percent of production of internal probe thermostats in 1987.

Three other firms have discontinued producing in the United States since 1984. American Thermostat Corp., South Cairo, NY, which, like Triplex, was a relatively small, single-product firm and which produced exclusively for the market, was purchased and liquidated in 1985 by Advance Thermo Control, Ltd., which manufactures the subject articles in Hong Kong. (Advance Thermo Control (ATC) was created at the time of purchase of this firm, the fixed assets of which were then removed to and set up in Hong Kong. For more details on this purchase, see the section of this report entitled "U.S. production, capacity, and capacity utilization.") Leviton Manufacturing Co., Inc., Little Neck, NY, which also produced for the market, has not produced the subject articles since 1986, when its \* \* \* customer, \* \* \*, began purchasing the bulk of its needs from \* \* \*. Sunbeam Appliance Co., Downers Grove, IL, which produced solely for its own consumption, discontinued producing its only appliance that required the subject articles--an electric fry pan--in late 1987. Leviton and Sunbeam, like Toastmaster and Munsey, did not produce the internal probe thermostat.

#### Consideration of Alleged Material Injury to an Industry

The information in this section of the report is based on data received from responses to Commission questionnaires. With regard to U.S. production of thermostatically controlled appliance plugs and internal probe thermostats, the Commission received responses from seven producers of these products, accounting for close to 100 percent of U.S. production during the period of investigation. Although Triplex has accounted for virtually all domestic (noncaptive) shipments in recent periods, it accounted for only \* \* \* percent of reported production of thermostatically controlled appliance plugs and \* \* \* percent of production of internal probe thermostats in 1987.

#### U.S. production, capacity, and capacity utilization

National Presto, West Bend, Toastmaster, Sunbeam, and Triplex together accounted for 100 percent of known U.S. production of thermostatically controlled appliance plugs and internal probe thermostats in 1987 (Sunbeam ceased production in mid-1987 and Munsey began production in 1988). As shown in tables 3 and 4, \* \* \*. <sup>1/</sup> Toastmaster reported capacity equal to its production.

Overall, production of thermostatically controlled appliance plugs fell by 7 percent in 1986 and then rose by 22 percent in 1987. Production in January-September 1988 was \* \* \* percent less than it was in January-September 1987. However, different firms had sharply different experiences during the period. \* \* \*.

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<sup>1/</sup> \* \* \*.



Table 3

Thermostatically controlled appliance plugs: U.S. production, average practical capacity, and capacity utilization, by firms, 1985-87, January-September 1987, and January-September 1988

Item and firm	1985	1986	1987	January-September--	
				1987	1988
	Quantity (1,000 units)				
Production:					
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
Total.....	2,332	2,168	2,646	2,073	***
Average capacity:					
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
Total.....	5,659	5,665	5,609	4,201	3,812
	Percent				
Ratio of production to capacity:					
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
Average.....	41	38	47	49	***

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

Table 4

Internal probe thermostats: U.S. production, average practical capacity, and capacity utilization, by firms, 1985-87, January-September 1987, and January-September 1988

Item and firm	1985	1986	1987	January-September--	
				1987	1988
	Quantity (1,000 units)				
Production:					
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
Total.....	1,695	1,826	2,321	1,757	***
Average capacity:					
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
Total.....	4,440	4,440	4,440	3,330	3,330
	Percent				
Ratio of production to capacity:					
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
Average.....	38	41	52	53	***

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

\* \* \* \* \*

Of the firms that have ceased production since 1985, it is known that Sunbeam sold the appliance division that required the subject article in mid-1987 to Rival Manufacturing Co., Sedalia, MO, and that Rival has decided against manufacturing thermostatically controlled appliance plugs in favor of importing them from \* \* \*; that American Thermostat was purchased by Advance Thermo Control and removed to Hong Kong in December 1985; and that Leviton discontinued producing in early 1986, after its \* \* \* customer, \* \* \*, elected to purchase its requirements of thermostatically controlled appliance plugs from \* \* \*. \* \* \* had engaged Leviton--a large, multiproduct manufacturer--for its appliance plug needs in \* \* \*. Little of American Thermostat's liquidation is known. According to Advance Thermo Control and other industry sources, American Thermostat--a small, family-held company--began to encounter financial difficulties when the owner's son took control of the firm after his father's death in early 1985. Reportedly, the son was unable to pay off a large bank note held in the company's name. In August 1985 an outside investor purchased the company, redeeming its debt and renaming it "M & M Controls." By this time

customers had lost interest in American Thermostat and the new owner soon lost interest in M & M Controls, selling the business to another buyer in December 1985, who renamed it "Advance Thermo Control," and removed its fixed assets to Hong Kong.

#### U.S. producers' intracompany consumption, domestic shipments, and exports

The bulk of U.S. production of thermostatically controlled appliance plugs, at least since 1985, has been internally consumed, i.e., packaged and sold with U.S. producers' respective lines of appliances. Similarly, the bulk of U.S. production of internal probe thermostats has been internally consumed in the manufacture of thermostatically controlled appliance plugs. Since 1986, the petitioner has been essentially the only U.S. producer to market either thermostatically controlled appliance plugs or internal probe thermostats separately from the appliance itself (tables 5 and 6). <sup>1/</sup>

After increasing by \* \* \* percent from 1985 to 1986 (partly as a result of \* \* \*), Triplex's domestic shipments of thermostatically controlled appliance plugs declined by \* \* \* percent from 1986 to 1987, and again by \* \* \* percent from January-September 1987 to January-September 1988 (table 5). The trend for the value of Triplex's shipments is similar but less precipitous. The value per unit decreased by \* \* \* percent from 1985 to 1987. No U.S.-produced internal probe thermostats were sold in the United States in 1987. In 1986, Triplex shipped \* \* \* of these articles for approximately \* \* \*--a considerable decline from the previous year's sales of \* \* \* units, valued at \* \* \*. Triplex lost its major customer for these articles, \* \* \*, when \* \* \* lost its contract with \* \* \* to supply the latter's thermostatically controlled appliance plugs.

Since Triplex's inception it has been export oriented with respect to internal probe thermostats, exporting to such countries as \* \* \*. While substantial in number, Triplex's exports of internal probe thermostats have fluctuated from period to period. Triplex's exports ranged from \* \* \* percent of production in 1985 to \* \* \* percent in 1986 to \* \* \* percent of production in 1987. In January-September 1988, exports accounted for \* \* \* percent of Triplex's production. There were no exports of thermostatically controlled appliance plugs during the entire period for which data were collected.

#### U.S. producers' purchases

National Presto and West Bend, along with Triplex, are the sole firms that produce both internal probe thermostats and thermostatically controlled appliance plugs. National Presto produces \* \* \* of the plugs and probes that it requires for its appliances. West Bend produces \* \* \* of the internal probe thermostats that it requires for the finished plugs it produces. However, West Bend also purchases a large number of finished plugs on the open market. Whereas most of the plugs purchased were historically from \* \* \*, more recently

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<sup>1/</sup> Captive producers sell small quantities to appliance dealers for repair and replacement purposes. West Bend and National Presto reported that their 1987 replacement sales represented \* \* \* percent and \* \* \* percent, respectively, of their total shipments (company transfers).

Table 5

Thermostatically controlled appliance plugs: U.S. producers' intracompany consumption, domestic shipments, and exports, by firms, 1985-87, January-September 1987, and January-September 1988

Item and firm	1985	1986	1987	January-September--	
				1987	1988
Quantity (1,000 units)					
Intracompany consumption:					
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
Total.....	***	***	***	***	***
Domestic shipments:					
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
Total.....	***	***	***	***	***
Exports.....	***	***	***	***	***
Value (1,000 dollars)					
Domestic shipments:					
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
Total.....	***	***	***	***	***
Exports.....	***	***	***	***	***
Unit value (per unit)					
Domestic shipments:					
* * *	***	***	***	***	***
* * *	***	***	***	***	***
* * *	***	***	***	***	***
Average.....	***	***	***	***	***
Exports.....	***	***	***	***	***

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

Table 6

Internal probe thermostats: U.S. producers' intracompany consumption, domestic shipments, and exports, by firms, 1985-87, January-September 1987, and January-September 1988

Item and firm	1985	1986	1987	January-September--	
				1987	1988
Quantity (1,000 units)					
Intracompany consumption:					
* * *.....	***	***	***	***	***
* * *.....	***	***	***	***	***
* * *.....	***	***	***	***	***
Total.....	***	***	***	***	***
Domestic shipments:					
* * *.....	***	***	***	***	***
* * *.....	***	***	***	***	***
Total.....	***	***	***	***	***
Exports * * *.....	***	***	***	***	***
Value (1,000 dollars)					
Domestic shipments:					
* * *.....	***	***	***	***	***
* * *.....	***	***	***	***	***
Total.....	***	***	***	***	***
Exports * * *.....	***	***	***	***	***
Unit value (per unit)					
Domestic shipments:					
* * *.....	***	***	***	***	***
* * *.....	***	***	***	***	***
Average.....	***	***	***	***	***
Exports * * *.....	***	***	***	***	***

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

a majority are from \* \* \*. In 1985 West Bend purchased \* \* \* percent of the finished plugs it required, compared with \* \* \* percent in 1986 and \* \* \* percent in 1987. In addition, Toastmaster, Munsey, and Sunbeam (before it went out of business) purchased \* \* \* of the internal probe thermostats they required to produce the finished plug. The following tabulation presents data on West Bend's production and imports of thermostatically controlled appliance plugs (in thousands of units):

Product and firm	1985	1986	1987	Jan.-Sept.--	
				1987	1988
West Bend:					
U.S. production.....	***	***	***	***	***
Imports 1/.....	***	***	***	***	***

1/ Imports or purchases of imports that are subject to investigation.

Triplex's inventories

Since the end of 1985, Triplex has accounted for all U.S. producers' open-market inventories. Triplex reports that its end-of-period inventories of internal probe thermostats \* \* \*. Triplex's end-of-period inventories of thermostatically controlled appliance plugs \* \* \*. It should be noted, however, that Triplex does not ordinarily maintain inventories of finished products. The subject products are made to order and are shipped shortly after completion. Triplex derived its reported figures from a reconciliation of its production and shipments.

Employment

The number of workers employed in the production of thermostatically controlled appliance plugs increased by 20 percent from 1985 to 1987 (table 7). It is important to note that these figures do not include Sunbeam (which could not provide allocated employment figures for workers producing plugs), Leviton, or American Thermostat, three firms no longer producing these products. \* \* \*.

The number of hours worked by workers producing thermostatically controlled appliance plugs at reporting firms increased by 31 percent from 1985 to 1987. Hourly wages increased by 9 percent from 1985 to 1987 and by another 13 percent from January-September 1987 to January-September 1988. Total hourly compensation decreased by 1 percent from 1985 to 1986, increased by 13 percent from 1986 to 1987, and increased by 15 percent from January-September 1987 to January-September 1988. From 1985 to 1987 productivity increased by 9 percent, and unit labor costs increased by 6 percent.

Financial experience of U.S. producers

Triplex Inter Control (USA), Inc.--the only "open-market" producer in the United States--is the only firm that provided the Commission with product financial information. It accounted for \* \* \* percent of U.S. production of thermostatically controlled appliance plugs in 1987. Three captive producers 1/ provided overall establishment data, but two 2/ indicated that they were unable to provide specific product information because they did not have sufficient data on such a minor part of their appliance operations. The product data submitted by the third captive producer was found to be unacceptable; therefore, there are no product financial data for these producers. The three captive producers accounted for approximately \* \* \* percent of U.S. production of thermostatically controlled appliance plugs in 1987.

Overall operations.--Triplex was incorporated on March 30, 1979. The company produces two other types of thermostats besides the subject products: (1) a snap-action probe thermostat used in 220/240 volt applications for export, mainly to England; and (2) snap-action stack-type bimetal thermostats used for commercial applications. \* \* \*.

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1/ \* \* \*.

2/ \* \* \*.

workers, output per hour worked, hourly wages and total hourly compensation paid to production and related workers, and unit labor costs of such production, 1985-87, January-September 1987, and January-September 1988

Item	1985	1986	1987	January-September--	
				1987	1988
Number of production and related workers producing thermostatically controlled appliance plugs 1/....	***	***	***	***	***
Internal probe thermostats not included above 2/.....	***	***	***	***	***
Hours worked by production and related workers producing thermostatically controlled appliance plugs 1/ (1,000).....	***	***	***	***	***
Internal probe thermostats not included above 2/ (1,000).....	***	***	***	***	***
Output (production) of thermostatically controlled appliance plugs per hour worked 1/.....	***	***	***	***	***
Internal probe thermostats not included above 2/.....	***	***	***	***	***
Hourly wages paid to production and related workers producing thermostatically controlled appliance plugs 1/.....	***	***	***	***	***
Internal probe thermostats not included above 2/.....	***	***	***	***	***
Total hourly compensation paid to production and related workers producing thermostatically controlled appliance plugs 1/....	***	***	***	***	***
Internal probe thermostats not included above 2/.....	***	***	***	***	***
Unit labor costs of producing thermostatically controlled appliance plugs.....	***	***	***	***	***
Internal probe thermostats not included above.....	***	***	***	***	***

1/ \* \* \*.

2/ \* \* \*.

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

Income-and-loss data on Triplex's total company operations are presented in table 8. Its sales \* \* \*. During January-September, sales \* \* \*.

\* \* \* \* \*

Table 8

Income-and-loss experience of Triplex Inter Control (USA), Inc., on its total company operations, fiscal years ended January 31, 1986-88, January-September 1987, and January-September 1988

	Nine months ended Sept 30--				
Item	1986 1/	1987 1/	1988	1987	1988
Value (1,000 dollars)					
Net sales.....	***	***	***	***	***
Cost of goods sold.....	***	***	***	***	***
Gross profit or (loss).....	***	***	***	***	***
General, selling, and administrative expenses...	***	***	***	***	***
Operating income or (loss)..	***	***	***	***	***
Other expense, net.....	***	***	***	***	***
Net income or (loss) before income taxes.....	***	***	***	***	***
Depreciation and amorti- zation included above.....	***	***	***	***	***
Cash flow 2/.....	***	***	***	***	***
Share of net sales (percent)					
Cost of goods sold.....	***	***	***	***	***
Gross profit or (loss).....	***	***	***	***	***
General, selling, and administrative expenses...	***	***	***	***	***
Operating income or (loss)..	***	***	***	***	***
Net income or (loss) before income taxes.....	***	***	***	***	***

1/ Data for 1986 and 1987 are from the company's audited financial statements.

2/ Cash flow is defined as net income or loss plus depreciation and amortization.

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



Selected overall establishment financial data for Triplex and the captive producers 1/ are presented below (in thousands of dollars except where noted):

Item	1986 <u>1/</u>	1987 <u>1/</u>	1988 <u>1/</u>	Nine months ended Sept 30--	
				1987	1988
Net sales:					
Captive producers..	***	***	***	***	***
Triplex.....	***	***	***	***	***
Operating income or (loss):					
Captive producers..	***	***	***	***	***
Triplex.....	***	***	***	***	***
Operating income or (loss) as a per- cent of net sales:					
Captive producers..	***	***	***	***	***
Triplex.....	***	***	***	***	***

1/ The captive producers have fiscal periods ending December 31; Triplex's ends on January 31.

2/ \* \* \*.

Selected financial ratios of Triplex are shown in the following tabulation:

Item	January 31--		
	1986	1987	1988
Current ratio.....	***	***	***
Quick ratio.....	***	***	***
Working capital (1,000 dollars)....	***	***	***
Return on investment ratios:			
Net income or (loss) to--			
Total stockholders' equity (percent).....	***	***	***
Total assets (percent).....	***	***	***
Appliance plugs <u>1/</u> (percent)..	***	***	***
Probe thermostats <u>1/</u> (percent).....	***	***	***
Invested capital <u>2/</u> (percent)...	***	***	***

1/ Total assets are apportioned to product segments on the basis of respective book values of property, plant, and equipment; net income or (loss) is from the respective product income statements.

2/ Invested capital is defined as working capital plus net property and equipment.

---

1/ Although exact figures are not available, the value of appliance plugs accounts for a very small share of overall establishment sales by the captive producers.

The balance sheets of Triplex as of the end of its last three complete fiscal years (ending January 31 of 1986-88) are presented in table 9. \* \* \*.

Table 9

Balance sheet of Triplex, as of January 31, 1986, 1987, and 1988

(In thousands of dollars)			
Item	January 31--		
	1986	1987	1988
<u>Assets</u>			
Current assets:			
Accounts receivables.....	***	***	***
Receivables from related companies..	***	***	***
Inventories.....	***	***	***
Prepaid expenses and other.....	***	***	***
Total current assets.....	***	***	***
Property and equipment, at cost.....	***	***	***
Less accumulated depreciation.....	***	***	***
Total property and equipment, net.....	***	***	***
Other assets:			
Certification expense, net.....	***	***	***
Total assets.....	***	***	***
<u>Liabilities and equity</u>			
Current liabilities:			
Cash overdraft.....	***	***	***
Accounts payable.....	***	***	***
Payable to related companies.....	***	***	***
Accrued expenses.....	***	***	***
Obligations under capital lease.....	***	***	***
Total current liabilities.....	***	***	***
Long-term liabilities:			
Obligations under capital lease.....	***	***	***
Loans from shareholders (non- interest bearing 10-year notes)...	***	***	***
Total long-term liabilities.....	***	***	***
Stockholders' equity:			
Common stock, par value \$1 per share; authorized, issued and outstanding 5000 shares.....	***	***	***
Preferred stock, \$100 par, 25,000 shares authorized, 5,000 shares issued, 8% cumulative; 7,900 shares issued, 6% non-cumulative..	***	***	***
Additional paid-in capital.....	***	***	***
Retained earnings (deficit).....	***	***	***
Total stockholders' equity.....	***	***	***
Total liabilities and stock- holders' equity.....	***	***	***

Source: Compiled from the financial statements submitted by Triplex Inter Control (USA), Inc.

\* \* \* \* \*

Operations on thermostatically controlled appliance plugs.--Income-and-loss data on Triplex's thermostatically controlled appliance plug operations are presented in table 10. \* \* \*.

\* \* \* \* \*

The distribution of cost of goods sold, broken down into the major components of cost, is shown in the following tabulation (in percent):

Item	Year ended January 31--			Interim period ended Sept. 30--	
	1986	1987	1988	1987	1988
Raw materials.....	***	***	***	***	***
Direct labor.....	***	***	***	***	***
Factory overhead.....	***	1/***	***	***	***
Total.....	***	***	***	***	***

1/ \* \* \*.

Operations on internal probe thermostats.--Income-and-loss data on Triplex's internal probe thermostat operations (including internal consumption) are presented in table 11. \* \* \*.

\* \* \* \* \*

Investment in property, plant, and equipment.--Triplex provided data relating to its investment in facilities employed in the production of thermostatically controlled appliance plugs and internal probe thermostats. These data are presented in the following tabulation (in thousands of dollars):

Item	1985	1986	1987	Interim period as of Sept 30--	
				1987	1988
Establishment:					
Original cost.....	***	***	***	***	***
Book value.....	***	***	***	***	***
Appliance plugs:					
Original cost 1/.....	***	***	***	***	***
Book value 1/.....	***	***	***	***	***
Probe thermostats:					
Original cost 1/.....	***	***	***	***	***
Book value 1/.....	***	***	***	***	***

1/ \* \* \*.

Table 10

Income-and-loss experience of Triplex Inter Control (USA), Inc., on its operations producing thermostatically controlled appliance plugs, fiscal years ended January 31, 1986-88, January-September 1987, and January-September 1988

	Nine months ended Sept 30--				
Item	1986	1987	1988	1987	1988
Value (1,000 dollars)					
Net sales.....	***	***	***	***	***
Cost of goods sold.....	***	***	***	***	***
Gross profit or (loss).....	***	***	***	***	***
General, selling, and administrative expenses...	***	***	***	***	***
Operating income or (loss)..	***	***	***	***	***
Other income (expense).....	***	***	***	***	***
Net income or (loss) before income taxes.....	***	***	***	***	***
Depreciation and amorti- zation included above.....	***	***	***	***	***
Cash flow <u>1</u> /.....	***	***	***	***	***
Share of net sales (percent)					
Cost of goods sold.....	***	***	***	***	***
Gross profit or (loss).....	***	***	***	***	***
General, selling, and administrative expenses...	***	***	***	***	***
Operating income or (loss)..	***	***	***	***	***
Net income or (loss) before income taxes.....	***	***	***	***	***
Per unit					
Net sales.....	***	***	***	***	***
Cost of goods sold.....	***	***	***	***	***
Gross profit or (loss).....	***	***	***	***	***
General, selling, and administrative expenses...	***	***	***	***	***
Operating income or (loss)..	***	***	***	***	***
Other income (expense).....	***	***	***	***	***
Net income or (loss) before income taxes.....	***	***	***	***	***

1/ Cash flow is defined as net income or loss plus depreciation and amortization.

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

Table 11

Income-and-loss experience of Triplex Inter Control (USA), Inc., on its operations producing internal probe thermostats, fiscal years ended January 31, 1986-88, January-September 1987, and January-September 1988

	Nine months ended Sept 30--				
Item	1986	1987	1988	1987	1988
<hr/>					
	Value (1,000 dollars)				
Net sales.....	***	***	***	***	***
Cost of goods sold.....	***	***	***	***	***
Gross profit or (loss).....	***	***	***	***	***
General, selling, and administrative expenses...	***	***	***	***	***
Operating income or (loss).. Other income (expense).....	***	***	***	***	***
Net income or (loss) before income taxes.....	***	***	***	***	***
Depreciation and amorti- zation included above.....	***	***	***	***	***
Cash flow <u>1/</u> .....	***	***	***	***	***
<hr/>					
	Share of net sales (percent)				
Cost of goods sold.....	***	***	***	***	***
Gross profit or (loss).....	***	***	***	***	***
General, selling, and administrative expenses...	***	***	***	***	***
Operating income or (loss).. Net income or (loss) before income taxes.....	***	***	***	***	***
<hr/>					
	Per unit				
Net sales.....	***	***	***	***	***
Cost of goods sold.....	***	***	***	***	***
Gross profit or (loss).....	***	***	***	***	***
General, selling, and administrative expenses...	***	***	***	***	***
Operating income or (loss).. Other income (expense).....	***	***	***	***	***
Net income or (loss) before income taxes.....	***	***	***	***	***

1/ Cash flow is defined as net income or loss plus depreciation and amortization.

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

Research and development expenses.--Research and development expenses relating to thermostatically controlled appliance plugs and internal probe thermostats for Triplex are shown in the following tabulation (in thousands of dollars):

<u>Item</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>Interim period</u> <u>ended Sept 30--</u>	
				<u>1987</u>	<u>1988</u>
Appliance plugs.....	***	***	***	***	***
Probe thermostats.....	***	***	***	***	***
Total.....	***	***	***	***	***

Capital expenditures.--Data provided by Triplex relative to its capital expenditures for land, buildings, and machinery and equipment used in the manufacture of thermostatically controlled appliance plugs and internal probe thermostats are shown in the following tabulation (in thousands of dollars):

<u>Item</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>Interim period</u> <u>ended Sept 30--</u>	
				<u>1987</u>	<u>1988</u>
Appliance plugs:					
Land and land improvements..	***	***	***	***	***
Building or leasehold improvements.....	***	***	***	***	***
Machinery, equipment, and fixtures.....	***	***	***	***	***
Total.....	***	***	***	***	***
Probe thermostats:					
Land and land improvements..	***	***	***	***	***
Building or leasehold improvements.....	***	***	***	***	***
Machinery, equipment, and fixtures.....	***	***	***	***	***
Total.....	***	***	***	***	***

Capital and investment.--The Commission requested U.S. producers to describe the actual and potential negative effects of imports from subject countries of thermostatically controlled appliance plugs and internal probe thermostats on their firm's growth, development and production efforts, investment, and ability to raise capital. Only Triplex provided a response to this request, which is presented below.

\* \* \* \* \*

Consideration of the Question of  
Threat of Material Injury

Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. § 1677(7)(F)(i)) provides that--

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant factors  
1/ 2/--

(I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

(V) any substantial increase in inventories of the merchandise in the United States,

(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,

(VIII) the potential for product shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or

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1/ Section 771(7)(F)(ii) of the act (19 U.S.C. § 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

2/ The Omnibus Trade and Competitiveness Act of 1988 amended section 771(7)(F) of the Tariff Act of 1930 by adding two items to section 771(7)(F)(i) (19 U.S.C. §§ 1677(7)(F)(i)(IX) and (X)), and by adding section 771(7)(F)(iii) (19 U.S.C. § 1677(7)(F)(iii)) in its entirety. While these investigations were initiated prior to the effective date of the amendments, they are presented here for information.

731 or to final orders under section 736, are also used to produce the merchandise under investigation,

(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product. 1/

The available information on the nature of the subsidies found by the U.S. Department of Commerce (item (I) above) is presented in appendix C and the section of this report entitled "Nature and extent of subsidies and sales at LTFV;" information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the causal relationship between imports of the subject merchandise and the alleged material injury;" and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X) above) is presented in the section entitled "Consideration of alleged material injury to an industry." Available information on U.S. inventories of the subject products (item (V) above); foreign producers' operations (items (II) and (VI) above); and any other threat indicators, if applicable (item (VII) above), follows. "Product shifting" (item (VIII) above) and the agricultural product provision (item (IX) above) are not at issue in these investigations, and no evidence of dumping in third-country markets has been revealed.

#### U.S. importers' inventories

Foreign producers' shipments to the United States, whether direct or indirect, are made in response to specific orders from domestic appliance manufacturers. In effect, all imports are already sold or committed to specific end users. As seen in table 12, the only reported inventories of imported internal probe thermostats were by \* \* \*. In \* \* \* there was an inventory of \* \* \* internal probe thermostats from \* \* \*. For the period of investigation no inventories of thermostatically controlled appliance plugs were reported.

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1/ Section 771(7)(F)(iii) of the act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."



Table 12

Internal probe thermostats: End-of-period inventories of U.S. imports, by sources, 1985-87, January-September 1987, and January-September 1988

(In thousands of units)					
Source	1985	1986	1987	January-September--	
				1987	1988
* * *.....	***	***	***	***	***
* * *.....	***	***	***	***	***
* * *.....	***	***	***	***	***
* * *.....	***	***	***	***	***
All other.....	***	***	***	***	***
Total.....	***	***	***	***	***

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

### Foreign producers

With the exception of Australia and Hong Kong, the countries under investigation are the only countries known to be exporting thermostatically controlled appliance plugs and/or internal probe thermostats to the United States. Seven plant locations are known, one each in Canada and Malaysia, two in Japan, and three in Taiwan. Toshiba, which has plant locations in Taiwan and Japan, is reportedly the world's largest supplier of thermostatically controlled appliance plugs. However, it has been stated by Toshiba (in a letter dated June 1988 from its U.S. attorneys to Commerce) that it will cease further shipments to the United States in the fourth quarter of 1988.

The only firms outside the United States for which the Commission has received reliable data are ATCO, the sole producer in Canada, and Power Electronics, the sole producer in Malaysia (table 13). 1/ ATCO's parent company, American Thermostat of South Cairo, NY, went bankrupt in 1985. The bankruptcy \* \* \*. However, as a result of the bankruptcy ATCO \* \* \*. In addition, \* \* \*. It was reported at the hearing that in 1988 24 percent of ATCO's U.S. sales were of thermostatically controlled appliance plugs approved by the Canadian Standards Association (CSA) 2/ that were destined for resale as a component of appliances to be exported to Canada. \* \* \*. ATCO provided projections regarding its production, home-market shipments, and exports to the United States for full year 1988 and 1989, as shown in the following tabulation:

	<u>1988</u>	<u>1989</u>
Capacity (1,000 units).....	***	***
Production (1,000 units).....	***	***
Capacity utilization (percent).....	***	***
Home-market shipments (1,000 units)....	***	***
Exports to the U.S. (1,000 units).....	***	***

1/ A formal request for information from all of the subject countries was sent through the U.S. Department of State and/or counsel.

2/ CSA is the Canadian equivalent of Underwriters Laboratories.

Table 13

Thermostatically controlled appliance plugs: ATCO's and Power Electronics' capacity, production, and exports, 1985-87, January-September 1987, and January-September 1988

Item and firm	1985	1986	1987	January-September-- 1987	1988
	Quantity (1,000 units)				
Capacity:					
ATCO 1/.....	***	***	***	***	***
Power Electronics.....	***	***	***	***	***
Production:					
ATCO.....	***	***	***	***	***
Power Electronics.....	***	***	***	***	***
	Percent				
Capacity utilization:					
ATCO.....	***	***	***	***	***
Power Electronics.....	***	***	***	***	***
	Quantity (1,000 units)				
Home-market shipments:					
ATCO.....	***	***	***	***	***
Power Electronics.....	***	***	***	***	***
Exports to United States:					
ATCO.....	***	***	***	***	***
Power Electronics.....	***	***	***	***	***
	Percent				
Share of production that was exported:					
ATCO.....	***	***	***	***	***
Power Electronics.....	***	***	***	***	***
Share of total exports to the United States:					
ATCO.....	***	***	***	***	***
Power Electronics.....	***	***	***	***	***

1/ \* \* \*.

Source: Compiled from data submitted to the Commission by counsel for ATCO and by the managing director of Power Electronics.

Power Electronics of Malaysia is a licensee of Toshiba Heating Appliances Co., Ltd., of Japan. Under contract to Toshiba, Power Electronics began to produce thermostatically controlled appliance plugs in October 1987. \* \* \*.

Consideration of the Causal Relationship Between Imports of  
the Subject Merchandise and the Alleged Material Injury

U.S. imports

Imports of thermostatically controlled appliance plugs and internal probe thermostats, shown in tables 14 and 15, were compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and are believed to represent close to 100 percent of total imports of these articles from each country. According to the data shown, Australia, Canada, Hong Kong, Japan, Malaysia, and Taiwan accounted for all imports of the subject articles in recent periods. For thermostatically controlled appliance plugs, the apparent shift in quantity from one country to another throughout the period shown--from Japan and Canada, to Taiwan and Hong Kong, and finally to Malaysia--reflects the buying patterns of appliance manufacturers as they shift from supplier to supplier. Progressively lower unit values are associated with the shifts. For internal probe thermostats, the shift in quantity was from Japan to Australia. A higher unit value was associated with the shift. All imports of subject products are purchased, directly or indirectly, by appliance manufacturers. In 1987, more than half of the imports of appliance plugs and all imports of probe thermostats were purchased by captive producers of appliance plugs.

In the aggregate, imports of thermostatically controlled appliance plugs increased throughout the period, rising by 27 percent from 1985 to 1987. Imports from Canada, Japan, Malaysia, and Taiwan, the four countries subject to investigation, rose by 20 percent from 1985 to 1987 and by 6 percent from January-September 1987 to January-September 1988.

In the aggregate, imports of internal probe thermostats decreased by \* \* \* percent from 1985 to 1987. Japan (Toshiba and Texas Instruments Japan) and Australia have been the only reported foreign sources for internal probe thermostats in recent periods. Of these, Japan is the only country subject to investigation. Imports of internal probe thermostats from Japan increased by \* \* \* percent from 1985 to 1986 and then declined by \* \* \* percent from 1986 to 1987. The major buyers for these articles during the period for which data have been collected were \* \* \*. The imports from Australia were shipped to \* \* \*.

Apparent U.S. consumption and market penetration

As shown in table 16, overall U.S. consumption of thermostatically controlled appliance plugs increased by 16 percent from 1985 to 1987. Through 1987, Japan accounted for the largest ratio of imports to consumption. However, Japan's ratio fell from \* \* \* percent in 1985 to \* \* \* percent in 1987 and decreased from \* \* \* percent in January-September 1987 to \* \* \* percent in January-September 1988. Canada and Malaysia accounted for \* \* \* percent and \* \* \* percent, respectively, in January-September 1988. The ratio of imports to consumption for the four countries subject to investigation increased from 32 percent in 1985 to 39 percent in January-September 1988. The ratio of imports to apparent U.S. open-market consumption for these countries dropped from 89 percent in 1985 to 84 percent in 1986 and 1987 (table 17). The ratio increased from 85 percent in January-September 1987 to 95 percent in January-September 1988.

Table 14

Thermostatically controlled appliance plugs: U.S. imports, by sources, 1985-87, January-September 1987, and January-September 1988

Source	1985	1986	1987	January-September-	
				1987	1988
Quantity (1,000 units)					
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
* * * .....	***	***	***	***	***
Total.....	***	***	***	***	***
Value (1,000 dollars) 1/					
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
* * * .....	***	***	***	***	***
Total.....	***	***	***	***	***
Unit value (per unit)					
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
* * * .....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
* * * .....	***	***	***	***	***
Average.....	***	***	***	***	***

1/ Duty-paid cost, delivered to importers.

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

Table 15

Internal probe thermostats: U.S. imports, by sources, 1985-87, January-September 1987, and January-September 1988

Source	1985	1986	1987	January-September--	
				1987	1988
Quantity (1,000 units)					
Japan.....	***	***	***	***	***
Australia.....	***	***	***	***	***
Total.....	***	***	***	***	***
Value (1,000 dollars) 1/					
Japan.....	***	***	***	***	***
Australia.....	***	***	***	***	***
Total.....	***	***	***	***	***
Unit value (per unit)					
Japan.....	***	***	***	***	***
Australia.....	***	***	***	***	***
Average.....	***	***	***	***	***

1/ Duty-paid cost, delivered to importers.

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

Table 16

Thermostatically controlled appliance plugs: Apparent U.S. consumption and ratio of imports to consumption, 1985-87, January-September 1987, and January-September 1988

Period	Apparent	Ratio of imports to consumption--				Sub- total	Total	
	U.S.	For	For	For	For			
	consumption 1/ Quantity (1,000 units)	Japan	Canada	Taiwan	Malaysia			
		Percent						
1985.....	3,430	***	***	***	***	32	***	
1986.....	3,442	***	***	***	***	35	***	
1987.....	3,989	***	***	***	***	33	***	
Jan.-Sept.--								
1987.....	2,918	***	***	***	***	33	***	
1988.....	2,649	***	***	***	***	39	***	
		Percent						
		Percent						
1985.....	7,605	***	***	***	***	36	***	
1986.....	8,116	***	***	***	***	37	***	
1987.....	9,707	***	***	***	***	34	***	
Jan.-Sept.--								
1987.....	6,923	***	***	***	***	35	***	
1988.....	6,541	***	***	***	***	37	***	

1/ Shipments of imports plus U.S. producers' domestic shipments and intracompany consumption.

2/ Value of imports: duty-paid cost, delivered to importer.

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

Table 17

Thermostatically controlled appliance plugs: Apparent U.S. open-market consumption and ratio of imports to consumption, 1985-87, January-September 1987, and January-September 1988

Period	Apparent U.S. open-market consumption 1/	Ratio of imports to consumption--					Sub-total	Total
	Quantity (1,000 units)	For Japan	For Canada	For Taiwan	For Malaysia			
	Percent							
1985.....	1,225	***	***	***	***	89	***	
1986.....	1,444	***	***	***	***	84	***	
1987.....	1,574	***	***	***	***	84	***	
Jan.-Sept.--								
1987.....	1,140	***	***	***	***	85	***	
1988.....	1,093	***	***	***	***	95	***	
	Value 2/ (1,000 dollars)	Percent						
1985.....	3,127	***	***	***	***	87	***	
1986.....	3,641	***	***	***	***	82	***	
1987.....	3,974	***	***	***	***	82	***	
Jan.-Sept.--								
1987.....	2,850	***	***	***	***	84	***	
1988.....	2,607	***	***	***	***	93	***	

1/ Shipments of imports plus U.S. producers' domestic shipments.

2/ Value of imports: duty-paid cost, delivered to importer.

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

The only internal probe thermostats that are subject to the investigation are imported from Japan. As seen in table 18, such imports accounted for \* \* \* percent of apparent U.S. consumption in 1985, but fell to \* \* \* percent in 1987. Australia is the only other country that exports internal probe thermostats to the United States and it accounted for \* \* \* percent of U.S. consumption in 1987. The ratio of imports from Japan to U.S. open-market consumption (table 19) decreased from \* \* \* percent in 1985 to \* \* \* percent in 1987 and to \* \* \* in January-September 1988. Ratios of imports to apparent consumption for this product could not be calculated on the basis of value because captive producers could not estimate the value of their company transfers.

Table 18

Internal probe thermostats: Apparent U.S. consumption and ratio of imports to consumption, 1985-87, January-September 1987, and January-September 1988

Period	Apparent U.S. consumption 1/ Quantity (1,000 units)	Ratio of imports to consumption		
		For Japan	For Australia	Total
		Percent		
1985.....	***	***	***	***
1986.....	***	***	***	***
1987.....	***	***	***	***
January-September--				
1987.....	***	***	***	***
1988.....	***	***	***	***

1/ Shipments of imports plus U.S. producers' domestic shipments and intracompany consumption.

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

Table 19

Internal probe thermostats: Apparent U.S. open-market consumption and ratio of imports to consumption, 1985-87, January-September 1987, and January-September 1988

Period	Apparent U.S. open-market consumption 1/ Quantity (1,000 units)	Ratio of imports to consumption		
		For Japan	For Australia	Total
		Percent		
1985.....	***	***	***	***
1986.....	***	***	***	***
1987.....	***	***	***	***
January-September--				
1987.....	***	***	***	***
1988.....	***	***	***	***

1/ Shipments of imports plus U.S. producers' domestic shipments.

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

Prices 1/

The demand for thermostatically controlled appliance plugs is derived from the demand for electrical cooking appliances, such as electric frying pans, woks, deep-fat fryers, griddles, and multicookers. In turn, the demand for the internal probe thermostat depends upon the demand for the appliance plugs. Thermostatically controlled appliance plugs are used primarily with cooking appliances that the customer needs to wash in water after detaching the thermostat unit. Although there are other types of heat controls and thermo plugs, once the design of the heating unit receptacle of an appliance is determined, there are no close substitutes for these plugs.

Imported thermostatically controlled appliance plugs and internal probe thermostats generally have the same uses as their domestic counterparts 2/ and are considered highly competitive with the domestic products. 3/ Price and delivery are the primary considerations in appliance manufacturers' decisions to purchase from a domestic producer or importer. Purchasers' reject rates were not considered high for either the domestic or foreign producers. Lead times between a purchaser's order and date of shipment were similar for both the domestic and foreign producers, ranging between 1 and 3 months. 4/

Sales opportunities occur in two ways. If the purchaser is a current customer, the producer receives advance notice of an upcoming purchase and verbal negotiations occur to establish the price. If no agreement is reached, other producers are requested to bid for the contract. If the purchaser has not recently dealt with the producer, then a sales representative for the producer contacts the potential customer. 5/ Sales are usually on a contractual basis, although large spot sales sometimes occur. 6/ Contracts usually cover a period of 6 months to a year, with prices remaining fixed during the contract period. Triplex has stated that it is essentially a job shop; that is, it receives an order for a specific quantity of thermostats, which it fills in 1 to 3 months. The petitioner does not have any blanket purchase orders. 7/ "Net period with cash discounting" schemes are all net 30 days. Typically, deliveries are made weekly because the appliance manufacturers operate on a just-in-time basis in order to maintain a steady production flow and keep inventory costs low. 8/

Although all thermostatically controlled appliance plugs are similar in design and function, those for individual customers are usually designed to meet specific performance and stylistic criteria. Typically, purchasers require either the appliance plug or the thermostat to be produced with exact

1/ The discussion of prices uses data from both preliminary and final questionnaires.

2/ The petitioner, Triplex Inter Control (USA), Inc., currently is the sole domestic producer of thermostatically controlled appliance plugs and internal probe thermostats for sale in the open market. However, \* \* \* has recently received a contract from \* \* \* to produce thermo plugs.

3/ Conference transcript, p. 93.

4/ Petitioner states that the lead time is from 10 to 12 weeks after the receipt of materials. See Conference transcript, pp. 25-26.

5/ Hearing transcript, pp. 27-30.

6/ Hearing transcript, p. 31.

7/ Conference transcript, p. 24.

8/ Conference transcript, p. 25.



specifications for the "first on angle," which determines the number of degrees of rotation from the off position to the position where the thermostat becomes energized. Purchasers also specify the maximum temperature setting for the internal probe thermostat and appearance of the thermo plug. If requested, producers will provide a decal for the appliance plug for a charge of a few extra cents per unit.

In order to fill their needs for thermostatically controlled appliance plugs, appliance manufacturers either purchase complete plugs from domestic and foreign producers or buy the internal probe thermostats from either domestic or foreign sources and then produce the appliance plugs in their own facilities. 1/

Triplex and importers were asked to provide selling price data for thermo plugs and for probes, by quarters, from January-March 1986 through July-September 1988. Prices from foreign producers were landed, duty-paid, whereas prices from the petitioner were on an f.o.b. point-of-shipment basis. The petitioner was also requested to provide prices to individual customers who were known to also import.

The Commission received one importer questionnaire, seven usable questionnaires from purchasers who are also importers, and the petitioner's questionnaire. The petitioner provided complete data for thermostatically controlled appliance plugs and limited data for internal probe thermostats. Importers of the Canadian and Japanese products provided at least partial data for each category. Importers of the Taiwan product provided data only for the appliance plug. Importers of the product from Malaysia provided only four observations for appliance plugs and none for internal probe thermostats.

Price trends. 2/--Triplex's prices of plugs varied greatly during the period of investigation, ranging between a low of \* \* \* in \* \* \* and a high of \* \* \* in \* \* \* (table 20). Prices of the Japanese product increased by \* \* \* percent from \* \* \* in January-March 1986 to \* \* \* in October-December 1987 and January-March 1988, while the prices of the Canadian product, after decreasing by \* \* \* percent from \* \* \* in April-June 1986 to \* \* \* in July-September 1986, were fairly stable. Prices of the product from Taiwan were \* \* \* per unit in January-June 1987, and subsequently rose to \* \* \* per unit in July-December 1987 and January-March 1988. The price of the imports from Malaysia was \* \* \* per unit in October-December 1987, \* \* \* during January-June 1988, and \* \* \* during July-September 1988.

Except for the Japanese product, price data for internal probe thermostats were sparse (table 21). Triplex's price was \* \* \* per unit for a custom order during October-December 1986. Prices of the Japanese product were \* \* \* per unit during 1986 and the first half of 1987.

Price comparisons.--The reported sales information for petitioner's and importers' quarterly shipments to unrelated customers during January 1986 to September 1988 resulted in 26 direct quarterly price comparisons between the

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1/ \* \* \*.

2/ In response to a question at the hearing regarding price leadership, representatives of Triplex (U.S.) and ATCO (Canada) agreed that Toshiba had been the price leader but that Advance Thermo Control of Hong Kong was in the process of assuming that position (Transcript, pp. 30 and 78-79).

Table 20

Thermostatically controlled appliance plugs: U.S. producers' prices, imported weighted-average prices, and margins of under/overselling, by quarters, January 1986-September 1988

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

Table 21

Internal probe thermostats: U.S. producers' prices, imported weighted-average prices, and margins of underselling, by quarters, January 1986-September 1988

Period	Triplex's prices	Japanese prices	Margin of under- selling
	-----Per unit-----		Percent
1986:			
Jan.-March.....	***	***	***
April-June.....	***	***	***
July-Sept.....	***	***	***
Oct.-Dec.....	***	***	***
1987:			
Jan.-March.....	***	***	***
April-June.....	***	***	***
July-Sept.....	***	***	***
Oct.-Dec.....	***	***	***
1988:			
Jan.-March.....	***	***	***
April-June.....	***	***	***
July-Sept.....	***	***	***

Note.--Percentage margins were calculated from unrounded figures; thus margins cannot always be calculated directly from the rounded prices in the table.

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

domestically produced thermostatically controlled appliance plugs and internal probe thermostats and imports of such products from Canada, Japan, Taiwan, and Malaysia. Eight comparisons involved imports from Canada, nine from Japan, five from Taiwan, and four from Malaysia.

The Canadian product was less expensive than Triplex's in seven of the eight comparisons. Margins of underselling ranged from \* \* \* percent to \* \* \* percent.

Eight of the nine price comparisons with imports from Japan were for thermo plugs. The Japanese product was less expensive than Triplex's in two of

the eight comparisons, and those two observations were during 1986. 1/ Margins of underselling were \* \* \* percent and \* \* \* percent. One of the price comparisons with the Japanese product was for internal probe thermostats. The Japanese product was less expensive than Triplex's by \* \* \* percent. 2/

The Taiwan product was less expensive than the Triplex product in each of the five price comparisons. Margins of underselling ranged from \* \* \* to \* \* \* percent.

The Malaysian product was less expensive than the Triplex product in each of the four price comparisons. Margins of underselling ranged from \* \* \* to \* \* \* percent.

The staff was able to make price comparisons for one specific purchaser, \* \* \*, between thermostatically controlled appliance plugs without decals from Triplex and from Canada (table 22). In three of the six price comparisons, the Canadian product was \* \* \* percent less expensive than the Triplex product.

Bid competition.--Appliance plug purchasers were requested to provide all bids received on their appliance plug business awarded between January 1986 and September 1988 to domestic, Canadian, Japanese, Taiwan, and Malaysian suppliers. Four purchasers provided questionnaire responses to this request.

Table 23 indicates the winners of the major contracts for production of appliance plugs during the period of investigation and the value of the quotes.

\* \* \*.---\* \* \* reported awarding \* \* \* of its appliance plug business for 1986 to \* \* \* for plugs from \* \* \*. The quantity of plugs was \* \* \* valued at \* \* \*. In 1987 \* \* \* awarded \* \* \* percent of its purchases of plugs, or \* \* \* plugs, valued at \* \* \* to \* \* \*. \* \* \* was awarded \* \* \* percent, or \* \* \* plugs, valued at \* \* \*. \* \* \* said that \* \* \* increased its price after the order was placed, and that \* \* \* provided a substantial number of inferior quality plugs. 3/ \* \* \* purchased a sample of \* \* \* plugs, valued at \* \* \*, from \* \* \* of \* \* \* for testing purposes. During January-September 1988, \* \* \* awarded \* \* \* percent of its purchases of plugs. \* \* \* provided \* \* \* with \* \* \* plugs manufactured in \* \* \* valued at \* \* \* and \* \* \* plugs manufactured in \* \* \*, valued at \* \* \*. \* \* \* was awarded a contract for \* \* \* plugs, valued at \* \* \* even though it only bid on \* \* \* plugs.

\* \* \*.---\* \* \* reported awarding its appliance plug business for April-December 1986 and 1987 to \* \* \* for plugs from \* \* \*. The quantity of plugs was \* \* \*, valued at \* \* \*. Firms that competed with \* \* \* were \* \* \*, a domestic firm, and \* \* \*, another \* \* \* firm. \* \* \*'s bid was \* \* \* below \* \* \*'s bid, and \* \* \* below \* \* \*'s bid. During January-September 1988, \* \* \* awarded \* \* \* of \* \* \* percent of its purchases of plugs. \* \* \* provided \* \* \* with \* \* \* plugs valued at \* \* \*. \* \* \* of \* \* \* was awarded a

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1/ Note that prices reported for imports from Japan were consistently and significantly higher than the average unit values of such imports shown in table 14.

2/ The large margin is explained by the fact that Triplex's internal probe thermostats which sold for \* \* \* were a custom order with special specifications, while the Japanese internal probe thermostats which sold for \* \* \* were with standard specifications.

3/ Telephone conversation, Nov. 17, 1988.

Table 22

Thermostatically controlled appliance plugs: \* \* \* 's purchases from Triplex compared with \* \* \* 's purchases of imports from Canada, by quarters, January 1986-March 1988

Period	Price of * * * 's purchases from Triplex	Price of * * * 's purchases from Canada	Absolute margin	Percent margin
	-----Per unit-----			
1986:				
Jan.-March....	***	***	***	***
April-June....	***	***	***	***
July-Sept.....	***	***	***	***
Oct.-Dec.....	***	***	***	***
1987:				
Jan.-March....	***	***	***	***
April-June....	***	***	***	***
July-Sept.....	***	***	***	***
Oct.-Dec.....	***	***	***	***
1988:				
Jan.-March....	***	***	***	***

Note.--Percentage margins were calculated from unrounded figures; thus margins cannot always be calculated directly from the rounded prices in the table.

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

Table 23

Thermostatically controlled appliance plugs: Bid information from purchasers, January 1986-September 1988

\* \* \* contract for \* \* \* plugs, valued at \* \* \*. \* \* \*, a domestic company, was awarded a contract for \* \* \* plugs, valued at \* \* \*. \* \* \* also bid for this business, and although it bid \* \* \* per unit less than \* \* \*, it was not granted any business. \* \* \* said that the reason it chose \* \* \* instead of \* \* \* was that \* \* \* had plastic molds available that had previously been used in its appliances, and that \* \* \* could deliver the plugs in a more timely manner. 1/

\* \* \*.--In 1986 \* \* \* awarded \* \* \* percent of its purchases of plugs, or \* \* \* plugs, valued at \* \* \*, to \* \* \*. \* \* \* was awarded \* \* \* percent, or \* \* \* plugs, valued at \* \* \*. In 1987 \* \* \* awarded \* \* \* percent of its purchases of plugs, or \* \* \* plugs, valued at \* \* \*, to \* \* \*. \* \* \* was awarded \* \* \* percent, or \* \* \* plugs, valued at \* \* \*. During January-September 1988, \* \* \* awarded \* \* \* percent of its purchases of plugs, or \* \* \* plugs, valued at \* \* \*. \* \* \* was awarded \* \* \* percent, or \* \* \* plugs, valued at \* \* \*.

1/ Telephone conversation, Nov. 18, 1988.

\*\*\*,---\*\*\*, a recent entrant in the market for thermo plugs, purchased \*\*\* percent of its plugs in January-September 1988 from \*\*\*. \*\*\* awarded \*\*\* of \*\*\* percent of its purchases of plugs, or \*\*\* plugs, valued at \*\*\*. \*\*\*, also of \*\*\*, was awarded \*\*\* percent, or \*\*\* plugs, valued at \*\*\*. 1/

#### Lost sales

Triplex, the only U.S. producer that sells in the open market, was asked for information relating to any sales that have been lost to imports of thermostatically controlled appliance plugs or internal probe thermostats from Canada, Japan, Malaysia, or Taiwan since January 1985. Triplex provided five quantifiable lost sales allegations totaling \*\*\* appliance plugs, valued at \*\*\*, and two quantifiable allegations totaling \*\*\* probes, valued at \*\*\*. Two allegations involving Canadian appliance plugs totaled \*\*\* units, valued at \*\*\*. Two allegations involving Japanese appliance plugs totaled \*\*\* units, valued at \*\*\*, and one involving Malaysia totaled \*\*\* units, valued at \*\*\*. Of the probe allegations, one involving Malaysian probes was for \*\*\* units, valued at \*\*\*, and the other, which involved Japanese probes, was for \*\*\* units, valued at \*\*\*. All of the firms listed in the allegations were contacted by the Commission's staff.

Triplex alleged one lost sale during 1985 of \*\*\* thermo plugs and one during 1986 involving \*\*\* thermo plugs to \*\*\* because of competition from imports from Canada. \*\*\* stated that in early 1985 the company purchased the specified quantities from Canada, valued at \*\*\*. \*\*\* stated that Triplex was not asked to provide a quote. He further stated that \*\*\* has also purchased probes from \*\*\*. \*\*\* used to purchase probes from American Thermostat Corp. before it went out of business. \*\*\* stated that he had not heard of Triplex until he was approached by Jim Chaisson of Triplex in 1985. When American Thermostat stopped supplying probes, \*\*\* placed an order for \*\*\* probes a month with Triplex in order to keep an American supplier, but Triplex \*\*\*. In 1986, \*\*\* was again approached by Mr. Chaisson who said that Triplex \*\*\*. In their second lost sales allegation involving \*\*\*, Triplex bid to provide \*\*\* plugs; however, its price was too high and \*\*\* received the bid.

Triplex alleged one lost sale of \*\*\* thermo plugs, valued at \*\*\* in 1986 to \*\*\* because of competition from imports from Japan. \*\*\* stated that the company did purchase the specified quantity from Japan. In this instance, Triplex did not provide a quote, nor were they requested to. \*\*\* used to purchase plugs from \*\*\*, a former domestic producer. \*\*\* said that price is the primary criterion for choosing a plug supplier. Several months before a purchase order is placed, \*\*\* solicits bids from many thermostatically controlled appliance plug producers. The purchase order usually covers a \*\*\* period.

Triplex alleged one lost sale of \*\*\* plugs, valued at \*\*\* in 1987 to \*\*\* because of competition from imports from Japan. \*\*\* stated that the company purchased \*\*\* units from \*\*\* of Canada, not from Japan. In this instance, Triplex's quote was \*\*\* per unit, compared with \*\*\*'s quote of \*\*\* per unit. \*\*\* stated that when the import duty was added into \*\*\*'s

quoted price, its per-unit price was actually higher than Triplex's per-unit price. \* \* \* stated that \* \* \* preferred to purchase from Triplex, but could not because Triplex's plugs did not fit \* \* \*. \* \* \* stated that \* \* \* is not large enough to request custom orders from a thermo plug manufacturer. \* \* \* said that in a recent visit with Triplex, he was told that Triplex's price for \* \* \* units would be \* \* \* per unit. Even if it was willing to pay this high a price, Triplex's thermo plugs still do not fit \* \* \*.

Triplex alleged one lost sale of \* \* \* units, valued at \* \* \*, in 1988 to \* \* \* because of competition from imports from Malaysia. \* \* \* stated that the company sourced the stated quantity from \* \* \* of Malaysia because it has a good track record--good service, delivery, and price. \* \* \* said that Triplex's prices were much higher than \* \* \*'s and that Triplex's products had not been tested by \* \* \*. \* \* \* stated that \* \* \* purchased \* \* \* recently, and that this was its \* \* \* of thermo plugs.

Triplex alleged one lost sale of \* \* \* probes, valued at \* \* \*, in 1986 to \* \* \* because of competition from imports from Malaysia and one lost sale of \* \* \* units, valued at \* \* \*, because of competition with Japan. \* \* \* stated that the company purchased the specified quantities from \* \* \*, not Malaysia. \* \* \*. \* \* \* stated that although Triplex provided a quote, \* \* \* has not purchased from Triplex since 1985 because Triplex's prices are too high. \* \* \* also stated that Triplex has never aggressively pursued \* \* \*'s business, having called \* \* \* only \* \* \* times since 1985.

#### Exchange rates

Quarterly data reported by the International Monetary Fund indicate that during the period January 1985 through June 1988 the nominal value of the Japanese yen appreciated sharply, by 105.1 percent, against the U.S. dollar, and the currencies of Canada and Taiwan registered smaller overall appreciations of 10.1 percent and 37.2 percent, respectively (table 24). 1/ Adjusted for relative movements in producer price indices, the real value of those currencies achieved overall appreciations vis-a-vis the U.S. dollar equivalent to 68.1 percent, 14.9 percent, and 21.4 percent as of the second quarter of 1988 relative to January-March 1985 levels.

The nominal value of the Malaysian ringgit fluctuated slightly relative to the U.S. dollar, ending at 3.8 percent lower than in the initial period. Because a producer price index is not available for Malaysia, a real exchange-rate index cannot be calculated.

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1/ International Financial Statistics, August 1988, except as stated.

Table 24

Exchange rates: 1/ Nominal exchange-rate equivalents of selected currencies in U.S. dollars, real exchange-rate equivalents, and producer price indicators in specified countries. 2/ indexed by quarters, January 1985-September 1988

	U.S.	Canada			Japan				Taiwan			Malaysia
	Pro- ducer Price	Pro- ducer Price	Nominal exchange- rate	Real exchange- rate	Pro- ducer Price	Nominal exchange- rate	Real exchange- rate		Pro- ducer Price	Nominal exchange- rate	Real exchange- rate	Nominal exchange- rate
Period	Index	Index	index	index 3/	Index	index	index 3/		Index	index	index 3/	index
			--US dollars/Can\$--			--US dollars/yen--				--US dollars/NT\$--		--US\$/ringgit--
1985:												
Jan.-Mar...	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Apr.-June..	100.1	100.5	98.8	99.3	98.8	102.8	101.5	99.2	98.8	98.0	102.3	
July-Sept..	99.4	100.5	99.5	100.7	97.5	108.0	106.0	98.6	97.5	96.7	102.6	
Oct.-Dec...	100.0	101.3	98.1	99.4	94.7	124.4	117.8	98.0	98.3	96.4	104.0	
1986:												
Jan.-Mar...	98.5	102.3	96.4	100.2	92.8	137.2	129.2	97.1	100.2	98.8	102.2	
Apr.-June..	96.6	100.8	97.8	102.0	89.4	151.5	140.1	95.5	102.4	101.3	97.3	
July-Sept..	96.2	101.0	97.7	102.6	87.0	163.4	149.7	94.9	105.1	103.6	96.7	
Oct.-Dec...	96.5	101.6	97.7	102.9	86.1	160.8	143.5	94.4	108.3	105.9	97.2	
1987:												
Jan.-Mar...	97.7	102.1	101.2	105.8	85.6	168.2	147.4	93.5	112.5	107.7	99.6	
Apr.-Jun...	99.2	103.4	101.5	105.8	84.9	180.6	154.5	91.9	121.3	112.4	101.9	
July-Sept..	100.3	104.9	102.4	107.0	86.0	175.4	150.2	90.8	129.0	116.7	100.2	
Oct.-Dec...	100.8	106.0	103.2	108.4	89.2	189.7	167.9	89.6	133.0	118.3	101.2	
1988:												
Jan.-Mar...	101.2	106.4	106.8	112.7	84.7	201.3	168.4	89.9	137.4	122.1	99.0	
Apr.-Jun...	103.0	107.5	110.1	114.9	84.4	203.1	168.1	91.0	137.2	121.4	98.3	
July-Sept..	104.3	4/	4/	4/	5/ 85.2	193.2	5/ 158.0	4/	4/	4/	5/ 96.2	

1/ Exchange rates expressed in U.S. dollars per unit of foreign currency.

2/ Producer price indicators--intended to measure final product prices--are based on average quarterly indices presented in line 63 of the International Financial Statistics.

3/ The indexed real exchange rate represents the nominal exchange rate adjusted for relative movements in Producer Price Indices in the United States and the respective foreign countries. Producer prices in the United States increased 3.0 percent between January 1985 and June 1988 compared with decreases of 15.6 percent in Japan and 9.0 percent in Taiwan, and a 7.5-percent increase in Canada during the same period.

4/ Data not available.

5/ Data are derived from July-August only.

Source: Central Bank of China, Financial Statistics, March 1988, and International Monetary Fund, International Financial Statistics, August 1988.

Note.--January-March 1985=100.0





APPENDIX A

THE COMMISSION'S FEDERAL REGISTER NOTICES

for in item 711.28 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Taiwan.

Pursuant to a request from petitioner under section 705(a)(1) of the Act (19 U.S.C. 1671d(a)(1)), Commerce is extending the date for its final determination in this investigation to coincide with the date of its final determination in an ongoing antidumping investigation on thermostatically controlled appliance plugs and internal probe thermostats therefor from Taiwan. Accordingly, the Commission will not establish a schedule for the conduct of the countervailing duty investigation until Commerce makes a preliminary determination in the antidumping investigation (currently scheduled for September 22, 1988).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

**EFFECTIVE DATE:** July 22, 1988.

**FOR FURTHER INFORMATION CONTACT:** Larry Reavis (202-252-1185), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20438. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1809. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

**SUPPLEMENTARY INFORMATION:**

**Background.**—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section

thermostat encased in a single housing set with a temperature control knob (typically a dial calibrated with various temperature settings), and (2) a cord set.

The term internal probe thermostat refers to any device designed to automatically regulate the flow of electricity, and thus the temperature, in a small heating apparatus of 2,000 watts or less (typically small cooking appliances), consisting of a stainless steel tube (which connects to the heating apparatus) and other components used for thermostatic control. The products are currently provided for under Tariff Schedules of the United States Annotated item numbers 711.7820 and 711.7840 and under Harmonized System item numbers 9032.10.00, 9032.20.00, 9032.89.00, 9032.90.00, and 9033.00.00.

701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Taiwan of thermostatically controlled appliance plugs and internal probe thermostats therefor. The investigation was requested in a petition filed on April 15, 1988, by Triplex Inter Control (USA), Inc., St. Albans, VT. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (53 FR 21532, June 8, 1988).

**Participation in the investigation.**—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

**Service list.**—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.15(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: August 11, 1988.

Kenneth R. Mason,

Secretary.

[FR Doc. 88-18606 Filed 6-16-88; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-252 (Final)]

**Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor From Taiwan**

**AGENCY:** International Trade Commission.

**ACTION:** Institution of a final countervailing duty investigation.

**SUMMARY:** The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701-TA-292 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry of 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 Taiwan of thermostatically controlled appliance plugs and internal probe thermostats therefor,<sup>1</sup> provided

<sup>1</sup> For purposes of this investigation, the term thermostatically controlled appliance plug refers to any device designed to connect an electrical outlet (typically a common wall receptacle) with a small cooking appliance of 2,000 watts or less (typically a griddle, deep fryer, fry pan, multicooker, and/or wok) and regulate the flow of electricity, and thus the temperature, therein; consisting of (1) a probe

[Investigations Nos. 731-TA-400 and 402-404 (Final)]

**Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor From Canada, Japan, Malaysia, and Taiwan**

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

**SUMMARY:** The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731-TA-400 and 402-404 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether 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, Japan, Malaysia, and Taiwan of thermostatically controlled appliance plugs and internal probe thermostats therefor,<sup>1</sup> provided for in item 711.78 of the Tariff Schedules of the United States (TSUS), that have been found by the Department of Commerce, in preliminary determinations, to be sold in the United States at less than fair value (LTFV). Commerce will make its final determinations on or before December 6, 1988, and the Commission will make its final injury determinations by January

<sup>1</sup> For purposes of these investigations, the term "thermostatically controlled appliance plug" refers to any device designed to connect an electrical outlet (typically, a common wall receptacle) with a small cooking appliance of 2,000 watts or less (typically, a griddle, deep fryer, frying pan, multicooker, and/or wok) and regulate the flow of electricity, and thus the temperature, therein; consisting of (1) a probe thermostat encased in a single housing set with a temperature control knob (typically a dial calibrated with various temperature settings), and (2) a cord set. The term "internal probe thermostat" refers to any device designed to regulate automatically the flow of electricity, and thus the temperature, in a small heating apparatus of 2,000 watts or less (typically, small cooking appliances); consisting of a stainless steel tube (which connects to the heating apparatus) and other components used for thermostatic control. The products are currently provided for in items 711.7820 and 711.7840 of the *Tariff Schedules of the United States Annotated* (TSUSA) and are classifiable in subheadings 9032.10.00, 9032.20.00, 9032.89.60, 9032.90.60, and 9033.00.00 of the *Harmonized Tariff Schedule of the United States* (HTS).

25, 1989 (see sections 735(a) and 735(b) of the Act (19 U.S.C. 1673d(a) and 1673d(b))).

Pursuant to a request from petitioner under section 705(a)(1) of the Act (19 U.S.C. 1671(a)(1)), Commerce extended the date for its final determination in its countervailing duty investigation on thermostatically controlled appliance plugs and internal probe thermostats therefor from Taiwan to coincide with the date of its final determinations in these antidumping investigations. Accordingly, the Commission's schedule for the conduct of the countervailing duty investigation, inv. No. 701-TA-292 (Final), will conform with the schedule for the conduct of these antidumping investigations as set forth in this notice.

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207 as amended, 53 FR 33039 (August 29, 1988)), and Part 201, Subparts A through E (19 CFR Part 201).

**EFFECTIVE DATE:** September 28, 1988.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Haines (202-252-1200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20438. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

**SUPPLEMENTARY INFORMATION:**

**Background**

These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of thermostatically controlled appliance plugs and internal probe thermostats 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 (19 U.S.C. 1673). The investigations were requested in a petition filed on April 15, 1988, by Triplex Inter Control (USA) Inc., St. Albans, VT. In response to that petition the Commission conducted preliminary antidumping investigations and, on the basis of information developed during the course of those investigations, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports

of the subject merchandise (53 FR 21532, June 8, 1988).

**Participation in the Investigations**

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

**Service List**

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) and § 207.3 of the rules (19 CFR 201.16(c) and 207.3 as amended, 53 FR 33039 (August 29, 1988)), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

**Limited Disclosure of Business Proprietary Information Under a Protective Order**

Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a) as amended, 53 FR 33039 (August 29, 1988)), the Secretary will make available business proprietary information gathered in these final investigations to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been filed with all the parties that are authorized to receive such information under a protective order.

**Staff Report**

The prehearing staff report in these investigations will be placed in the nonpublic record on December 1, 1988,

and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

**Hearing**

The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on December 15, 1988, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on December 7, 1988. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:30 a.m. on December 12, 1988, at the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is December 12, 1988.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(a)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

**Written Submissions**

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on December 21, 1988. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before December 21, 1988.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in

the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of § 201.6 and § 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a) as amended, 53 FR 33039 (August 29, 1988)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than December 27, 1988. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs.

**Authority:** These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

**Kenneth R. Mason,**  
*Secretary.*

Issued: October 14, 1988.

[FR Doc. 88-24199 Filed 10-18-88; 8:45 am]

BILLING CODE 7020-01-M

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APPENDIX B

LIST OF WITNESSES WHO APPEARED AT THE HEARING

**TENTATIVE HEARING CALENDAR**

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: : THERMOSTATICALLY CONTROLLED  
APPLIANCE PLUGS AND INTERNAL PROBE  
THERMOSTATS THEREFOR FROM CANADA,  
JAPAN, MALAYSIA, AND TAIWAN

Inv. Nos. : 701-TA-292 (Final) and 731-TA-400  
and 402-404 (Final)

Date and time : December 15, 1988 - 9:30 a.m.

Sessions were held in connection with the investigation in the Main Hearing Room 101 of the United States International Trade Commission, 500 E Street, S.W., in Washington.

**In Support of the Imposition of Antidumping  
Duties:**

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Triplex Inter Control Incorporated  
St. Albans, Vermont

James P. Chiasson, General Manager

**In Opposition to the Imposition of Antidumping  
Duties:**

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Barnes & Thornburg  
Washington, D.C.  
on behalf of

ATCO Controls Incorporated, Canada  
James Freeman, General Manager

Randolph J. Stayin )  
 ) —OF COUNSEL  
Marcela B. Stras )



APPENDIX C

COMMERCE'S FEDERAL REGISTER NOTICES

**International Trade Administration**  
[A-122-802]

**Final Determination of Sales at Less Than Fair Value; Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor From Canada**

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We have determined that thermostatically controlled appliance plugs and internal probe thermostats therefor from Canada are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of the subject merchandise from Canada as described in the "Suspension of Liquidation" section of this notice.

**EFFECTIVE DATE:** December 13, 1988.

**FOR FURTHER INFORMATION CONTACT:** Maria Mac Kay or Marianne Stout, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: 202/377-8667 (Mac Kay) or 202/377-5760 (Stout).

**SUPPLEMENTARY INFORMATION:**

**Final Determination**

We have determined that thermostatically controlled appliance plugs and internal probe thermostats therefor from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act).

The estimated margin of sales at less than fair value is 29.27 percent *ad valorem*, as shown in the "Suspension of Liquidation" section of this notice.

**Case History**

On September 22, 1988, we made an affirmative preliminary determination in this case (53 FR 37825—September 28, 1988). The following events have occurred since the publication of that notice.

We verified the responses submitted by ATCO Controls, Inc. (ATCO) in Canada from October 1<sup>st</sup> to October 14, 1988.

On October 13, 1988, we received a request from ATCO for a public hearing, which we denied because the request was untimely. We received written comments from ATCO on November 7, 1988. Petitioner submitted no written comments.

On October 24, 1988, pursuant to section 734 of the Act, ATCO requested a suspension agreement under which it would have changed its prices to eliminate completely any amount by which the merchandise exceeds the United States price. We have concluded that the suspension of this investigation would not be in the public interest, nor would effective monitoring of the proposed suspension agreement be practicable, within the meaning of section 734(d) of the Act.

**Scope of Investigation**

The products covered by this investigation are thermostatically controlled appliance plugs and internal probe thermostats therefor.

For purposes of this investigation, the term thermostatically controlled appliance plugs refers to any device designed to connect an electrical outlet (typically a common wall receptable) with a small cooking appliance of 2,000 watts or less (typically a griddle, deep fryer, frying pan, multicooker, and/or wok) and regulate the flow of electricity and thus the temperature therein; consisting of (1) a probe thermostat encased in a single housing set with a temperature control knob (typically a dial calibrated with various temperature settings), and (2) a cord set.

The term internal probe thermostat refers to any device designed to regulate automatically the flow of electricity, and thus the temperature, in a small heating apparatus of 2,000 watts or less (typically small cooking appliances); consisting of a stainless steel tube (which connects to the heating apparatus) and other components used for thermostatic control.

The products are currently provided for under item numbers 711.7820 and

711.7840 of the *Tariff Schedules of the United States, Annotated* (TSUSA) and are currently classifiable under item numbers 9032.10.00, 9032.20.00, 9032.89.60, 9032.90.60, and 9033.00.00 of the *Harmonized Tariff Schedule* (HTS).

**Period of Investigation**

The period of investigation for thermostatically controlled appliance plugs and internal probe thermostats therefor from Canada extends from November 1, 1987 through April 30, 1988.

**Fair Value Comparisons**

To determine whether sales in the United States of thermostatically controlled appliance plugs and internal probe thermostats therefor from Canada were made at less than fair value, we compared the United States price with the foreign market value for ATCO, using the data provided in the responses.

In its responses, ATCO stated that sales in Canada of the subject merchandise during the period of investigation fell into two categories. Certain models meeting Canadian technical specifications were sold to unrelated Canadian appliance manufacturers for packaging with various small appliances to be sold in the Canadian market. Other models meeting U.S. technical specifications were sold to unrelated Canadian appliance manufacturers for packaging with small appliances to be sold in the United States. ATCO contends that the second category of sales should be treated as sales to the United States for purposes of fair-value comparisons.

The Department, however, considers ATCO's second category of sales to be home-market sales because this merchandise, as such, is not sold in the United States. Rather, the products that are ultimately sold in the United States consist of small appliances, merchandise which is not subject to this investigation.

Therefore, the Department compared ATCO's sales of the subject merchandise meeting U.S. technical specifications to United States purchasers with ATCO's home-market sales of subject merchandise meeting U.S. technical specifications.

We did not take into account ATCO's sales of the subject merchandise meeting Canadian technical specifications in our preliminary determination based on the assumption that sales to the United States involved only merchandise meeting U.S. specifications, as indicated in the questionnaire response. During verification, however, we ascertained

that small quantities of the subject merchandise meeting the Canadian technical specifications were sold to U.S. purchasers during the period of investigation. We did not take these transactions into account for purposes of our final determination because of the small volume involved.

#### United States Price

We based United States price on purchase price, in accordance with section 772(b) of the Act, because the merchandise was sold to an unrelated purchaser in the United States prior to its importation. We calculated purchase price based on the f.o.b. or delivered, packed prices to U.S. customers. We made additions to purchase price for duty drawback, i.e., import duties which were rebated, or not collected, by reason of the exportation of the subject merchandise to the United States, in accordance with section 772(d)(1)(B) of the Act. Where appropriate, we made deductions from purchase price for inland freight, brokerage costs, and customs duty.

#### Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on f.o.b. or delivered, packed prices to unrelated purchasers in Canada. In accordance with § 353.15 of our regulations, we made an adjustment to foreign market value for differences in circumstances of sale for technical services. In accordance with § 353.16 of our regulations, where there was no identical product in the home market with which to compare a product in the United States, we made an adjustment to the foreign market value of similar merchandise to account for differences in the physical characteristics of the merchandise. In order to adjust for differences in packing between the two markets, we deducted Canadian packing costs from foreign market value and added U.S. packing costs.

#### Currency Conversion

We made currency conversions in accordance with § 353.56(a)(1) of our regulations. We made all currency conversions using the daily exchange rates certified by the Federal Reserve Bank of New York.

#### Verification

As provided in section 776 of the Act, we verified all information used in reaching the final determination in this investigation. We used standard verification procedures, including examination of relevant accounting

records and original source documents provided by the respondent.

#### Interested Party Comments

##### *Respondent's Comments*

**Comment 1:** On November 7, 1988 ATCO requested that the Department extend the period of investigation to cover a May sale made by ATCO to one of its U.S. customers. ATCO's counsel argued that this sale was negotiated during the period of investigation, although written proof of the sale was not available until a couple of weeks after the end of the period of investigation.

**DOC Position:** The Department has considered the argument presented by the petitioner. Because a sufficient number of transactions were already included in the original period of investigation to make fair value comparisons, the Department found an extension to be unwarranted. Furthermore, the Department received such request after verification and was unable to verify the additional transactions. Thus, the Department decided against extending the period of investigation.

#### Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of thermostatically controlled appliance plugs and internal probe thermostats therefor from Canada that are entered, or withdrawn from warehouse, for consumption on or after September 28, 1988, the date of publication of the preliminary determination in the *Federal Register*. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which is 29.27 percent *ad valorem*. This suspension of liquidation will remain in effect until further notice.

#### ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. If the ITC determines that material injury, or threat of material injury, does not exist in this case, this proceeding will be terminated and all securities posted as a result of suspension of liquidation will be refunded. If the ITC determines that material injury, or threat of material injury, does exist in this case, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on thermostatically

controlled appliance plugs and internal probe thermostats therefor from Canada which are entered, or withdrawn from warehouse, for consumption on or after the date on which liquidation was suspended. The antidumping duty will equal the amount by which the foreign market value of the subject merchandise exceeds United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Jan W. Mares,  
Assistant Secretary for Import  
Administration.  
December 5, 1988.

[FR Doc. 88-28555 Filed 12-12-88; 8:45 am]  
BILLING CODE 3510-DS-M

[A-583-805]

#### Initiation of Antidumping Duty Investigation; Martial Arts Uniforms From Taiwan

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of martial arts uniforms from Taiwan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of martial arts uniforms materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before December 30, 1988. If that determination is affirmative, we will make a preliminary determination on or before April 24, 1989.

**EFFECTIVE DATE:** December 13, 1988.

**FOR FURTHER INFORMATION CONTACT:** Mary S. Clapp, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-3965.

#### SUPPLEMENTARY INFORMATION:

##### The Petition

On November 15, 1988, we received a petition filed in proper form by Century Martial Art Supply, Inc. on behalf of the domestic martial arts uniform industry. In compliance with the filing

requirements of 19 CFR 353.36, petitioner alleges that imports of martial arts uniforms from Taiwan 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 Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

#### United States Price and Foreign Market Value

Petitioner's estimate of United States price is based on a price to an unrelated party in the United States, less a wholesaler's mark-up, U.S. duty, ocean freight, brokerage fees, drayage and associated charges. Petitioner's estimate of foreign market value (FMV) is based on a retail price in the home market, less retailer and wholesaler mark-ups.

Based on a comparison of FMV to the United States price, petitioner alleges a dumping margin of 8.5 percent.

#### Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on martial arts uniforms from Taiwan and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of martial arts uniforms from Taiwan are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by April 24, 1989.

#### Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the U.S. tariff schedules will be fully converted to the *Harmonized Tariff Schedule* (HTS) and all merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS item number(s). Until that time, however, the Department will be providing both the appropriate *Tariff Schedules of the United States Annotated* (TSUSA) item numbers and the appropriate HTS item numbers with our product descriptions. As with the TSUSA, the HTS item numbers are provided for convenience and Customs purposes. The written description

remains dispositive as to the scope of the product coverage.

We are requesting petitioners to include the appropriate HTS item number(s) as well as the TSUSA item number(s) in all new petitions filed with the Department. A reference copy of the proposed HTS schedule is available for consultation at the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Additionally, all U.S. Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

The products covered by this investigation include the following articles: Martial art uniforms for men, boys, women, girls and infants. The uniforms consist of tops, pants and belts and are imported from Taiwan separately or as ensembles. They are made of cotton or of man-made fibers, either ornamented or not ornamented. They are suitable for wearing while practicing all forms of martial arts, including but not limited to: Judo, Karate, Kung Fu, Tae Kwon Do, Ninja, Ninjutsu, Hakama, Tai Chi, Jujitsu and Hapkido. These products are normally provided for in TSUSA items 381.8300, 381.0830, 381.3200, 384.0950, 281.9700, 384.2400, 384.5000 and 384.9200 (HTS subheadings 6203.22.1000, 6203.23.0070, 6203.23.0080, 6203.23.0090, 6203.29.20, 6204.22.1000, 6204.23.00 and 6204.29.20) and may also be entered under TSUS items 381.05, 381.08, 381.31, 381.32, 381.33, 381.56, 381.62, 381.63, 381.65, 381.95, 381.97, 381.98, 384.05, 384.07, 384.09, 384.23, 384.24, 384.26, 384.46, 384.47, 384.50, 384.52, 384.90, 384.91, 384.92, and 384.94 (HTS subheadings 6203.22.10, 6203.23.00, 6203.29.20, 6203.42.40, 6203.43.40, 6203.49.20, 6204.22.10, 6204.62.40, 6204.63.35, 6204.69.25, 6209.20.30, 6209.20.50, 6209.30.20, 6209.30.30, 6209.90.20, 6209.90.30, and 6217.10.00).

#### Notification of ITC

Section 732(d) of the Act requires us to notify the ITC 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 nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in our files, provided it confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Assistant Secretary for Import Administration.

#### Preliminary Determination by ITC

The ITC will determine by December 30, 1988, whether there is a reasonable indication that imports of martial arts uniforms from Taiwan materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory and regulatory procedures.

This notice is published pursuant to section 732(c)(2) of the Act.

Jan W. Mares,  
Assistant Secretary for Import  
Administration.

December 6, 1988.

[F.R. Doc. 88-28560 Filed 12-12-88; 8:45 am]

BILLING CODE 3510-DS-M

[C-122-803]

#### Final Negative Countervailing Duty Determination: Thermostatically Controlled Appliance Plugs and International Probe Thermostats Therefor From Canada

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We determine that no benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Canada of thermostatically controlled appliance plugs and internal probe thermostats therefor (the subject merchandise), as described in the "Scope of Investigation" section of this notice.

We have notified the U.S. International Trade Commission (ITC) of our determination.

**EFFECTIVE DATE:** December 13, 1988.

**FOR FURTHER INFORMATION CONTACT:** Vincent P. Kane or Roy Malmrose, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2815 or 377-5414.

#### SUPPLEMENTARY INFORMATION:

##### Final Determination

Based on our investigation, we determine that no benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers,

exporters in Canada of the subject merchandise.

#### Case History

Since the publication of the preliminary determination (*Preliminary Affirmative Countervailing Duty Determination: Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor from Canada Malaysia and Taiwan* (53 FR 27738, July 22, 1988)), the following events have occurred. The Government of Canada (GOC) and ATCO Controls, Inc. (ATCO), the respondent of company in this investigation, submitted supplemental questionnaire responses on the following dates: July 22 and August 10, 1988.

From August 2 to August 5, 1988, we conducted verification in Canada of the questionnaire responses of the GOC and ATCO.

On August 22, 1988, we received a request from the petitioner, pursuant to section 705(a)(1) of the Act, to extend the date of the final determination to correspond with the date of the final determination in the antidumping investigations of the same products from Canada, Hong Kong, Japan, Malaysia and Taiwan. We extended the due date to December 6, 1988 and we published notice of the extension in the *Federal Register* Extension of the Due Dates for the Final Countervailing Duty Determinations: Certain Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor From Canada, Malaysia and Taiwan (53 FR 39493, October 7, 1988).

An amended response based on information reviewed at verification was submitted by ATCO on August 10, 1988. None of the interested parties requested a public hearing or submitted briefs.

#### Exclusion Request

On June 10, 1988, ATCO stated that it has neither applied for nor received benefits from any of the programs under investigation and requested an exclusion from any countervailing duty order which might result from the investigation.

Because ATCO is the only respondent company in this investigation, and we have confirmed that it received no benefits, we are issuing a final negative determination. Therefore, the exclusion provision does not apply. Exclusion is relevant only within the context of an affirmative determination and a countervailing duty order.

#### Scope of Investigation

The United States has developed a system of tariff classification based on

the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules will be fully converted to the *Harmonized Tariff Schedule* (HTS) and all the merchandise entered or withdrawn from warehouse for consumption on or after that date will be classified solely according to the appropriate HTS item number(s). Until that time, however, the Department will be providing both the appropriate *Tariff Schedules of the United States Annotated* (TSUSA) item number(s) and the appropriate HTS item number(s) with its product descriptions. As with the TSUSA, the HTS item numbers are provided for convenience and Customs purposes. The Department's written description of the products under investigation remains dispositive as to the scope of the product coverage.

We are requesting petitioners to include the appropriate HTS item number(s) as well as the TSUSA item number(s) in all petitions filed with the Department through the end of this year. A reference copy of the HTS is available for consultation in the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Additionally, all U.S. Customs offices have reference copies, and petitioners may contact the import specialist at their local Customs office to consult the schedule.

The products covered by this investigation are thermostatically controlled appliance plugs and internal probe thermostats therefor. For purposes of this investigation, the term thermostatically controlled appliance plug refers to any device designed to connect an electrical outlet (typically a common wall receptacle) with a small cooking appliance of 2,000 watts or less (typically a griddle, deep fryer, fry pan, multicooker, and/or wok) and regulate the flow of electricity, and thus the temperature, therein; consisting of (1) a probe thermostat encased in a single housing set with a temperature control knob (typically a dial calibrated with various temperature settings), and (2) a cord set.

The term internal probe thermostat refers to any device designed to automatically regulate the flow of electricity, and thus the temperature, in a small heating apparatus of 2,000 watts or less (typically small cooking appliances), consisting of a stainless steel tube (which connects to the heating apparatus) and other components used for thermostatic control.

The products are currently provided for under TSUSA item numbers 711.7820 and 711.7840 and under HTS 9032.10.00,

9032.20.00, 9032.89.60, 9032.90.60, and 9033.00.00.

#### Analysis of Programs

For purposes of this final determination, the period for which we are measuring subsidies (the review period) is ATCO's fiscal year, July 1, 1986, through August 31, 1987. Based upon our analysis of the petition, the responses to our questionnaires, and the verification, we determine the following:

##### 1. Programs Determined Not to be Used

Based on verified information, we determine that manufacturers, producers, and exporters in Canada of the subject merchandise did not apply for, claim, or receive benefits during the review period for exports of the subject merchandise to the United States under the programs listed below. These programs were described in the preliminary determination in this investigation.

##### A. Federal Programs

1. Certain Types of Investment Tax Credits
2. Community-based Industrial Adjustment Program
3. Programs for Export Market Development and Promotional Projects
4. Regional Development Incentives Program
5. Industrial and Regional Development Program
6. Export Credit Financing

##### B. Joint Federal-Provincial Programs

1. Agricultural and Rural Development Agreements
2. General Development Agreements
3. Economic and Regional Development Agreements

##### C. Provincial Program

1. Ontario Development Corporation (ODC)

#### Verification

We verified the information used in making our final determination in accordance with section 776(b) of the Act. We used standard verification procedures including meeting with government and company officials and examining relevant accounting records and original source documents of the respondents. Our verification results are outlined in detail in the public versions of the verification reports which are on file in Central Records Unit (Room B-099) of the Main Commerce Building.

**ITC Notification**

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. Since we have determined that no subsidies are being provided to manufacturers, producers or exporters in Canada of thermostatically controlled appliance plugs and internal probe thermostats therefor, the investigation will be terminated upon the publication of this notice in the *Federal Register*. Hence, the ITC is not required to make a final injury determination.

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Jan W. Mares,

Assistant Secretary for Import Administration.

December 6, 1988.

[FR Doc. 88-28663 Filed 12-12-88; 8:45 am]

BILLING CODE 3510-05-M

[C-557-802]

**Final Negative Countervailing Duty Determination: Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor From Malaysia**

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We determine that no benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Malaysia of thermostatically controlled appliance plugs and internal probe thermostats therefor (the subject merchandise), as described in the "Scope of Investigation" section of this notice.

**EFFECTIVE DATE:** December 13, 1988.

**FOR FURTHER INFORMATION CONTACT:** Vincent Kane or Roy Malmrose, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2815 or 377-5414.

**SUPPLEMENTARY INFORMATION:**

**Final Determination**

Based on our investigation, we determine that no benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Malaysia of the subject merchandise.

**Case History**

Since the publication of the preliminary determination (*Preliminary Negative Countervailing Duty Determination: Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor from Canada* (53 FR 27740, July 22, 1988)) the following events have occurred. On August 3, 1988, Power Electronics Sdn. Bhd. (Power Electronics), the respondent company in this investigation, submitted a revised version of its nonconfidential supplementary response.

On August 22, 1988, we received a request from the petitioner, under section 705(a)(1) of the Act, to extend the date of the final determination to correspond with the date of the final determinations in the antidumping investigations of the same products from Canada, Hong Kong, Japan, Malaysia, and Taiwan. Pursuant to petitioner's request, we extended the date of the final determination to December 6, 1988, and published notice of the extension in the *Federal Register* (*Extension of the Due Dates for the Final Countervailing Duty Determinations: Certain Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor From Canada, Malaysia and Taiwan* (53 FR 39493, October 7, 1988)).

From September 12 to September 22, 1988, we conducted verification in Malaysia of the questionnaire responses of the Government of Malaysia and Power Electronics.

**Scope of Investigation**

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules will be fully converted to the *Harmonized Tariff Schedule* (HTS) and all the merchandise entered or withdrawn from warehouse for consumption on or after that date will be classified solely according to the appropriate HTS item number(s). Until that time, however, the Department will be providing both the appropriate *Tariff Schedules of the United States Annotated* (TSUSA) item number(s) and the appropriate HTS item number(s) with its product descriptions. As with the TSUSA, the HTS item numbers are provided for convenience and Customs purposes. The Department's written description of the products under investigation remains dispositive as to the scope of the product coverage.

We are requesting petitioners to include the appropriate HTS item number(s) as well as the TSUSA item number(s) in all petitions filed with the Department through the end of this year.

A reference copy of the HTS is available for consultation in the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Additionally, all U.S. Customs offices have reference copies, and petitioners may contact the import specialist at their local Customs office to consult the schedule.

The products covered by this investigation are thermostatically controlled appliance plugs and internal probe thermostats therefor. For purposes of this investigation, the term thermostatically controlled appliance plug refers to any device designed to connect an electrical outlet (typically a common wall receptacle) with a small cooking appliance of 2,000 watts or less (typically a griddle, deep fryer, fry pan, multicooker, and/or wok) and regulate the flow of electricity, and thus the temperature, therein; consisting of (1) a probe thermostat encased in a single housing set with a temperature control knob (typically a dial calibrated with various temperature settings), and (2) a cord set.

The term internal probe thermostat refers to any device designed to automatically regulate the flow of electricity, and thus the temperature, in a small heating apparatus of 2,000 watt or less (typically small cooking appliances); consisting of a stainless steel tube (which connects to the heating apparatus) and other components used for thermostatic control.

The products are currently provided for under TSUSA item numbers 711.782 and 711.7840 and under HTS item numbers 9032.10.00, 9032.20.00, 9032.89.00, 9032.90.60, and 9033.00.00.

**Analysis of Programs**

For purposes of this final determination, the period for which we are measuring bounties or grants (the review period) is calendar year 1987, which corresponds to the fiscal year of the respondent company. Based upon our analysis of the petition, the responses to our questionnaires, and the verification, we determine the following:

*1. Programs Determined Not to Confer a Bounty or Grant*

We determine that bounties or grants are not being provided to manufacturers, producers or exporters in Malaysia of the subject merchandise under the following programs:

#### A. Agreement with the Islamic Development Bank

The Islamic Development Bank (IDB) is a multilateral development bank subscribed to by 44 Islamic nations. It is located in Jeddah, Saudi Arabia. The Industrial Development Bank of Malaysia, generally referred to as Bank Kemajuan, is a development bank owned by the Government of Malaysia through the Ministry of Finance. Bank Kemajuan offers a foreign trade financing facility enabling importers to get short-term financing from the IDB.

At verification we found that Power Electronics had a foreign trade financing facility agreement with Bank Kemajuan and the IDB. Power Electronics, Bank Kemajuan and the IDB entered a tripartite agreement under which the IDB agreed to open letters of credit in favor of Power Electronics' foreign component suppliers. The agreement stipulated that the IDB purchase a quantity of goods and resell them at a mark-up to Power Electronics against the security of a guarantee from Bank Kemajuan.

The agreement with the IDB is not countervailable. Section 303 of the Act (19 U.S.C. 1303) states that "whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation, shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, then upon the importation of such article or merchandise into the United States . . . there shall be levied and paid, in all such cases, in addition to any duties otherwise imposed, a duty equal to the next amount of such bounty or grant, however the same be paid or bestowed." Since the merchandise under investigation is produced in Malaysia and the agreement with Power Electronics is from an international development institution which is located outside of Malaysia, we determine that the agreement is not countervailable. See, for example, the *Final Affirmative Countervailing Duty Determination: Fuel Ethanol from Brazil*, (51 FR 3361, January 27, 1986) and *Initiation of Countervailing Duty Investigation: Certain Textiles and Textile Products from the Philippines*, (49 FR 34381, August 30, 1984).

#### B. Guarantee Agreement with Bank Kemajuan

Bank Kemajuan is required to guarantee all transactions between the IDB and Malaysian enterprises. Bank Kemajuan agreed to guarantee Power Electronics' liabilities to the IDB under the foreign trading financing facility agreement in return for a corporate guaranteed from Power Electronics' parent company and an annual guarantee fee of one percent. We confirmed that Power Electronics paid its guarantee fee at one percent per annum according to schedule.

We examined whether the guarantee received by Power Electronics was provided on terms inconsistent with commercial considerations by comparing the guarantee fee paid by Power Electronics with the commercial fee for a one-year loan guarantee. We verified that the commercial fee for a one-year loan guarantee is between one and 1.25 percent, depending on the client, or about one percent if the client is guaranteed by a parent company. Since Power Electronics paid a guarantee fee of one percent after its parent company pledged a corporate guarantee, we determine that the guarantee provided Power Electronics by Bank Kemajuan is not on terms inconsistent with commercial considerations and is not countervailable. Given this conclusion, we need not consider whether this program is provided to a specific enterprise or industry, or group of enterprises or industries.

#### II. Programs Determined Not to Be Used

Based on verified information, we determine that manufacturers, producers, or exporters in Malaysia of the subject merchandise did not apply for, claim or receive benefits during the review period for exports of the subject merchandise to the United States under the programs listed below. These programs were described in the preliminary determination in this investigation.

##### A. Export Tax Incentives

1. Abatement of Taxable Income Based on the Ratio of Export Sales to Total Sales and an Abatement of Five Percent of the Value of Indigenous Materials Used in Exports
2. Allowance of Taxable Income of Five Percent for Trading Companies Exporting Malaysian-made Products
3. Double Deduction for Export Credit Insurance Payments
4. Double Deduction for Export Promotion Expenses

5. Allowance of a Percentage of Net Taxable Income Based on the F.O.B. Value of Export Sales

6. Industrial Building Allowance

##### B. Other Export Incentives

1. Export Credit Refinancing
2. Export Insurance Program

##### C. Other Tax Incentives

1. Pioneer Status Under the Investment Incentives Act of 1968
2. Pioneer Status Under the Promotion of Investments Act of 1986
3. Investment Tax Allowance
5. Reinvestment Allowance

D. Medium-and Long-term Government Financing

E. Reduction in the Cost of State Land for New Industry

F. Preferential Financing for Bumiputras Verification

We verified the information used in making our final determination in accordance with section 776(b) of the Act. We used standard verification procedures including meeting with government and company officials and examining relevant accounting records and original source documents of the respondents. Our verification results are outlined in detail in the public versions of the verification report which are on file in the Central Record Unit (Room B-099) of the Main Commerce Building.

This determination is published pursuant to section 705(d) of the Act [19 U.S.C. 1671d(d)].

Jan W. Mares,  
Assistant Secretary for Import Administration.

[FR Doc. 88-28664 Filed 12-12-88; 8:45 am]

BILLING CODE 3510-DS-M

[C-593-802]

#### Final Affirmative Countervailing Duty Determination: Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor From Taiwan

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We determine that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Taiwan of thermostatically controlled appliance plugs and internal probe thermostats therefor (the subject merchandise), as described in the "Scope of



Investigation" section of this notice. The estimate net subsidy and duty deposit rate is 2.41 percent *ad valorem*.

We have notified the U.S. International Trade Commission (ITC) of our determination. If the ITC determines that imports of these products materially injure, or threaten material injury to, a U.S. industry, we will direct the U.S. Customs Service to resume the suspension of liquidation of all entries of the subject merchandise from Taiwan, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the countervailing duty order and to require a cash deposit or bond on entries of these products in the amount equal to the estimated net subsidy.

**EFFECTIVE DATE:** December 13, 1988.

**FOR FURTHER INFORMATION CONTACT:**

Vincent P. Kane or Roy Malmrose, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2815 or 377-5414.

**SUPPLEMENTARY INFORMATION:**

**Final Determination**

Based on our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Taiwan of the subject merchandise. For purposes of this investigation, the following programs are found to confer subsidies:

- Preferential Export Financing.
- Export Loss Reserves.
- Preferential Income Tax Rate Ceiling of 22 Percent.
- Overrebate of Duty Drawback on Imported Materials Physically Incorporated in Export Merchandise.
- Rebate of Import Duties and Indirect Taxes on Imported Materials not Physically Incorporated in Export Merchandise.

As discussed in the "Analysis of Programs" section below, the estimated net subsidy rate is based on best information available.

**Case History**

Since the publication of the preliminary determination in the *Federal Register*, (*Preliminary Affirmative Countervailing Duty Determination: Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor from Taiwan* (53 FR 27742, July 22, 1988)), the following events have

occurred. On August 22, 1988, we received a request from the petitioner, pursuant to section 705(a)(1) of the Act, to extend the date of the final determination to correspond with the date of the final determinations in the antidumping investigations of the same products from Canada, Hong Kong, Japan, Malaysia and Taiwan. We extend the due date to December 6, 1988 and we published notice of the extension in the *Federal Register* (*Extension of the Due Dates for the Final Countervailing Duty Determinations: Certain Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor From Canada, Malaysia and Taiwan* (53 FR 39493, October 7, 1988)).

As detailed in the *Case History* section of our preliminary determination, we received no responses to our questionnaire from either the Taiwanese authorities or the manufacturers, producers, or exporters of the subject merchandise.

**Scope of Investigation**

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules will be fully converted to the *Harmonized Tariff Schedule* (HTS) and all the merchandise entered or withdrawn from warehouse for consumption on or after that date will be classified solely according to the appropriate HTS item number(s). Until that time, however, the Department will be providing both the appropriate *Tariff Schedules of the United States Annotated* (TSUSA) item number(s) and the appropriate HTS item number(s) with its product descriptions. As with the TSUSA, the HTS item numbers are provided for convenience and Customs purposes. The Department's written description of the products under investigation remains dispositive as to the scope of the product coverage.

We are requesting petitioners to include the appropriate HTS item number(s) as well as the TSUSA item number(s) in all petitions filed with the Department through the end of this year. A reference copy of the HTS is available for consultation in the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Additionally, all U.S. Customs offices have reference copies, and petitioners may contact the import specialist at their local Customs office to consult the schedule.

The products covered by this investigation are thermostatically controlled appliance plugs and internal

probe thermostats therefor. For purposes of this investigation, the term thermostatically controlled appliance plug refers to any device designed to connect an electrical outlet (typically a common wall receptacle) with a small cooking appliance of 2,000 watts or less (typically a griddle, deep fryer, fry pan, multicooker, and/or wok) and regulate the flow of electricity, and thus the temperature, therein; consisting of (1) a probe thermostat encased in a single housing set with a temperature control knob (typically a dial calibrated with various temperature settings), and (2) a cord set.

The term internal probe thermostat refers to any device designed to regulate automatically the flow of electricity, and thus the temperature, in a small heating apparatus of 2,000 watts or less (typically small cooking appliances), consisting of a stainless steel tube (which connects to the heating apparatus) and other components used for thermostatic control.

The products are currently provided for under TSUSA item numbers 711.7820 and 711.7840 and under HTS item numbers 9032.10.00, 9032.20.00, 9032.89.60, 9032.90.60, 9033.00.00.

**Analysis of Programs**

Because we did not receive responses to our questionnaires, we are using the best information available as required under section 776(c) of the Act (19 U.S.C. 1677e(c)), adversely inferring countervailability and receipt of benefits based on the absence of responses. As best information available, we used the highest estimated net subsidy found from each program in any past countervailing duty final determination involving Taiwan.

For programs which have been alleged, but which we have never found to be used in any previous case, we inferred the use and countervailability of these programs in our preliminary determination and used, as best information available, the highest rate applied to a subsidy program in any investigation on Taiwan. Upon further evaluation, we have changed this approach for the final determination and are assuming that these programs were not used. We have made this assumption because the petitioner has not provided any information as to the extent or use of these programs, the programs were found not used in all previous investigations and we have never determined if the programs are countervailable. This approach is more consistent with our approach in cases involving similar circumstances. See, for example, the *Final Affirmative*



*Countervailing Duty Determination: Industrial Phosphoric Acid from Israel* (52 FR 25447, July 7, 1987) and the *Preliminary Affirmative Countervailing Duty Determination: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, from Israel* (53 FR 48670, December 2, 1988).

Based upon our analysis of the petition and the past final countervailing duty determinations involving imports from Taiwan, we determine the following:

#### *I. Programs Determined to Confer Subsidies*

##### **A. Preferential Export Financing**

Petitioner alleges that under the Export Financing Program, registered exporters, upon presentation of a letter of credit to authorized foreign currency banks, are eligible for below-market financing covering up to 85 percent of an export transaction. The Central Bank then arranges an interest rate accommodation with the participating banks. The most recent investigation in which this program was determined to be countervailable was the *Final Negative Countervailing Duty Determination: Porcelain-on-Steel Cooking Ware from Taiwan* (51 FR 36453, October 10, 1986) (*Porcelain-on-Steel Cooking Ware*). We have received no further information on the preferential export financing program in this investigation. Therefore, as best information available, we determine that exporters of the subject merchandise in Taiwan benefit from this program.

The highest estimated net subsidy for this program in any previous final countervailing duty determination is 0.10 percent *ad valorem*, which is the rate found in the *Final Negative Countervailing Duty Determination: Oil Country Tubular Goods from Taiwan* (51 FR 19583, May 30, 1986).

##### **B. Export Loss Reserves**

Petitioner alleges that Article 31 of the Statute for Encouragement of Investment (SEI) allows firms to set aside a reserve of up to one percent of the previous year's export sales to be used for compensation of export losses. Petitioner alleges that this reserve is treated as a deduction from taxable income and allows firms to shelter significant amounts of revenue from taxation. The most recent investigation in which this program was determined to be countervailable was the *Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Cooking Ware from Taiwan* (51 FR 42891, November 28, 1986) (*Stainless*

*Steel Cooking Ware*). We have received no further information on the export loss revenue program in this investigation. Therefore, as best information available, we determine that exporters of the subject merchandise from Taiwan benefit from this program.

The highest estimated net subsidy for this program in any previous final countervailing duty determination is 0.02 percent *ad valorem*, which is the rate found in the *Final Negative Countervailing Duty Determination: Welded Carbon Steel Line Pipe from Taiwan* (50 FR 53363, December 31, 1985).

##### **C. Preferential Income Tax Rate Ceiling of 25 Percent for Big Trading Companies**

Petitioner alleges that Article 15 of the SEI permits certain business firms to pay no more than 25 percent in corporate income tax rather than the standard 35 percent. We determined in *Stainless Steel Cooking Ware*, the most recent investigation in which this program was determined to be countervailable, that the 25 percent income tax ceiling granted to big trading companies is based on export performance; therefore, it confers an export subsidy. We have received no further information on the preferential income tax rate ceiling of 25 percent for big trading companies program in this investigation. Therefore, as best information available, we determine that manufacturers, producers or exporters of the subject merchandise from Taiwan benefit from this program.

The highest estimated net subsidy for this program in any previous final countervailing duty determination is 0.16 percent *ad valorem*, which is the rate found in *Porcelain-on-Steel Cooking Ware*.

##### **D. Overrebate of Duty Drawback on Imported Materials Physically Incorporated in Export Merchandise**

Taiwan authorities give duty drawback on imported materials physically incorporated in export products. Duty drawback is refunded on a shipment-by-shipment basis and is calculated by applying a pre-established duty drawback rate to the net weight of the finished product in each shipment. The most recent investigation in which this program was determined to be countervailable was *Stainless Steel Cooking Ware*. We have received no further information on the overrebate of duty drawback on imported materials physically incorporated in export merchandise program in this investigation. Therefore, as best information available, we determine that exporters of the subject

merchandise from Taiwan benefit from this program.

The highest estimated net subsidy for this program in any previous final countervailing duty determination is 2.13 percent *ad valorem*, which is the rate found in *Stainless Steel Cooking Ware*.

##### **E. Rebate of Import Duties and Indirect Taxes on Imported Materials Not Physically Incorporated in Export Merchandise**

Taiwan authorities approve rebates of import duties and indirect taxes on imported materials not physically incorporated in export merchandise. The most recent investigation in which this program was determined to be countervailable was *Stainless Steel Cooking Ware*. We have received no further information on the rebate of import duties and indirect taxes on imported materials not physically incorporated in export merchandise program in this investigation. Therefore, as best information available, we determine that exporters of the subject merchandise from Taiwan benefit from this program.

The highest estimated net subsidy for this program in any previous final countervailing duty determination is 0.002 percent *ad valorem*, which is the rate found in *Stainless Steel Cooking Ware*.

#### *II. Programs Determined Not to be Used*

The following programs were found to be not used in all previous countervailing duty determinations involving imports from Taiwan. In our preliminary determination we inferred the use and countervailability of these programs and used, as best information available, the highest rate applied to a subsidy program in any investigation on Taiwan. We have changed this approach for the final determination and are assuming that these programs were not used. The justification for this assumption is described in the *Analysis of Programs* section of this notice.

##### **A. Accelerated Depreciation and Tax Holidays**

Petitioner alleges that Article 8 of the SEI gives newly established "productive enterprises" the right to accelerate depreciation on fixed assets, machinery and equipment or to select a five-year holiday on corporate income taxes. In addition, expanding firms may select a four-year holiday on income derived from increased capacity or a rapid depreciation of newly purchased buildings or equipment.

**B. Duty Exemptions and Deferrals on Imported Equipment**

Petitioner alleges that Article 21 of the SEI allows productive enterprises to pay import duties and dues on selected capital equipment not manufactured domestically in a series of installments beginning one year from the date of importation. In addition, qualified enterprises may be exempted from paying import duties on machinery or equipment to be used for the establishment or expansion of an approved project or for research and development.

**C. Preferential Income Tax Rate Ceiling of 22 Percent**

Article 15 of the SEI permits firms designated by the Taiwan authorities as "important" productive enterprises to pay a marginal tax rate of 22 percent as opposed to the standard income tax rate of 35 percent.

**Verification**

In accordance with section 776(c) of the Act, we made our final determination on the basis of the best information available. We verified this information in prior countervailing duty investigations of merchandise from Taiwan.

**Suspension of Liquidation**

In accordance with our preliminary affirmative countervailing duty determination published on July 22, 1988, we directed the U.S. Customs Service to suspend liquidation on the products under investigation and to require a cash deposit or bond equal to the duty deposit rate. This final countervailing duty determination was extended to coincide with the companion final antidumping determinations, pursuant to section 606 of the Trade and Tariff Act of 1984 (section 705(a)(1) of the Act). Under Article 5, paragraph 3 of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (the Subsidies Code), provisional measures cannot be imposed for more than 120 days without final affirmative determinations of subsidy and injury. Therefore, on October 7, 1988, we instructed the U.S. Customs Service to discontinue the suspension of liquidation on the subject merchandise entered on or after November 21, 1988, but to continue the suspension of liquidation of all entries or withdrawals from warehouse, for consumption, of the subject merchandise entered between July 22, 1988, and November 20, 1988. We will reinstate suspension of liquidation under section 703(d) of the

Act on the date of publication of the countervailing duty order, if the ITC issues a final affirmative injury determination, and again require duty deposits on all entries of the subject merchandise.

**ITC Notification**

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing Customs officers to assess countervailing duties on all entries of thermostatically controlled appliance plugs and internal probe thermostats therefor entered, or withdrawn from warehouse, for consumption, as described in the "Suspension of Liquidation" section of this notice.

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671(d)).

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 88-28665 Filed 12-12-88; 8:45 am]

BILLING CODE 3510-05-M

telephone: 202/377-3818 (Letort) or 202/377-0182 (Harsh).

**SUPPLEMENTARY INFORMATION:**

**Final Determination**

We have determined that thermostatically controlled appliance plugs and internal probe thermostats therefor from Hong Kong are not being, nor are likely to be, sold in the United States at less than fair value within the meaning of section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act). We have found that the weighted-average margin for the company being investigated is *de minimis*.

**Case History**

On September 22, 1988, we made a negative preliminary determination in this case (53 FR 37827—September 28, 1988). The following events have occurred since the publication of that notice.

We verified the responses submitted by Advance Thermo Control, Ltd. (ATC) in Hong Kong from October 3 to October 7, 1988. We received no request for a public hearing, nor did we receive any written comments, from any of the interested parties.

**Scope of Investigation**

The products covered by this investigation are thermostatically controlled appliance plugs and internal probe thermostats therefor.

For purposes of this investigation, the term thermostatically controlled appliance plug refers to any device designed to connect an electrical outlet (typically a common wall receptacle) with a small cooking appliance of 2,000 watts or less (typically a griddle, deep fryer, frying pan, multicooker, and/or wok) and regulate the flow of electricity and thus the temperature therein; consisting of (1) a probe thermostat encased in a single housing set with a temperature control knob (typically a dial calibrated with various temperature settings), and (2) a cord set.

The term internal probe thermostat refers to any device designed to regulate automatically the flow of electricity, and thus the temperature, in a small heating apparatus of 2,000 watts or less (typically small cooking appliances); consisting of a stainless steel tube (which connects to the heating apparatus) and other components used for thermostatic control.

The products are currently provided for under item numbers 711.7820 and 711.7840 of the *Tariff Schedules of the United States, Annotated* (TSUSA) and are currently classifiable under item

(A-582-801)

**Final Determination of Sales at Not Less than Fair Value; Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor From Hong Kong**

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We have determined that thermostatically controlled appliance plugs and internal probe thermostats therefor from Hong Kong are not being, nor are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination. **EFFECTIVE DATE:** December 13, 1988.

**FOR FURTHER INFORMATION CONTACT:** Alain Letort or Bruce Harsh, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

numbers 9032.10.00, 9032.20.00, 9032.89.60, 9032.90.60, and 9033.00.00 of the *Harmonized Tariff Schedule* (HTS).

#### Period of Investigation

Because the original period of investigation from November 1, 1987 through April 30, 1988 would not have captured an adequate number of sales, we extended the period of investigation in order to encompass the twelve months from May 1, 1987 through April 30, 1988, instead of using the six-month period defined by § 353.38(a) of our regulations.

#### Fair Value Comparisons

To determine whether sales of thermostatically controlled appliance plugs and internal probe thermostats therefor from Hong Kong in the United States were made at less than fair value, we compared the United States price with the foreign market value for ATC, using the data provided in the responses.

For purposes of our preliminary determination, we disregarded certain sales reported by ATC as being sales to the United States since it was unclear whether these were United States or third-country sales and the number of these sales was insignificant. During verification, we ascertained that these sales involved merchandise ultimately destined to the United States which were merely transshipped through a third country. Therefore, we have considered these sales as sales to the United States for purposes of our final determination.

Because there were no home-market sales of the subject merchandise during the period of investigation, we used ATC's sales of probe thermostats to Canada for purposes of comparison with sales to the United States, as provided by section 773(a)(1)(B) of the Act.

#### United States Price

We based United States price on purchase price (PP), in accordance with section 772(b) of the Act, because the merchandise was sold to an unrelated purchaser in the United States prior to its importation. We calculated purchase price based on the f.o.b. or c. & f. packed prices to U.S. customers. We made deductions, where appropriate, for foreign inland freight and ocean or air freight.

ATC also claimed an upward adjustment to purchase price to reflect the fact that it gave a discount on certain U.S. sales where the U.S. customer provided engineering assistance to ATC. We disallowed this adjustment because respondent was unable during verification to document

or quantify either the discount or the amount of engineering assistance provided.

#### Foreign Market Value

In accordance with section 773(a)(1)(B) of the Act, we calculated foreign market value based on f.o.b. or c. & f. packed prices to unrelated purchasers in Canada. We made deductions, where appropriate, for foreign inland freight and ocean or air freight. In accordance with § 353.16 of our regulations, where there was no identical product in the third-country market with which to compare a product in the United States, we made an adjustment to the foreign market value of similar merchandise to account for differences in the physical characteristics of the merchandise.

In accordance with § 353.15 of our regulations, we made an adjustment for differences in circumstances of sale for credit expenses. In order to adjust for differences in packing between the two markets, we deducted Canadian packing costs from foreign market value and added U.S. packing costs.

#### Currency Conversion

We made currency conversions in accordance with § 353.56(a)(1) of our regulations. We made all currency conversions using the daily exchange rates certified by the Federal Reserve Bank of New York.

#### Verification

As provided in section 776(d) of the Act, we verified all information used in reaching the final determination in this investigation. We used standard verification procedures, including examination of relevant accounting records and original source documents provided by the respondent.

#### Final Result

The weighted-average dumping margin for all manufacturers, producers, and exporters in Hong Kong of the merchandise subject to this investigation is 0.06 percent *ad valorem*, which is *de minimis*.

#### ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Jan W. Mares,  
Assistant Secretary for Import  
Administration.

December 15, 1988.

[FR Doc. 88-28556 Filed 12-12-88; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-805]

### Final Determination of Sales at Less than Fair Value; Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor From Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

**SUMMARY:** We have determined that thermostatically controlled appliance plugs and internal probe thermostats therefor from Japan are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. Internal Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of the subject merchandise from Japan as described in the "Suspension of Liquidation" section of this notice.

**EFFECTIVE DATE:** December 13, 1988.

**FOR FURTHER INFORMATION CONTACT:** Alain Letort or Jane Siegel, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230, telephone: 202/377-3818 (Letort) or 202/377-0409 (Siegel).

#### SUPPLEMENTARY INFORMATION:

##### Final Determination

We have determined that thermostatically controlled appliance plugs and internal probe thermostats therefor from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act). The estimated margin of sales at less than fair value is 63.64 percent *ad valorem*, as shown in the "Suspension of Liquidation" section of this notice.

##### Case History

On September 22, 1988, we made an affirmative preliminary determination in this case (53 FR 37828—September 28, 1988). Since the publication of that notice, we have received no response or comments from Toshiba Heating Appliance Co. Ltd. (Toshiba), which accounted for virtually all the exports to the United States from Japan during the period of investigation. We have received no comments from any other interested party in this investigation.

### Scope of Investigation

The products covered by this investigation are thermostatically controlled appliance plugs and internal probe thermostats therefor.

For purposes of this investigation, the term thermostatically controlled appliance plug refers to any device designed to connect an electrical outlet (typically a common wall receptacle) with a small cooking appliance of 2,000 watts or less (typically a griddle, deep fryer, frying pan, multicooker, and/or wok) and regulate the flow of electricity and thus the temperature therein; consisting of (1) a probe thermostat encased in a single housing set with a temperature control knob (typically a dial calibrated with various temperature settings), and (2) a cord set.

The term internal probe thermostat refers to any device designed to regulate automatically the flow of electricity, and thus the temperature, in a small heating apparatus of 2,000 watts or less (typically small cooking appliances); consisting of a stainless steel tube (which connects to the heating apparatus) and other components used for thermostatic control.

The products are currently provided for under item numbers 711.7820 and 711.7840 of the *Tariff Schedules of the United States, Annotated* (TSUSA) and are currently classifiable under item numbers 9032.10.00, 9032.20.00, 9032.89.60, 9032.90.60, and 9033.00.00 of the *Harmonized Tariff Schedule* (HTS).

### Period of Investigation

The period of investigation for thermostatically controlled appliance plugs and internal probe thermostats therefor from Japan extends from November 1, 1987 through April 30, 1988.

### Fair Value Comparisons

To determine whether the sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price, based on the best information available, with the foreign market value, also based on the best information available. We used the best information available, as required by section 776(c) of the Act, because no questionnaire responses were submitted.

### United States Price

Since we did not have specific data as to the quantities and prices of the subject merchandise sold in the United States, we used the price information provided in the petition as the best information available, pursuant to section 776(c) of the Act. We used the

packed United States price estimated by petitioner minus deductions for foreign inland freight, ocean freight, U.S. customs duty, brokerage and handling charges, and U.S. inland freight.

### Foreign Market Value

Since we did not have specific data as to the quantities and prices of the subject merchandise sold in Japan or third countries, we used the constructed value of the subject merchandise provided in the petition as the best information available, pursuant to section 776(c) of the Act. The constructed value calculated in the petition was based on petitioner's manufacturing cost for the fourth quarter of 1987, adjusted to reflect Japanese manufacturing costs, with the statutorily mandated addition of 10 percent of the cost of manufacture for general expenses and 8 percent of the cost of manufacture plus general expenses for profit.

### Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of thermostatically controlled appliance plugs and internal probe thermostats therefor from Japan that are entered, or withdrawn from warehouse, for consumption, on or after September 28, 1988, the date of publication of the preliminary determination in the *Federal Register*. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which is 63.64 percent *ad valorem*. This suspension of liquidation will remain in effect until further notice.

### ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. If the ITC determines that material injury, or threat of material injury, does not exist in this case, this proceeding will be terminated and all securities posted as a result of suspension of liquidation will be refunded. If, however, the ITC determines that material injury, or threat of material injury, does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on thermostatically controlled appliance plugs and internal probe thermostats therefor from Japan which are entered, or withdrawn from warehouse, for consumption, on or after the date on which liquidation was suspended. The antidumping duty will

equal the amount by which the foreign market value of the subject merchandise exceeds United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Jan W. Mares,  
Assistant Secretary for Import  
Administration.

[FR Doc. 88-28557 Filed 12-12-88; 8:45 am]

BILLING CODE 3510-DS-M

[A-557-801]

### Final Determination of Sales at Less Than Fair Value; Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor From Malaysia

**AGENCY:** Import Administration,  
International Trade Administration,  
Commerce.

**ACTION:** Notice.

**SUMMARY:** We have determined that thermostatically controlled appliance plugs and internal probe thermostats therefor from Malaysia are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of the subject merchandise from Malaysia as described in the "Suspension of Liquidation" section of this notice.

**EFFECTIVE DATE:** December 13, 1988.

**FOR FURTHER INFORMATION CONTACT:** Alain Letort or Jane Siegel, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: 202/377-3818 (Letort) or 202/377-0409 (Siegel).

### SUPPLEMENTARY INFORMATION:

#### Final Determination

We have determined that thermostatically controlled appliance plugs and internal probe thermostats therefor from Malaysia are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act). The estimated margin of sales at less than fair value is 28.13 percent *ad valorem*, as shown in the "Suspension of Liquidation" section of this notice.

**Case History**

On September 22, 1988, we made an affirmative preliminary determination in this case (53 FR 37830—September 28, 1988). Since the publication of that notice, we have received no response or comments from Power Electronics Sdn. Bhd. (Power), which accounted for virtually all the exports to the United States from Malaysia during the period of investigation. We have received no comments from any other interested party in this investigation.

**Scope of Investigation**

The products covered by this investigation are thermostatically controlled appliance plug and internal probe thermostats therefor.

For purposes of this investigation, the term thermostatically controlled appliance plug refers to any device designed to connect an electrical outlet (typically a common wall receptacle) with a small cooking appliance of 2,000 watts or less (typically a griddle, deep fryer, frying pan, multicooker, and/or wok) and regulate the flow of electricity and thus the temperature therein; consisting of (1) a probe thermostat encased in a single housing set with a temperature control knob (typically a dial calibrated with various temperature settings), and (2) a code set.

The term internal probe thermostat refers to any device designed to regulate automatically the flow of electricity, and thus the temperature, in a small heating apparatus of 2,000 watts or less (typically small cooking appliances); consisting of a stainless steel tube (which connects to the heating apparatus) and other components used for thermostatic control.

The products are currently provided for under item numbers 711.7820 and 711.7840 of the *Tariff Schedules of the United States, Annotated* (TSUSA) and are currently classifiable under item numbers 9032.10.00, 9032.20.00, 9032.89.60, 9032.90.60, and 9032.00.00 of the *Harmonized Tariff Schedule* (HTS).

**Period of Investigation**

The period of investigation for thermostatically controlled appliance plugs and internal probe thermostats therefor from Malaysia extends from November 1, 1987 through April 30, 1988.

**Fair Value Comparisons**

The determine whether the sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price, based on the best information available, with the foreign market value, also based on the best information available.

We used the best information available, as required by section 776(c) of the Act, because Power failed to respond to sections B through D of our questionnaire.

**United States Price**

Since we did not have specific data as to the quantities and prices of the subject merchandise sold in the United States, we used the price information provided in the petition as the best information available, pursuant to section 776(c) of the Act. We used the packed United States price estimated by petitioner minus deductions for foreign inland freight, ocean freight, brokerage and handling charges, and U.S. inland freight.

**Foreign Market Value**

Since we did not have specific data with respect to the quantities and prices of the subject merchandise sold in Malaysia or third countries, we used the constructed value of the subject merchandise provided in the petition as the best information available, pursuant to section 776(c) of the Act. The constructed value calculated in the petition was based on petitioner's manufacturing cost for the fourth quarter of 1987, adjusted to reflect Malaysian manufacturing costs, with the statutorily mandated addition of 10 percent of the cost of manufacture for general expenses and 8 percent of the cost of manufacture plus general expenses for profit.

**Continuation of Suspension of Liquidation**

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of thermostatically controlled appliance plugs and internal probe thermostats therefor from Malaysia that are entered, or withdrawn from warehouse, for consumption, on or after September 28, 1988, the date of publication of the preliminary determination in the *Federal Register*. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which is 28.13 percent *ad valorem*. This suspension of liquidation will remain in effect until further notice.

**ITC Notification**

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. If the ITC determines that material injury, or threat of material injury, does not exist in this case, this proceeding will be terminated and all

securities posted as a result of suspension of liquidation will be refunded. If, however, the ITC determines that material injury, or threat of material injury, does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on thermostatically controlled appliance plugs and internal probe thermostats therefor from Malaysia, which are entered, or withdrawn from warehouse, for consumption, on or after the date on which liquidation was suspended. The antidumping duty will equal the amount by which the foreign market value of the subject merchandise exceeds United States price.

This determination is published pursuant to section 753(d) of the Act (19 U.S.C. 1673d(d)).

Jan W. Mares,  
Assistant Secretary for Import  
Administration.

December 5, 1988.

[FR Doc. 88-28558 Filed 12-12-88; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-801]

**Final Determination of Sales at Less Than Fair Value; Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor From Taiwan**

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We have determined that thermostatically controlled appliance plugs and internal probe thermostats therefor from Taiwan are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to continue to suspend liquidation of all entries of the subject merchandise from Taiwan as described in the "Suspension of Liquidation" section of this notice.

**EFFECTIVE DATE:** December 13, 1988.

**FOR FURTHER INFORMATION CONTACT:** Alain Letori or Jane Siegel, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: 202/377-3818 (Letori) or 202/377-0409 (Siegel).



**SUPPLEMENTARY INFORMATION:****Final Determination**

We have determined that thermostatically controlled appliance plugs and internal probe thermostats therefor from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act). The estimated margin of sales at less than fair value is 34.47 percent *ad valorem*, as shown in the "Suspension of Liquidation" section of this notice.

**Case History**

On September 22, 1988, we made an affirmative preliminary determination in this case (53 FR 37831—September 28, 1988). Since the publication of that notice, we have received no response or comments from Cheng Da Electronics Co. Ltd., Etowah Taiwan Enterprises Co. Ltd., Inwardness Enterprise Co. Ltd., and Shin Chin Industrial Co. Ltd., which accounted for virtually all the exports to the United States from Taiwan during the period of investigation. We have received no comments from any other interested party in this investigation.

**Scope of Investigation**

The products covered by this investigation are thermostatically controlled appliance plugs and internal probe thermostats therefor.

For purposes of this investigation, the term thermostatically controlled appliance plug refers to any device designed to connect an electrical outlet (typically a common wall receptacle) with a small cooking appliance of 2,000 watts or less (typically a griddle, deep fryer, frying pan, multicooker, and/or wok) and regulate the flow of electricity and thus the temperature therein; consisting of (1) a probe thermostat encased in a single housing set with a temperature control knob (typically a dial calibrated with various temperature settings), and (2) a cord set.

The term internal thermostat refers to any device designed to regulate automatically the flow of electricity, and thus the temperature, in a small heating apparatus of 2,000 watts or less (typically small cooking appliances); consisting of a stainless steel tube (which connects to the heating apparatus) and other components used for thermostatic control.

The products are currently provided for under item numbers 711.7820 and 711.7840 of the *Tariff Schedules of the United States, Annotated* (TSUSA) and are currently classifiable under item numbers 9032.10.00, 9032.20.00, 9032.89.60, 9032.90.60, and 9033.00.00 of the *Harmonized Tariff Schedule* (HTS).

**Period of Investigation**

The period of investigation for thermostatically controlled appliance plugs and internal probe thermostats therefor from Taiwan extends from November 1, 1987 through April 30, 1988.

**Fair Value Comparisons**

To determine whether the sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price, based on the best information available, with the foreign market value, also based on the best information available. We used the best information available, as required by section 776(c) of the Act, because no questionnaire responses were submitted.

**United States Price**

Since we did not have specific data as to the quantities and prices of the subject merchandise sold in the United States, we used the price information provided in the petition as the best information available, pursuant to section 776(c) of the Act. We used the packed United States price estimated by petitioner minus deductions for foreign inland freight, ocean freight, brokerage and handling charges, and U.S. inland freight.

**Foreign Market Value**

Since we did not have specific data with respect to the quantities and prices of the subject merchandise sold in Taiwan or third countries, we used the constructed value of the subject merchandise provided in the petition as the best information available, pursuant to section 776(c) of the Act. The constructed value calculated in the petition was based on petitioner's manufacturing cost for the fourth quarter of 1987, adjusted to reflect Taiwanese manufacturing costs, with the statutorily mandated addition of 10 percent of the cost of manufacture for general expenses and 8 percent of the cost of manufacture plus general expenses for profit.

**Continuation of Suspension of Liquidation**

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of thermostatically controlled appliance plugs and internal probe thermostats therefor from Taiwan that are entered, or withdrawn from warehouse, for consumption, on or after September 28, 1988, the date of publication of the preliminary determination in the *Federal Register*. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by

which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which is 34.47 percent *ad valorem*. This suspension of liquidation will remain in effect until further notice.

Article VI:5 of the General Agreement on Tariffs and Trade provides that "[n]o product \* \* \* shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act, which prohibits assessing dumping duties on the portion of the margin attributable to export subsidies, since there is no reason to require a cash deposit or bond for that amount. However, in the parallel countervailing duty investigation of the same merchandise from Taiwan, the suspension of liquidation on entries of the subject merchandise was terminated on October 7, 1988 in accordance with Article 5:3 of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade. Since no cash deposit or bond is currently being posted in the countervailing duty investigation, the level of export subsidies (as determined in the final affirmative countervailing duty determination on thermostatically controlled appliance plugs and internal probe thermostats therefor from Taiwan) will not be subtracted from the dumping margin for cash deposit or bonding purposes. If the ITC makes an affirmative determination of injury in both investigations, the level of export subsidies will be subtracted from the dumping margin for cash deposit or bonding purposes.

The cash deposit or bonding rate established in the preliminary determination of sales at less than fair value shall remain in effect with respect to entries, or withdrawals from warehouse, made prior to the date of publication of this notice in the *Federal Register*. This suspension of liquidation will remain in effect until further notice.

**ITC Notification**

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. If the ITC determines that material injury, or threat of material injury, does not exist in this case, this proceeding will be terminated and all securities posted as a result of suspension of liquidation will be refunded. If, however, the ITC determines that material injury, or threat of material injury, does exist, we will issue an antidumping duty order directing Customs officers to assess an

antidumping duty on thermostatically controlled appliance plugs and internal probe thermostats therefor from Taiwan which are entered, or withdrawn from warehouse, for consumption, on or after the date on which liquidation was suspended. The antidumping duty will equal the amount by which the foreign market value of the subject merchandise exceeds United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Jan W. Mares.

*Assistant Secretary for Import Administration.*

December 5, 1988.

[FR Doc. 88-28559 Filed 12-12-88; 8:45 am]

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