

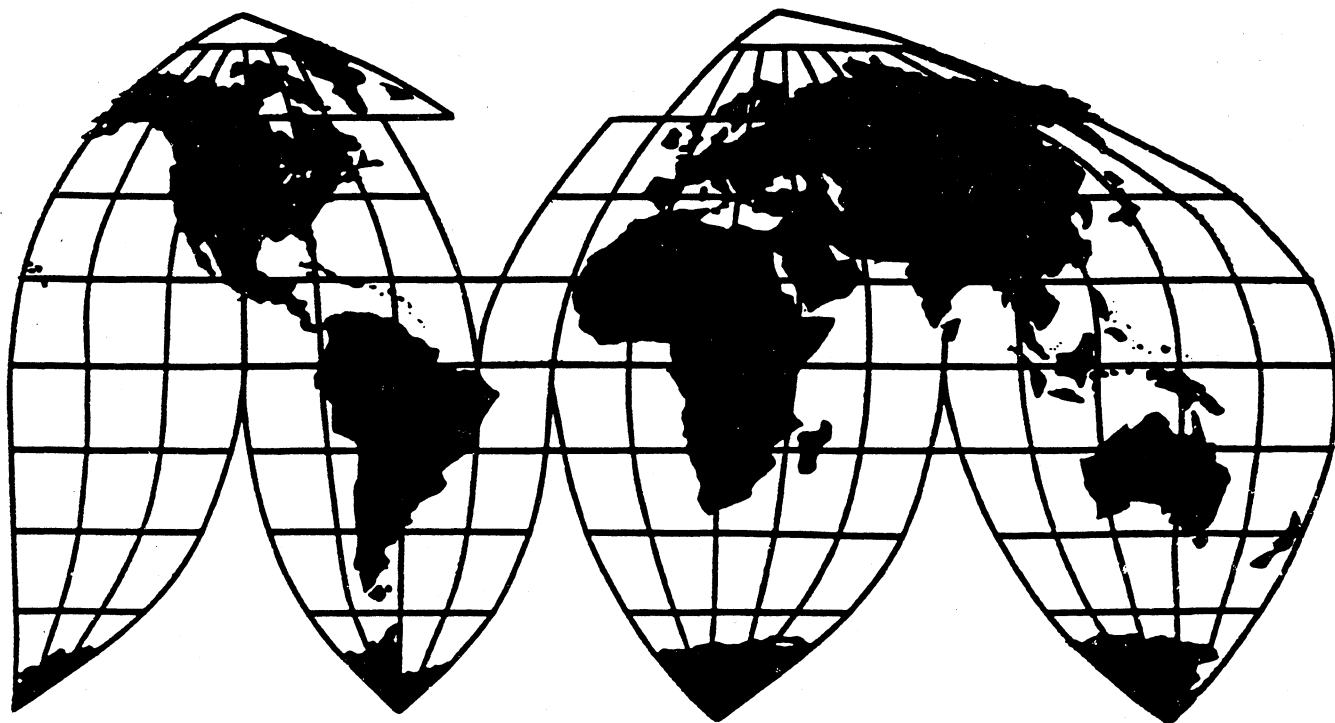
# **Pads For Woodwind Instrument Keys From Italy**

Investigation No. 731-TA-627 (Final)

Publication 2679

September 1993

**U.S. International Trade Commission**



Washington, DC 20436

# **U.S. International Trade Commission**

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# U.S. International Trade Commission

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## Pads For Woodwind Instrument Keys From Italy



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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 astericks.



**DETERMINATION AND VIEWS OF THE COMMISSION**



UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-627 (Final)

PADS FOR WOODWIND INSTRUMENT KEYS FROM ITALY

Determination

On the basis of the record<sup>1</sup> developed in the subject investigation, the Commission determines,<sup>2</sup> pursuant to 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 Italy of pads for woodwind instrument keys, provided for in subheading 9209.99.40 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective May 25, 1993, following a preliminary determination by the Department of Commerce that imports of pads for woodwind instrument keys from Italy were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of June 16, 1993 (58 F.R. 33282). The hearing was held in Washington, DC, on

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

<sup>2</sup> Chairman Newquist dissenting.

August 12, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

## VIEWS OF THE COMMISSION<sup>1</sup>

Based on the record in this final investigation, we determine that the domestic industry in the United States producing pads for woodwind instrument keys is neither materially injured nor threatened with material injury<sup>2</sup> by reason of imports of pads for woodwind instrument keys from Italy that the Department of Commerce (Commerce) has found to be sold at less than fair value (LTFV).

### I. LIKE PRODUCT

#### A. Statutory Criteria

In determining whether an industry in the United States is materially injured or is threatened with material injury by reason of the subject imports, the Commission must first define the "like product" and the "industry." Section 771(4)(A) of the Tariff Act of 1930 (the "Act") defines the relevant 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 product."<sup>3</sup> In turn, the statute defines "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation."<sup>4</sup>

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<sup>1</sup> Chairman Newquist determines that there is material injury with respect to LTFV imports of pads from Italy. See his dissenting views, infra. Commissioner Rohr finds that there are two like products. See his additional views, infra.

<sup>2</sup> The material retardation of the establishment of an industry is not an issue in this investigation.

<sup>3</sup> 19 U.S.C. § 1677(4)(A).

<sup>4</sup> 19 U.S.C. § 1677(10). The Commission's determination of what is the appropriate like product or products in an investigation is a factual

(continued...)

B. Product Description and Analysis

The Department of Commerce defined the class or kind of imported merchandise as "pads for woodwind instrument keys (pads), which are manufactured by Pisoni and Lucien [s.n.c. di Danilo Pisoni & C.]." <sup>5</sup> Most pads are thin felt discs backed with cardboard or paper and covered with a fine layer of gut (lamb or cow bladder) or leather. Pads may also consist entirely of cork, plastic or other synthetic material, but until recently the use of such pads has been quite limited. However, the development of more durable plastics and synthetic materials reportedly has resulted in increased use of synthetic pads in some higher priced instruments. The function of all pads for woodwind instruments is the formation of an airtight closure over the tone holes in the instrument. <sup>6</sup>

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<sup>4</sup> (...continued)

determination, to which it applies the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis. Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 n.5 (Ct. Int'l Trade 1988) (Asocolflores). In defining the like product, the Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability of the products; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) the use of common manufacturing facilities and production employees; and when appropriate, (6) price. See, e.g., Asocolflores at 1170 n.8; Calabrian Corp. v. United States Int'l Trade Comm'n, 794 F. Supp. 377, 382 n.4 (Ct. Int'l Trade 1992). No single factor is dispositive, and the Commission may consider other factors it deems relevant based upon the facts of a particular investigation. The Commission looks for clear dividing lines among possible like products, and disregards minor variations. See, e.g., Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991); S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

<sup>5</sup> Final Determination; Antidumping Duty Investigation of Pads for Woodwind Instrument Keys From Italy Manufactured by Music Center s.n.c. di Luciano Pisoni and Lucien s.n.c. di Danilo Pisoni & C., 58 Fed. Reg. 42,295 (Aug. 9, 1993).

Luciano Pisoni owns Lucien s.n.c. Report at I-19.

<sup>6</sup> Report at I-5 - I-6.

In the preliminary investigation, the Commission determined that there was one like product, including both leather and bladder pads. The Commission made its decision based on the fact that it could not find a clear dividing line based on material used for the cover or on other distinguishing characteristics such as size or instrument type.<sup>7</sup> We find no reason to change our determination in the final investigation.

Pads of all types are essentially similar in both characteristics and uses. Physical differences between leather and bladder as a covering material are minor, and they do not alter the essential characteristic or function of the pad. Differences in use are primarily a function of tradition in the woodwind instrument industry.<sup>8</sup> Bladder pads are used in flutes, clarinets, oboes, and piccolos, whereas leather pads are used in saxophones and bassoons.<sup>9</sup> There is some overlap of uses between leather and bladder pads for various types of clarinets.<sup>10</sup> The increasing use of synthetic materials further tends to blur distinctions between leather and bladder pads.<sup>11</sup>

Technically, bladder, leather and synthetic pads are interchangeable, although the industry tends to replace pads with the same type of pads originally used in the instrument.<sup>12</sup> The same facility is used to manufacture both leather and bladder pads. A portion of a plant producing one type of pad

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<sup>7</sup> Pads for Woodwind Instrument Keys from Italy, Inv. No. 731-TA-627 (Preliminary), USITC Pub. 2583, at 7 (Dec. 1992).

<sup>8</sup> Tr. at 136.

<sup>9</sup> Petitioner's Prehearing Brief at 5.

<sup>10</sup> See Petitioner's Prehearing Brief at 5.

<sup>11</sup> See Report at I-5.

<sup>12</sup> Tr. at 136.

can be retooled to produce the other type in a matter of weeks and without significant cost.<sup>13</sup> While there are differences in manufacturing tolerance levels, these differences are simply due to the fact that leather is thicker than bladder.<sup>14</sup> The same workers are able to assemble both types of pads, and workers who know how to produce one kind of pad can be trained to produce the other in approximately one week.<sup>15</sup>

The channels of distribution are the same for all pads: original equipment manufacturers, distributors and dealers.<sup>16</sup> Most customers buy both leather and bladder pads,<sup>17</sup> and the consumption of one type as opposed to the other is due solely to a preference for the various instruments in which the different pads traditionally are used.<sup>18</sup>

In view of the similarities in characteristics and uses, common production facilities and employees, channels of distribution, and technical interchangeability, we find that leather and bladder pads do not constitute separate like products. In comparison with these similarities, we find differences in customer perception, and the degree to which such differences limit interchangeability, to be minor. On balance, therefore, we find that there is no clear dividing line between leather and bladder pads, and reaffirm

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<sup>13</sup> See Tr. at 78.

<sup>14</sup> Tr. at 77.

<sup>15</sup> Tr. at 77.

<sup>16</sup> Report at I-10.

<sup>17</sup> Tr. at 16. We acknowledge that some manufacturers may not purchase all types of pads as a result of specialization in the types of instruments produced.

<sup>18</sup> Tr. at 43-44.



our finding of one like product comprising all pads.

## II. DOMESTIC INDUSTRY AND RELATED PARTIES

### A. Domestic Industry

Section 771(4) (A) of the Act defines the relevant 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 product."<sup>19</sup> The statute requires the Commission to consider only U.S. production of the like product.<sup>20</sup> The question has arisen in this investigation as to whether petitioner<sup>21</sup> is a domestic producer in light of its extensive assembly operations in Mexico.<sup>22</sup>

While petitioner acknowledges that it assembled pads in Mexico until

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

<sup>20</sup> See 19 U.S.C. §§ 1677(4) (D); 1677(7) (B) (III) (the Commission is to consider the impact of the imports "only in the context of production operations within the United States"); see also General Motors Corp. v. United States, Slip Op. 93-128 (Ct. Int'l Trade July 12, 1993).

To assist it in making a determination as to which firms comprise the domestic industry, the Commission has considered six factors. They include: (1) the extent and source of a firm's capital investment; (2) the technical expertise involved in domestic production activity; (3) employment levels; (4) the value added to the product in the United States; (5) the quantities and types of parts sourced in the United States; and (6) any other costs and activities in the United States leading to production for the like product, including where production decisions are made. The Commission will also consider any other factors it deems relevant in light of the specific facts of any investigation. See, e.g., Sulfur Dyes from China and the United Kingdom, Inv. Nos. 731-TA-548 & 551 (Final), USITC Pub. 2602, at 10 (Feb. 1993).

<sup>21</sup> Although the exact figure is business proprietary, petitioner is the largest producer of pads in the United States. See Report at I-8, Table 1.

<sup>22</sup> In the preliminary investigation, the Commission determined that a domestic industry did exist in the United States. This determination was based on the evidence indicating that the majority of assembly and other operations, in terms of technical expertise, occurred in the United States. In addition, the domestic facility, which appeared to be petitioner's headquarters, was still operative. USITC Pub. 2583, at 8-9.

1991, it claims that Mexican production ceased in that year. However, respondents argued vigorously that petitioner's operations in Mexico did not cease in 1991, but continued throughout the period of investigation. We have examined documents provided to the Commission by the petitioner, inspected tax returns filed with the Mexican government and consulted with U.S. Customs officials. We find that this evidence supports the conclusion that petitioner's Mexican operations ceased in 1991.<sup>23</sup>

The ratio of costs of the Mexican operations to the firm-wide cost of goods sold decreased from 1990 to 1991.<sup>24</sup> In addition, the total dollar amount spent in Mexico during 1990 and 1991 constituted only a modest share of petitioner's expenditures in the United States.<sup>25</sup> The nature of the assembly operations is such that the equipment used in Mexico was neither extensive nor expensive. While petitioner still owns the building used for assembling the pads in Mexico, it is currently leasing it to a U.S. medical product manufacturer.<sup>26</sup> Capital investment in Mexico was not as sizable as in the United States, nor was the value added to the product.<sup>27</sup> Value added by U.S. operations was sizable.<sup>28</sup>

It appears as well that the technical expertise utilized in Mexico was

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<sup>23</sup> See Report at D-2.

<sup>24</sup> Report at I-15.

<sup>25</sup> Petitioner's Posthearing Brief at 4.

<sup>26</sup> Petitioner's Posthearing Brief at 4-5.

<sup>27</sup> The record shows that the raw materials are generally of U.S. origin. Staff Fieldwork of July 8 and Aug. 18-19, 1993.

<sup>28</sup> See Report at D-2.

minimal.<sup>29</sup> U.S. personnel were used to cut parts, assemble them, supervise, and maintain quality control and support operations in the U.S. plant.<sup>30</sup>

The number of production and related workers (PRWs) in the United States increased steadily throughout the period of investigation while the number of Mexican PRWs declined steadily to 0 in 1992.<sup>31</sup> There were fewer U.S. PRWs in 1992 than the combined number of both U.S. and Mexican PRWs in 1990; however, there was an increase in productivity from 1990 to 1992.<sup>32</sup>

We determine, in light of the above discussion, that petitioner's U.S. operations constitute production of the like product. The Mexican operations of petitioner ceased in 1991.<sup>33</sup> Capital investment in Mexico was moderate, and the technical expertise required to perform the assembly in Mexico was minimal. Therefore, we do not exclude petitioner from the domestic industry.

#### B. Related Parties

Under section 771(4)(B) of the Act, producers who are related to exporters or importers, or who are themselves importers of allegedly dumped or subsidized merchandise, may be excluded from the domestic industry in appropriate circumstances.<sup>34</sup> Application of the related parties provision is within the Commission's discretion based upon the facts presented in each

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<sup>29</sup> The technical expertise required to assemble pads is apparently not considerable in view of the fact that petitioner commonly uses pieceworkers who work at home. See Report at D-2.

<sup>30</sup> Petitioner's Posthearing Brief at 3.

<sup>31</sup> Report at I-14, Table 6.

<sup>32</sup> See Report at I-13 - I-14 & Table 6.

<sup>33</sup> See Report at D-2.

<sup>34</sup> 19 U.S.C. § 1677(4)(B).

case.<sup>35</sup>

If a company is a related party under section 771(4)(B), the Commission determines whether "appropriate circumstances" exist for excluding the company in question from the definition of the domestic industry.<sup>36</sup> The purpose of excluding related parties is to minimize any distortion in the aggregate data bearing on the condition of the domestic industry that might result from including firms whose operations are shielded from the effects of the subject imports.<sup>37</sup> The Court of International Trade has approved the Commission's exclusion of a related party in situations where the producer is related to the foreign exporter, appears to have benefited from the consistently lower prices of the dumped imports, and the exporter appears to have been directing its exports in such a manner so as not to compete with its related U.S. importer/producer.<sup>38</sup>

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<sup>35</sup> See Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd, Slip Op. 92-1383,-1392 (Fed. Cir. March 5, 1993); Empire Flow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

<sup>36</sup> See, e.g., Empire Flow Co. v. United States, 675 F. Supp. at 1353; Digital Readout Systems and Subassemblies Thereof from Japan, Inv. No. 731-TA-390 (Final), USITC Pub. 2150, at 15 (Jan. 1989).

<sup>37</sup> See, e.g., Torrington Co. v. United States, 790 F. Supp. at 1168.

<sup>38</sup> See Sandvik AB v. United States, 721 F. Supp. 1322, 1331 (Ct. Int'l Trade 1989), aff'd, 904 F.2d 46 (Fed. Cir. 1990); Empire Flow Co. v. United States, 675 F. Supp. at 1353-54 (an analysis of "[b]enefits accrued from the relationship" as a major factor in deciding whether to exclude a related party held to be "a reasonable approach when viewed in light of the legislative history").

The primary factors we examine in deciding whether appropriate circumstances exist to exclude the related parties include:

- (1) the percentage of domestic production attributable to related producers;
- (2) the reason why importing producers choose to import the articles under investigation -- to benefit from the unfair trade practice or to enable them to continue production and compete in the domestic market; and

(continued...)

In this investigation one domestic producer imports pads directly from respondent.<sup>39</sup> It is therefore a related party. However, neither it nor any domestic producer other than petitioner provided financial data to the Commission.<sup>40</sup> Thus, the question of its exclusion as relates to the financial data is moot. Also, on the basis of the overall data reported, we see no need to exclude the producer as its inclusion will not distort the aggregate data of the domestic industry.

### III. NO MATERIAL INJURY BY REASON OF LTFV IMPORTS

#### A. Legal Standard

In determining whether a domestic industry is materially injured by reason of the imports that Commerce has determined are sold at LTFV, the statute directs the Commission to consider in each case:

(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, but only in the context of production

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<sup>38</sup> (...continued)

(3) the competitive position of the related domestic producer vis-a-vis other domestic producers.

See Torrington Co. v. United States, 790 F. Supp. at 1168 (referencing and upholding this practice); Empire Plow Co. v. United States, 675 F. Supp. at 1353. The Commission has also considered whether each company's books are kept separately from its "relations" and whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798, at 12 (Jan. 1986).

<sup>39</sup> Report at I-8, I-9.

<sup>40</sup> Report at I-15.

operations within the United States.<sup>41</sup>

In making its determination, the Commission also considers "such other economic factors as are relevant to the determination."<sup>42</sup>

For the reasons discussed below, we find that the domestic industry producing pads for woodwind instrument keys is not materially injured by reason of LTFV imports of pads from Italy.

B. Volume of the Subject Imports

The volume of imports of pads was large and rose throughout the period of investigation, both in terms of quantity and value.<sup>43</sup> The market share of the imports followed the same pattern.<sup>44</sup>

Usually the larger the volume of LTFV imports, the larger the effect they will have on the domestic industry.<sup>45</sup> In order to determine whether even

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<sup>41</sup> 19 U.S.C. § 1677(7)(B)(i).

<sup>42</sup> Id. § 1677(7)(B).

<sup>43</sup> Report at I-21, Table 13.

<sup>44</sup> Report at I-21, Table 13.

<sup>45</sup> Commissioner Nuzum does not join the discussion in this paragraph. She observes that both the volume and market share of the subject imports were substantial throughout the period of investigation and increased markedly. Whether any import volume or market share -- large or small, increasing or not -- is "significant" requires interpretation beyond simple quantitative indicators. "Congress, this court, and ITC itself have repeatedly recognized that it is the significance of a quantity of imports, and not absolute volume alone, that must guide ITC's analysis." USX Corp. v. United States, 655 F. Supp. 487, 490 (Ct. Int'l Trade 1987) (emphasis in original). In some circumstances a small, steady volume of imports may be quite significant, whereas in other circumstances even a large and increasing volume of imports may be of limited significance.

In the unusual circumstances of this investigation, Commissioner Nuzum finds that neither the absolute volume or market share, nor increases in either, rise beyond the level of very limited significance. Although the subject imports did increase during the period examined, there is considerable evidence in the record that purchasers encountered consistent quality, delivery, and billing problems with the domestic industry. See Report at I-

a large, rising volume or market share is significant, however, we must consider additional factors, such as the availability of substitute products, the degree of substitutability between the domestic like product and subject imports, and other nonprice factors.<sup>46</sup> Given the evidence on the record regarding nonprice factors, as discussed below, we find the volume of imports to be of limited significance.

C. Effect of LTFV Imports on Domestic Prices

To analyze the effect of subject imports on domestic prices of the like product and on the domestic industry, we consider a number of factors about the industry and the nature of the products, such as the availability of substitute products in the market, the degree of substitutability between the subject imports and the domestic like product, and the dumping margin, which was found to be 1.82 percent.<sup>47</sup>

There are no substitute products for pads available in the market.<sup>48</sup> Therefore, price competition in the U.S. market, if any, is limited to competition between the domestic product and subject imports.

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<sup>45</sup> (...continued)

25 - I-27. Indeed, the entry of two new firms into the industry in recent years suggests that these problems created opportunities for alternative sources of product. See Report at I-9. As already the largest supplier of pads to the U.S. market, the Italian industry benefited from increased demand for its product, hence its increased market share. See Report at I-21, Table 13; Economic Memorandum, EC-Q-094, at 5, Figure 1; 9-10 (Sept. 8, 1993).

<sup>46</sup> See Minivans from Japan, Inv. No. 731-TA-522 (Final), USITC Pub. 2529, at 23 (July 1993), aff'd, General Motors Corp. v. United States, Slip Op. 93-128 (Ct. Int'l Trade July 12, 1993).

<sup>47</sup> 58 Fed. Reg. 42,295, 42,298 (Aug. 9, 1993). See Minivans from Japan, USITC Pub. 2529, at 24. Vice Chairman Watson did not consider the dumping margin in his analysis. Commissioner Nuzum places relatively little weight on the dumping margin.

<sup>48</sup> Report at I-6.

As discussed below, we find that the domestic product and subject imports are not close substitutes.<sup>49</sup> Therefore, we find that the existence of underselling is of limited significance, and that the LTFV imports have not caused significant suppression of the prices of the domestic product.<sup>50</sup> In addition, because domestic prices were stable or generally increased over the period of investigation, there was no price depression.<sup>51</sup>

Pads account for a small portion of the cost of a woodwind instrument.<sup>52</sup> Nonetheless, pads are extremely important because they determine the action and sound of the instrument. The correct size, thickness and hardness of pads

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<sup>49</sup> Commissioner Nuzum does not join the discussion in this paragraph. She joins her colleagues in their observation that the domestic and subject imported products are not close substitutes. Her conclusions with regard to underselling and price suppression are not based solely, however, on this factor. In her view, the record lacks credible evidence that the domestic industry lost either sales volume or revenues as a result of the lower priced imports. See, e.g., Report at I-32 - I-33. She further notes that margins of underselling declined during the period 1990-92, while import market share rose. Report at I-22, Table 14; I-29, Table 19. Under the unusual circumstances of this investigation, she finds the underselling to be of very limited significance. With regard to price suppression, she does not find that prices of domestic products were suppressed to a significant degree by the subject imports. She finds no credible evidence that the domestic industry was unable to raise prices due to either the volume or prices of available imports from Italy. The fact that the prices of the imported products increased at a greater rate than did domestic products lends support to the conclusion that price suppression was not significant. Price depression is not at issue in view of the fact that domestic prices did not decline during the period examined.

<sup>50</sup> See EC-Q-094 at 3. Another factor limiting the effect of the LTFV imports on the price of the domestic product is the amount of excess capacity present in the domestic industry. See EC-Q-094 at 11-13.

<sup>51</sup> See Report at I-28.

<sup>52</sup> Pads represent less than three percent of the total cost of a new woodwind instrument and generally less than four percent of a refurbished instrument. Report at I-22.



are essential for the instrument to function properly.<sup>53</sup> Inconsistencies in pad dimensions and hardness disrupt the production of instruments as well as their repair, resulting in reduced efficiency in producing or repairing the instruments.<sup>54</sup>

The evidence on the record shows that price is not the most important factor in purchasing decisions. All types of purchasers<sup>55</sup> overwhelmingly identified quality as the most important factor influencing their purchasing decisions. Purchasers also reported that product consistency and the availability of the various types and styles of pads offered by suppliers were important factors influencing purchasing decisions. Price generally was cited as the second or third most important factor, if listed at all, by all types of purchasers.<sup>56</sup> Availability, delivery, reliability, and consistency of service were also significant nonprice factors.<sup>57</sup>

Evidence provided by purchasers demonstrates that domestically produced pads are often of inconsistent quality and that delivery is often unreliable. One purchaser specified that he has had repeated problems with domestic pads because the leather finish wears off after limited use; some pads are waterproofed and some are not; delivered pads have not always resembled the samples; and the domestic producer initially did not respond to his

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<sup>53</sup> Report at I-23.

<sup>54</sup> Report at I-23, I-25. One purchaser has resorted to buying small lots of pads from alternative sources at higher prices in order to maintain normal operations. Report at I-23 n.38.

<sup>55</sup> Purchasers of pads include original equipment manufacturers (OEMs), distributors, instrument repairers and dealers. Report at I-7, I-23.

<sup>56</sup> Report at I-23; I-24, Table 15.

<sup>57</sup> Report at I-26.

complaints.<sup>58</sup> Slow or late delivery, shipments of the wrong products, and inaccurate invoices are also problems for purchasers.<sup>59</sup>

OEMs generally have qualification requirements, which take from less than a day to up to two months.<sup>60</sup> Of the eleven OEMs who reported having qualification procedures, four reported qualification failures during the period of investigation. Three of these failures involved the domestic product.<sup>61</sup> Purchasers of all types generally reported that they switched suppliers infrequently. When they switched, however, the majority of the firms switched from the domestic producers to suppliers of the subject imports. The reasons most often cited were declining quality, product inconsistency (e.g., differences between samples provided during qualification trials and subsequent shipments of the products), and slow delivery.<sup>62</sup>

Overall, OEMs and distributors rated the subject imports better than the domestic product in terms of availability, reliability of supply, delivery time, delivery terms, quality, and service.<sup>63</sup>

Thus, the evidence in the record shows that the domestic product and the subject imports are not close substitutes.<sup>64</sup> Given the limited

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<sup>58</sup> Report at I-25 n.39.

<sup>59</sup> Report at I-25, I-27. Although the vast majority of quality and delivery complaints involved petitioner, respondent was named in a small minority. See Report at I-25, I-26.

<sup>60</sup> Report at I-25.

<sup>61</sup> Report at I-25.

<sup>62</sup> Report at I-25.

<sup>63</sup> See Report at I-26.

<sup>64</sup> Commissioner Nuzum does not join the discussion in this paragraph. She concludes that the record does not support the conclusion that the subject  
(continued...)

substitutability, most purchasers still would have purchased subject imports even if they had been fairly traded. As a result, the effect of LTFV imports on prices of the domestic product, if any, is minimal.<sup>65</sup>

D. Impact on the Domestic Pads Industry

In assessing the impact of LTFV imports on the domestic industry, we consider, among other relevant factors, output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development.<sup>66</sup> These factors either encompass or reflect the volume and price effects of the dumped imports, and so we gauge the impact of the subject imports through those effects. No single factor is determinative, and we consider all relevant factors "within the context of the business cycle and conditions of competition that are distinctive to the industry."<sup>67</sup>

Domestic production of woodwind instrument key pads decreased irregularly during the period of investigation, as did capacity utilization,<sup>68</sup>

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<sup>64</sup> (...continued)

imports had a significant adverse price effect on domestic prices. She bases this conclusion on evidence that import prices have, at most, had a limited effect on domestic prices due to the small role that price plays in the purchase decision and the limited degree of price competition in the market.

<sup>65</sup> See EC-Q-094 at 3.

<sup>66</sup> 19 U.S.C. § 1677(C) (iii).

<sup>67</sup> 19 U.S.C. § 1677(7) (C) (iii). Neither party asserted that there is a business cycle in this industry. However, the demand for pads is determined primarily by the demand for new U.S.-produced instruments, refurbished used instruments and instrument maintenance. Factors directly affecting the demand for new and refurbished woodwind instruments include macroeconomic conditions, changes in school budgets that affect musical education and band programs, and changes in the elementary and secondary school population. Report at I-22.

<sup>68</sup> Report at I-11, Table 3.

inventories<sup>69</sup> and cash flow.<sup>70</sup> The number of production and related workers, their hours worked and compensation increased.<sup>71</sup> Other financial indicia, however, including operating income<sup>72</sup> and operating return on assets,<sup>73</sup> showed a steady decrease throughout the period of investigation. In addition, the domestic industry's market share decreased steadily<sup>74</sup> and the industry claimed negative effects pertaining to its ability to raise capital.<sup>75</sup> However, research and development expenses increased irregularly during the period of investigation.<sup>76</sup> Moreover, two companies recently entered the pads industry as producers.<sup>77</sup>

The domestic industry would not have been able to increase its output, sales or prices significantly if subject imports had been fairly traded.<sup>78</sup> As

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<sup>69</sup> Report at I-13, Table 5.

<sup>70</sup> Report at I-15, Table 7.

<sup>71</sup> Report at I-14, Table 6.

<sup>72</sup> Report at I-15, Table 7.

<sup>73</sup> Report at I-16, Table 8.

<sup>74</sup> Report at I-22, Table 14.

<sup>75</sup> Report at E-2.

<sup>76</sup> Report at I-15.

<sup>77</sup> Report at I-9.

<sup>78</sup> Commissioner Nuzum does not join the discussion in this paragraph. She observes that the domestic industry has seen declining volumes of shipments and net sales during the period examined. The evidence, however, also indicates that those purchasers that ceased sourcing from the domestic producers did so due to the inability of those producers to satisfy the quality and delivery requirements of the purchasers. See discussion, supra. The availability of imports from Italy permitted purchasers to shift their sourcing. However, the evidence fails to establish that price played a significant role in this shift. In light of these facts, she determines that the industry is not materially injured by reason of the subject imports.

discussed above, there is only limited substitutability between the domestic product and subject imports. Furthermore, the dumping margin is only 1.82 percent.<sup>79</sup> Given that output, sales and prices would not have been significantly different if the subject imports had been fairly traded, there would have been no significant differences in other factors such as employment, profitability and investment. Any impact the dumped imports may have had on the industry was minimal. Therefore, we find that the domestic industry is not materially injured by reason of dumped imports.

IV. NO THREAT OF MATERIAL INJURY TO THE DOMESTIC PADS INDUSTRY BY REASON OF LTFV IMPORTS

We further determine that there is no threat of material injury by reason of dumped pads from Italy.<sup>80</sup> We have considered all the statutory factors that are relevant to this investigation.<sup>81</sup>

The statute directs us to determine whether an industry in the United States is threatened with material injury by reason of imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent." Our decision "may not be made on the basis of mere conjecture

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<sup>79</sup> Vice Chairman Watson did not consider the dumping margin in his analysis.

<sup>80</sup> Under the statute, the Commission is required to consider 10 factors in making its threat determination. 19 U.S.C. § 1677(7)(F)(i). In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class or kind of merchandise manufactured or exported by the same party as under investigation suggest a threat of material injury to the domestic industry. 19 U.S.C. § 1677(7)(F)(iii)(I).

<sup>81</sup> Several of the statutory threat factors have no relevance to this investigation and need not be discussed. This antidumping investigation does not involve subsidies or agricultural products nor any potential for product shifting due to other findings or orders under the antidumping or countervailing duty laws, or dumping findings or remedies in third countries.

or supposition."<sup>82</sup>

Respondent-producer is planning to introduce new automatic machines in its manufacturing process, but cannot estimate how much its production capacity may increase.<sup>83</sup> Throughout the period of investigation, however, respondent-producer operated at a very high level of capacity utilization<sup>84</sup> and the record does not establish a likelihood of any significant increase in subject imports into the United States.

While there has been increased market penetration by the subject imports,<sup>85</sup> we find no indication that penetration will increase to an injurious level in the immediate future, given the lack of significant excess foreign capacity and the limited substitutability of the products. We also find no evidence that the degree of substitutability will change in the immediate future. Therefore, we find no probability that future imports will enter the U.S. at prices that will have depressing or suppressing effects on the U.S. merchandise, given their limited substitutability with the U.S. product.<sup>86</sup>

The three firms that purchase subject imports maintain no inventories in

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<sup>82</sup> 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallwerken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), quoting American Spring Wire, 590 F.Supp. 1273, 1280 (Ct. Int'l Trade 1984).

<sup>83</sup> Report at I-19, Table 11 n.3.

<sup>84</sup> Report at I-19 & Table 11.

<sup>85</sup> Report at I-20.

<sup>86</sup> The fact that domestic prices have generally risen or remained stable is further evidence that no price-depressing effects on the domestic product are likely.

the United States,<sup>87</sup> and there is no evidence that the inventory practices of U.S. importers will change in the immediate future. Therefore, there is no likelihood that there will be any substantial increase in inventories in the future.

The domestic industry's research and development expenses increased over the period of investigation.<sup>88</sup> There is no evidence in the record that subject imports will have any adverse effects on these efforts in the future.

#### CONCLUSION

We determine that the information of record in this final investigation, notably the limited substitutability between the domestic product and the subject imports due to quality differences and other nonprice factors, demonstrates that the domestic industry producing pads for woodwind instrument keys is neither materially injured nor threatened with material injury by reason of LTFV imports from Italy.<sup>89</sup>

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<sup>87</sup> Report at I-18.

<sup>88</sup> Report at I-16.

<sup>89</sup> Commissioner Nuzum notes that other factors also played a role in her determination, as indicated above.





**VIEWS OF COMMISSIONER DAVID B. ROHR**

Based on the record in this final investigation, I determine that the industries in the United States producing bladder pads for woodwind instrument keys and leather pads for woodwind instrument keys are not materially injured, nor are they threatened with material injury, by reason of imports of such articles from Italy that have been found by the Department of Commerce ("Commerce") to be sold at less than fair value (LTFV).<sup>1</sup>

**I. LIKE PRODUCT AND DOMESTIC INDUSTRY**

As in any title VII investigation, the definition of the like product and domestic industry is the first step in my examination of whether a domestic industry is being materially injured or threatened with material injury by reason of LTFV imports. Section 771(4)(A) of the Tariff Act of 1930 defines the relevant 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 whole domestic production of that product."<sup>2</sup> In turn, the statute defines "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation."<sup>3</sup>

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<sup>1</sup>Material retardation is not an issue in this investigation and will not be discussed further.

<sup>2</sup> 19 U.S.C. § 1677(4)(A).

<sup>3</sup> 19 U.S.C. § 1677(10). The determination of the appropriate like product is a factual determination, to which the statutory standard of "like" or "most similar in characteristics and uses" is applied on a case-by-case basis. A number of factors are considered including: (1) physical characteristics and uses, (2) interchangeability of the products, (3) channels of distribution, (4) customer and producer perceptions of the products, (5) the use of common manufacturing facilities and production employees, and (6) where appropriate, price. No single factor is dispositive, and other factors relevant to a particular investigation may be considered. The Commission looks for clear dividing lines among possible like products. See e.g. Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169, n.5, 1170, n.8, (CIT 1988); Sony Corporation of America v. United States, 712 F. Supp. 978, 983 (CIT 1989).

The Department of Commerce has defined the imported product subject to investigation as follows:

**pads for woodwind instrument keys, which are manufactured by Pisoni and Lucien [s.n.c. di Danilo Pisoni & C.].**

**Pads for woodwind instruments keys covered by the scope of this investigation are currently classifiable under the following subheadings of the Harmonized Tariff Schedule of the United States (HTS): 9209.99.4040 and 9209.99.4080.<sup>4</sup>**

Based on my analysis of the facts in this investigation, I determine that there are two separate products "like" the articles subject to investigation -- bladder pads for woodwind instrument keys and leather pads for woodwind instrument keys.

Pads for woodwind instrument keys consist of a thin felt disc backed with cardboard or paper and covered with a fine layer of bladder or leather. Pads are glued inside the pad cups on the inner side of the woodwind instrument keys forming a firm, air-tight closure over the tone holes of the instrument. Each pad is made to separate specifications set by the instrument manufacturer for a specific instrument.<sup>5</sup> There are no products which are directly substitutable for pads.<sup>6</sup> Both the domestic and Italian producers manufacture bladder and leather pads. While bladder and leather pads are technically interchangeable, certain types of pads are dedicated for use with particular kinds of instruments.<sup>7</sup> Bladder pads and leather pads are made primarily for separate instruments, are made of different materials and have different costs structures and prices. In the preliminary investigation, I found two like

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<sup>4</sup> Final Determination; Antidumping Duty Investigation of Pads for Woodwind Instrument Keys From Italy Manufactured by Music Center s.n.c. di Luciano Pisoni and Lucien s.n.c. di Danilo Pisoni & C., 58 Fed. Reg. 42,295 (Aug. 9, 1993).

<sup>5</sup> Report at I-6.

<sup>6</sup> Report at I-6.

<sup>7</sup> Tr. at 17 and 41.

products -- bladder pads and leather pads.<sup>8</sup> No new information has emerged in this final investigation to change my view. Consequently, I again find two like products, bladder pads and leather pads.

I concur with the view of my colleagues in the majority that domestic industries producing woodwind instrument pads do exist in the United States. Therefore, I find two domestic industries corresponding to the two like products: (1) the domestic producers of bladder pads and (2) the domestic producers of leather pads.

## II. RELATED PARTIES

Under section 771 (4) (B) of the Tariff Act of 1930, producers who are related to exporters or importers, or who are themselves importers of subject merchandise, may at the Commission's discretion be excluded from the domestic industry in appropriate circumstances.<sup>9</sup> In this investigation, one domestic producer imports directly from respondent and is therefore a related party. I concur with the majority concerning the application of the related parties provision to that firm, i.e. that there is no need to exclude this producer from the domestic industry.

## III. CONDITION OF THE DOMESTIC INDUSTRIES

In determining the condition of the domestic industries, the Commission considers among other factors, domestic consumption, domestic production, capacity, capacity utilization, shipments, inventories, employment, wages, financial performance, capital investment and research and development expenses. No single factor is dispositive and, in each investigation, the Commission considers the particular nature of the industry under investigation in the context of the business cycle and conditions of competition that are

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<sup>8</sup> Pads For Woodwind Instrument Keys From Italy, Inv.No. 731-TA-627 (Preliminary), USITC Pub. 2583 (Dec. 1992) at 18.

<sup>9</sup> 19 U.S.C. § 1677(4)(B).

distinctive to the affected industry.<sup>10</sup> Before describing the condition of the respective industries, I note that much of the information on which I base my determination is business proprietary, and my discussion of the condition of the industries must necessarily be general in nature.

### Bladder Pads

Apparent domestic consumption of bladder pads fell over the period of investigation by about 7 percent. Domestic shipments and domestic market share fell during the same period as well. All three indicators also fell from January - March 1993 when compared with the same interim period in 1992.<sup>11</sup>

Domestic production increased from 1990 to 1991, but declined sharply in 1992 and continued to fall in the interim period. Capacity contracted over the investigative period and consequently there was some irregular improvement in capacity utilization rates, although it remained at relatively low levels.<sup>12</sup> Inventories also fell.<sup>13</sup>

Employment figures for both bladder and leather pads, including production workers, number of hours worked, and total compensation all increased from 1990 to 1992. In addition, gains were made in productivity.<sup>14</sup>

The only financial data received by the Commission aggregate both bladder and leather pads.<sup>15</sup> The quantity of net sales fell steadily throughout the investigative period. The value of net sales for all woodwind instrument pads showed a sharp drop from 1990-1992 and

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<sup>10</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>11</sup> Staff report at Table 13.

<sup>12</sup> Staff report at Table 3.

<sup>13</sup> Report at Table 5.

<sup>14</sup> I find that pursuant to section 771(4)(D), it is appropriate to use aggregate employment information for both industries. Report at Table 6.

<sup>15</sup> I find that pursuant to section 771(4)(D), it is also appropriate to use aggregate financial data for both industries.

continued to decrease in interim 1993. The operating margin fell from 1990 to 1991, but increased in 1992 and continued to rebound in interim 1993.<sup>16</sup> Capital investment decreased irregularly from 1990 to 1992, while research and development remained constant.<sup>17</sup>

Based on the foregoing indicators, I find that the domestic bladder pad industry is currently experiencing material injury.

### Leather Pads

Apparent domestic consumption of leather pads rose significantly during the period of investigation. However, domestic shipments of leather pads and domestic market share both declined from 1990 to 1992. In the interim period of 1993, consumption showed a decrease, but domestic shipments fell at an even steeper pace.<sup>18</sup>

Domestic production declined at a rapid rate over the period of investigation and because capacity remained constant, capacity utilization fell dramatically, particularly in the interim period.<sup>19</sup> Inventories fell substantially during the period.<sup>20</sup>

Of necessity, my observations regarding employment and financial indicators are based on the same information presented above for bladder pads.

Based on these indicators, I find that the domestic leather pad industry is currently experiencing material injury.

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<sup>16</sup> Report at Table 7.

<sup>17</sup> Report at I-16.

<sup>18</sup> Report at Table 13.

<sup>19</sup> Report at Table 3.

<sup>20</sup> Report at Table 5.

#### IV. THE LACK OF A CAUSAL NEXUS

In determining whether an industry in the United States is materially injured "by reason of" the imports under investigation,<sup>21</sup> the statute directs me to consider the volume of imports, their effect on prices for the like product and their impact on domestic producers.<sup>22</sup> In making this determination, the Commission considers whether import volumes or increases in volume are significant, whether there has been significant underselling by imports, whether imports significantly depress or suppress prices for the like product, and such factors as domestic production, sales, capacity utilization, inventories, employment and profits.<sup>23</sup>

Although I may consider information that indicates that injury to the industry is caused by factors other than the LTFV imports, I do not weigh causes.<sup>24</sup> I do not consider whether imports are the principal or a substantial cause of material injury; rather, I am to determine whether imports are a cause of, that is contribute to, material injury.<sup>25</sup>

As in my analysis of the condition of the domestic industry, I note that much of the information on which I base my decision is business proprietary. Therefore, my discussion of the effects of the subject imports must necessarily be in very general terms.

The volume of subject imports of both bladder and leather pads was large and rose throughout the period of investigation. The value of imports followed the same pattern. Subject imports of both bladder and leather pads constituted over half of domestic consumption throughout the period of investigation. Domestic producers' shipments of both

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<sup>21</sup> 19 U.S.C. § 1673b(a).

<sup>22</sup> 19 U.S.C. § 1677(7)(B)(i).

<sup>23</sup> 19 U.S.C. § 1677(7)(C).

<sup>24</sup> E.g., Citrosuco Paulista S.A. v. United States, 704 F. Supp. 1075, 1101 (CIT 1988).

<sup>25</sup> See Iwatsu Electric Co. v. United States, 758 F. Supp. 1506 (CIT 1991); United Engineering & Forging v. United States, 779 F. Supp. 1375 (CIT 1991).

types of pads as a share of apparent consumption steadily declined.<sup>26</sup>

The Commission requested price and quantity data from U.S. producers and importers for their overall sales of pads for woodwind instrument keys by quarter for the period of investigation. Prices were requested for both leather and bladder pads. The price data collected was somewhat limited, but accounted for the majority of U.S. shipments and of total Italian exports to the United States.<sup>27</sup> Underselling by the subject imports persisted in both the OEM and distributor market segments for both leather and bladder pads.<sup>28</sup> However, the record does not support a conclusion of significant price suppression or depression. The domestic producer was able to raise its prices in all segments of the market. Italian prices for both types of pads rose as well, generally at rates much exceeding the rise in domestic prices.<sup>29</sup>

Petitioner asserted that the subject imports and like products were price sensitive and consequently underselling by the subject Italian imports was the cause of customer defections during the period of investigation. However, the evidence on the record shows that price is at best a secondary, and more often, a tertiary consideration for purchasers.<sup>30</sup>

Instrument keypads account for less than 3 percent of the total cost of a new woodwind instrument and generally less than 4 percent of a refurbished instrument.<sup>31</sup> However, industry officials report that despite their low cost, keypads are extremely important because they affect the action and sound of the instrument. Incorrectly sized pads will not seat properly in the instrument's cups; variations in thickness cause problems in the calibration of the instrument. Pads that are too hard or too soft affect the mechanical action of the instrument

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<sup>26</sup> Report at Table 13.

<sup>27</sup> Report at I-28.

<sup>28</sup> Report at Table 19.

<sup>29</sup> Report at Tables 16, 17 and 18.

<sup>30</sup> Report at Table 15.

<sup>31</sup> Report at I-22.

and distract the user.<sup>32</sup> Thus, an improperly functioning pad has the possibility of negatively affecting the reputation of a woodwind instrument manufacturer or repair shop.

The quality of the material inputs and the degree of precision maintained during the production process determine the quality of the keypad. Purchasers, particularly OEMs, consider product consistency to be an element of quality. Inconsistencies in pad dimensions and hardness can render the pad unusable and disrupt the flow of production. Dealers and repair shops reported fewer problems with dimensional inconsistencies because these companies service a wide variety of products with differing specifications. However, such inconsistencies are a concern for this segment of the industry as well since they increase the amount of time necessary to repair an instrument.<sup>33</sup>

Record evidence indicates that the Petitioner's products have been cited repeatedly for quality problems, e.g., unsatisfactory leather, inconsistent waterproofing and delivered pads not resembling sample pads.<sup>34</sup> Though purchasers of all types generally reported that they switched suppliers infrequently, the reasons most often cited for switching included declining quality, product inconsistency and slow delivery.<sup>35</sup> Of the firms that changed suppliers, the majority switched from U.S. producers to suppliers of the Italian product.<sup>36</sup> Approximately 50 percent of the OEMs and distributors reported differences between the Italian and domestic product and indicated that the Italian manufacturer was superior to U.S. manufacturers in terms of quality, service and return provisions. When asked to rate how closely domestic and Italian keypads compare, OEMs and distributors rated the subject imports above the domestic

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<sup>32</sup> Report at I-23.

<sup>33</sup> Report at I-23 and 25.

<sup>34</sup> Report at I-25.

<sup>35</sup> Report at I-25.

<sup>36</sup> Report at I-25.



product in terms of availability, reliability of supply, delivery time, delivery terms, quality and service.<sup>37</sup>

Anecdotal information collected with respect to Petitioner's allegations of lost sales and lost revenues strongly corroborated that firms who switched to the Italian products from the domestic products did so for non-price reasons. In addition to the perception that the Italian products were of higher and more consistent quality, a number of purchasers had experienced unresponsiveness and somewhat questionable business practices on the part of the Petitioner which led at least one important purchaser to drastically cut purchases of the domestic products.<sup>38</sup> As a result, the evidence on the record shows that the domestic bladder and leather pads have very limited substitutability with the imported pads.

Thus, despite the condition of the domestic industries, the overwhelming evidence of non-price related reasons for the success of the subject imports leads me to conclude that the domestic industries have not been materially injured by reason of LTFV imports.

#### V. THREAT OF MATERIAL INJURY TO THE DOMESTIC INDUSTRY

When making a negative determination with regard to present material injury, I must also determine whether the U.S. industry is threatened with material injury by reason of the subject imports.<sup>39</sup> The Commission considers as many of the ten statutory factors as are relevant to the particular facts of the investigation.<sup>40</sup> Based on my examination of the record and these statutory factors, I find that the domestic industries are not threatened with material injury. I concur with the analysis set out in the views of my colleagues in the majority and adopt their views with respect to both industries.

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<sup>37</sup> Report at I-26.

<sup>38</sup> Report at I-32-33.

<sup>39</sup> 19 U.S.C. § 1677(7)(F)(ii).

<sup>40</sup> 19 U.S.C. § 1677(7)(F)(i)(I)-(X).



DISSENTING VIEWS OF CHAIRMAN NEWQUIST

Unlike my colleagues, I find that the domestic industries producing leather and bladder pads for woodwind instrument keys are materially injured by reason of imports of these pads from Italy which the Department of Commerce has found to be sold in the United States at less than fair value.<sup>1</sup>

As a preliminary matter, I think it important to note that the respondent in this investigation has a history of dumping the subject pads in the United States. In 1984, a majority of this Commission determined that pads produced by this respondent, among others, and sold in the United States at less than fair value, were a cause of material injury to the domestic industries.<sup>2</sup>

In important aspects, little has changed since the 1984 investigation. Today, as then, the subject imports account for most pad consumption in the United States. Today, as then, the subject imports frequently undersell the domestic product, notwithstanding the Italian pads' allegedly "superior" quality.

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<sup>1</sup> 58 Fed. Reg. 42295 (August 9, 1993).

<sup>2</sup> Pads for Woodwind Instrument Keys from Italy, Inv. 731-TA-152 (Final), USITC Pub. 1566 (August 1984). The Court of International Trade subsequently remanded the investigation to the Department of Commerce with instructions to recalculate the dumping margin. Luciano Pisoni Fabrica Accessori Instrumenti Musicali v. United States, 640 F. Supp 255 (Ct. Int'l Trade 1986). Upon remand, Commerce again found respondent's pads to be sold in the United States at less than fair value, though determined that the margin of dumping was de minimis.

And today, as then, respondent attempts to divert the Commission's attention from the merits of the investigation by asserting that petitioner is not a domestic producer. In fact, the only appreciable difference between the two investigations is the majority's determination. While the Commission is not bound by its earlier determinations, as discussed below, this investigation is no less compelling than that which led a majority of the Commission to reach an affirmative determination nearly a decade ago.

I. LIKE PRODUCT AND DOMESTIC INDUSTRY

Applying the Commission's traditional six factor like product test,<sup>3</sup> I find here, as I did in the preliminary investigation, and as the Commission did in the 1984 investigation, that there are two like products: leather pads and bladder pads.<sup>4</sup>

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<sup>3</sup> The Commission considers: (i) physical characteristics and uses; (ii) interchangeability of the products; (iii) channels of distribution; (iv) customer and producer perceptions of the products; (v) the use of common manufacturing facilities and production employees; and (vi) where appropriate, price. Calabrian Corp. v. United States, 794 F. Supp. 377, 382, n.4 (Ct. Int'l Trade 1992); Torrington v. United States, 747 F. Supp. 744 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991).

<sup>4</sup> I note, however, that had I adopted the majority's determination of only one like product, I would still reach an affirmative determination.

Leather pads are used almost exclusively for saxophones, bassoons and bass clarinets.<sup>5</sup> In contrast, bladder pads are used for flutes, clarinets, oboes and piccolos.<sup>6</sup>

Although the same facilities may be used to manufacture either pad, the pads cannot be alternately produced on the same machines without retooling, which may take weeks to complete.<sup>7</sup> Assemblers of bladder pads cannot assemble leather pads without additional retraining.<sup>8</sup> And, the average time to assemble bladder pads is nearly double that for leather pads.<sup>9</sup> The manufacturing tolerances for leather pad thickness and diameter are typically twice that for bladder pads.<sup>10</sup>

In addition, although customers may purchase both types of pads, because the pads are dedicated for use in specific instruments, it does not appear that customers perceive them as interchangeable. Finally, the price of leather pads is nearly double the price of bladder pads, reflecting the additional productive resources required to produce leather pads.<sup>11</sup>

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<sup>5</sup> Hearing transcript at 41.

<sup>6</sup> Id.

<sup>7</sup> Id. at 78.

<sup>8</sup> Hearing transcript at 77.

<sup>9</sup> Petitioner's prehearing brief at 5.

<sup>10</sup> Id. at 76-77; Petitioner's prehearing brief at 5.

<sup>11</sup> Report at Table 4.

For these reasons, I find that bladder and leather pads are separate like products; concomitantly, I find two domestic industries: one producing bladder pads, the other producing leather pads.<sup>12</sup>

## II. CONDITION OF THE DOMESTIC INDUSTRIES

### A. Leather Pads

Total domestic consumption of leather pads increased during the period of the investigation, though lower in interim 1993 (January-March) than for the same period 1992.<sup>13</sup> In contrast to total consumption, however, consumption of domestically produced leather pads declined throughout the period of investigation, falling-off 37.5% between 1991-92.<sup>14</sup> Interim 1993 consumption of domestically produced leather pads was less than half that for the same period in 1992.<sup>15</sup>

Domestic production of leather pads declined throughout the period of investigation, falling by more than 50% between 1990-92.<sup>16</sup> Interim 1993 production was substantially below that in

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<sup>12</sup> I concur in the majority's conclusions concerning petitioner's status as a domestic producer and that appropriate circumstances do not exist to exclude any related parties from the domestic industries.

<sup>13</sup> Report at Table 2.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Report at Table 3.

interim 1992.<sup>17</sup> Capacity utilization declined even more dramatically during the period of investigation.<sup>18</sup> Unit values of domestic leather pads remained constant during the period, increasing slightly in interim 1993.<sup>19</sup>

B. Bladder Pads

Total domestic consumption of bladder pads increased between 1990-91, declined in 1992 to a level below 1990, and was higher in interim 1993 than in interim 1992.<sup>20</sup> Consumption of domestically produced bladder pads, however, declined throughout the period of investigation, including between the interim periods.<sup>21</sup>

Domestic production of bladder pads increased between 1990-91, then declined in 1992 to a level substantially below that in 1990.<sup>22</sup> Interim 1993 bladder production was below interim 1992 production.<sup>23</sup> Capacity utilization increased between 1990-91, then returned in 1992 to the 1990 level.<sup>24</sup> Unit values of

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17 Id.

18 Id.

19 Report at Table 4.

20 Report at Table 2.

21 Id.

22 Report at Table 3.

23 Id.

24 Id.

domestic bladder pads declined irregularly between 1990-92, and increased slightly between the interim periods.<sup>25</sup>

C. Data Common To Both Industries

Petitioner was unable to provide disaggregated employment and financial data for its leather pad and bladder pad operations.<sup>26</sup> Pursuant to 19 U.S.C. § 1677(4)(D), I find it appropriate to use petitioner's aggregated data for my analysis of both industries.<sup>27</sup>

1. Employment Data

While the number of employees employed by petitioner in the U.S. increased during the period of investigation, this increase must be viewed against its closing of its Mexican facility in December 1991. Obviously, relocation of work from one facility to another will result in employment increases in the recipient facility. Significantly, however, the employment increases in the U.S. facility were dramatically less than the number previously employed in the Mexican facility.<sup>28</sup>

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<sup>25</sup> Report at Table 4.

<sup>26</sup> Other domestic producers of leather and/or bladder pads did not provide employment or financial data.

<sup>27</sup> I note that this product line analysis of petitioner's employment and financial data is not dispositive in reaching my affirmative determination; that is, had I found one like product of both leather and bladder pads, I would make an affirmative determination.

<sup>28</sup> Report at Table 6. In addition, as a general statement, I find trends in employment data for small domestic industries to be less indicative of the condition of those industries than for industries which employ hundreds or thousands of workers.



2. Financial Data

Petitioner's operating income declined markedly between 1990-92; interim 1993 operating income was below that of interim 1992.<sup>29</sup> Net income before taxes declined even more dramatically between 1990-91, increasing minimally in 1992 to a level significantly below that in 1990.<sup>30</sup> Interim 1993 net income was below that of interim 1992.<sup>31</sup> Operating and net income margins declined substantially between 1990-91, and improved slightly in 1992.<sup>32</sup> Both margins were slightly higher in interim 1993 than during the same period 1992.<sup>33</sup> Petitioner's operating and net return on both the book value of fixed assets and total assets declined from 1990 to 1992.<sup>34</sup> Petitioner's capital expenditures also declined irregularly during the period.<sup>35</sup>

Based on the foregoing, I find that the domestic industries producing leather pads and bladder pads are experiencing material injury.

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<sup>29</sup> Report at Table 7.

<sup>30</sup> Id.

<sup>31</sup> Id.

<sup>32</sup> Id.

<sup>33</sup> Id.

<sup>34</sup> Report at Table 8.

<sup>35</sup> Report at Table 9.

### III. MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS

In determining whether the domestic industries are materially injured by reason of the subject imports, the statute requires that the Commission 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 the imports of such merchandise on domestic producers of like products, but only in the context of production operations in the United States.<sup>36</sup>

In making this determination, the statute permits the Commission to consider "such other factors as are relevant to the determination . . . ," including those within the conditions of competition that are distinctive to the affected industry.<sup>37</sup> The Commission is not required to determine that LTFV imports are "the principal, a substantial or a significant cause of material injury."<sup>38</sup> Rather, a finding that LTFV imports are a cause of material injury is sufficient.<sup>39</sup>

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<sup>36</sup> 19 U.S.C. § 1677(7)(B)(i).

<sup>37</sup> 19 U.S.C. §§ 1677(7)(B)(ii), 1677(7)(C).

<sup>38</sup> S. Rep. No. 249, 96th Cong., 1st Sess. 57 and 74 (1979).

<sup>39</sup> See, e.g., Metallwerken Nederland, B.V. v. United States, 728 F. Supp. 730, 741 (Ct. Int'l Trade 1989); Citrosuco Paulista S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988).

A. Leather Pads

I find that less than fair value imports of leather pads from Italy are a cause of material injury to the domestic industry. Imports of leather pads increased by approximately 70% during the period of the investigation.<sup>40</sup> Similarly, the subject import's share of domestic consumption increased by more than 40% during the period and, in 1992, was three times that of domestic pads.<sup>41</sup>

Unit values of the subject imports were below or equal to those of domestic leather pads during the majority of the investigation, including interim 1993.<sup>42</sup> More significantly, as measured by sales to both original equipment manufacturers ("OEMs") and distributors, the subject imports consistently, and often substantially, undersold the domestic product.<sup>43</sup> As a result, and because of the fungible nature of the product,<sup>44</sup>

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<sup>40</sup> Report at Table 12.

<sup>41</sup> Report at Table 13.

<sup>42</sup> Report at Tables 4 and 12.

<sup>43</sup> Report at Tables 16 and 17.

<sup>44</sup> As I explained in great detail in my additional and dissenting views in the recent Flat-Rolled Carbon Steel investigations (USITC Pub. 2664), I believe that a like product determination establishes an inherent level of fungibility and substitutability within that like product. Here, although many purchasers indicated that quality was the most important factor influencing their purchasing decisions, there is ample evidence in the record demonstrating that the domestic and pads and subject imports are fungible, e.g., end users purchasing the pads from various suppliers. Hearing transcript at 46.

petitioner's sales to these two markets declined during the period of the investigation.<sup>45</sup>

In addition to losing market share to the unfairly traded imports, petitioner was unable to raise sales prices by any appreciable level. Unit values for petitioner's sales to both OEMs and distributors increased only marginally during the period of investigation, indicating the price suppressing effect of the unfair imports.<sup>46</sup> In contrast, the unit value of respondent's sales in these two markets increased by a much greater percentage, but remained below the unit values of the domestic product. Thus it appears clear that respondent priced its pads below petitioner's price in order to attain market share, then incrementally increased prices to maximize margins on the increased sales.

The suppressing effect of the subject imports, however, was not limited to the OEM and distributor market; its impact spilled over into the retail segment of the market as well -- the market segment where imports do not compete directly. As a ratio to net sales, petitioner's cost of producing and selling its leather pads increased between 1990-92.<sup>47</sup> It would thus be expected that, as the only significant supplier to the domestic retail market, petitioner would, up to some point determined by market

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<sup>45</sup> Report at Tables 16 and 17.

<sup>46</sup> Id.

<sup>47</sup> Report at Table 7.

conditions, increase its sales prices to cover the increase in this margin. It did not happen. To the contrary, the unit values of petitioner's price increases in this market segment were in the same range, and in some cases even less, than the increases at the OEM and distributor level.<sup>48</sup> Thus, the presence of the unfair imports in the OEM and distributor segments and the likelihood that these imports could enter the retail market, effectively prevented the petitioner from obtaining a fair sales price in the retail market, i.e., price suppression.

B. Bladder Pads

I find that less than fair value imports of leather pads from Italy are a cause of material injury to the domestic industry. Like leather pads, imports of the subject bladder pads increased throughout the period of the investigation, including the interim periods.<sup>49</sup> The subject imports' share of domestic consumption increased by more than 17% during the period.<sup>50</sup>

The unit values of the subject imports, which increased between 1990-92, nonetheless remained below those of the domestic product, which actually decreased during the period.<sup>51</sup> The decline in the domestic unit values indicates that the unfair imports had a depressing effect on domestic sales prices.

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<sup>48</sup> Report at Table 18.

<sup>49</sup> Report at Table 12.

<sup>50</sup> Report at Table 13.

<sup>51</sup> Report at Tables 4 and 12.

As measured by sales to both original equipment manufacturers ("OEMs") and distributors, the subject imports frequently and consistently undersold the domestic product.<sup>52</sup> As a result, and because of the fungible nature of the product,<sup>53</sup> petitioner's sales to these two markets declined during the period of the investigation.<sup>54</sup> In those instances where petitioner was able to retain at least some market share, it realized little increase, and often declines, in the unit values of its sales.<sup>55</sup>

As occurred with leather pads, the price suppressing and depressing effect of the unfair imports in the OEM and distributor markets prevented the petitioner from expected increases in the sales price in the retail and repair shop market. The unit values of sales in that market increased irregularly by margins comparable to the increases in the OEM and distributor market.<sup>56</sup> Thus, as is true with leather pads, the

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<sup>52</sup> Report at Tables 16 and 17.

<sup>53</sup> See note 44, supra.

<sup>54</sup> Report at Tables 16 and 17. In fact, in many instances, the unit values of respondent's sales in these two markets increased only after petitioner had been effectively forced out of these markets. Id.

<sup>55</sup> Id.

<sup>56</sup> Report at Tables 16-18. As noted earlier, petitioner was not able to provide separate financial data for the two like products. Accordingly, my analysis concerning the increase in petitioner's cost of goods sold as a ratio to net sales vis-a-vis price increases in the retail market is equally applicable here. See pgs. 44-45, supra.

presence of unfair bladder pads in the OEM and distributor market and the likelihood that these pads would enter the retail market, suppressed prices in that market.

#### IV. CONCLUSION

Based upon the foregoing, in particular the increased volume of the unfairly traded imports and their price suppressing and depressing effects in all market segments, I find that the subject less than fair value imports are a cause of injury to the domestic industry producing leather pads and the domestic industry producing bladder pads.





**INFORMATION OBTAINED IN THE INVESTIGATION**



## INTRODUCTION

Following a preliminary determination by the U.S. Department of Commerce that imports of pads for woodwind instrument keys<sup>1</sup> from Italy are being, or are likely to be, sold in the United States at less than fair value (LTFV) (58 F.R. 30015), the U.S. International Trade Commission, effective May 25, 1993, instituted investigation No. 731-TA-627 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) 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 investigation and of a public hearing to be held in connection therewith was posted in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and published in the Federal Register on June 16, 1993 (58 F.R. 33282).<sup>2</sup> The hearing was held in Washington, DC, on August 12, 1993.<sup>3</sup>

In its final determination published in the Federal Register of August 9, 1993 (58 F.R. 42295), Commerce determined that imports of pads for woodwind instrument keys from Italy are being, or are likely to be, sold in the United States at LTFV. The applicable statute directs that the Commission make its final injury determination within 45 days after an affirmative final determination by Commerce. The Commission voted on this investigation on September 13, 1993, and transmitted its determination to Commerce on September 21, 1993.

## Background

This investigation resulted from a petition filed by Prestini Musical Instruments Corp. (Prestini), Nogales, AZ, on October 21, 1992, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of pads for woodwind instrument keys from Italy. In response to that petition the Commission instituted investigation No. 731-TA-627 (Preliminary) under section 733 of the Tariff Act of 1930 (19 U.S.C. §

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<sup>1</sup> These instrument key pads are provided for in subheading 9209.99.40 of the Harmonized Tariff Schedule of the United States (HTS). The scope of the investigation is defined by Commerce as follows: The products covered by this investigation are pads for woodwind instrument keys (pads), which are manufactured by Pisoni and Lucien (collectively, "Pisoni"). All other imports of pads for woodwind instrument keys are already covered by an outstanding antidumping duty order. See section on "Previous Investigations and Outstanding Antidumping Duty Orders."

<sup>2</sup> Copies of cited Federal Register notices are presented in app. A.

<sup>3</sup> A list of participants who appeared at the hearing is presented in app. B. A summary of data collected in the investigation is presented in app. C.

1673b(a)) and, on December 2, 1992, determined that there was a reasonable indication of such material injury.

#### PREVIOUS INVESTIGATIONS AND OUTSTANDING ANTIDUMPING DUTY ORDERS

Pads for woodwind instrument keys from Italy have been the subject of two previous Commission investigations. Following the simultaneous filing of antidumping and countervailing duty petitions by Prestini, the Commission instituted, effective November 7, 1983, concurrent investigations to determine whether an industry in the United States was materially injured, or was threatened with material injury, by reason of imports from Italy of pads for woodwind instrument keys that were allegedly being sold, or were likely to be sold, in the United States at LTFV and that were allegedly being subsidized by the Government of Italy.

On December 21, 1983, the Commission notified the Department of Commerce of its preliminary determination that there was a reasonable indication that an industry in the United States was materially injured by reason of alleged LTFV and subsidized imports of pads for woodwind instrument keys from Italy. On August 13, 1984, following notification by Commerce of its affirmative final determination of LTFV sales, the Commission determined that an industry in the United States was materially injured by reason of imports from Italy of pads for woodwind instrument keys that had been found by Commerce to be sold in the United States at LTFV.<sup>4</sup>

On January 31 and April 25, 1984, Commerce made a negative preliminary and a negative final determination, respectively, regarding the petitioner's allegation of subsidized imports from Italy of pads for woodwind instrument keys.<sup>5</sup>

Following Commerce's affirmative final LTFV determination and the Commission's affirmative final LTFV injury determination, Commerce, on September 21, 1984, issued an antidumping duty order with respect to pads for woodwind instrument keys from Italy. The order assessed antidumping duties on U.S. imports of the subject pads exported from Italy as follows: a dumping duty of 1.16 percent on the subject pads produced or exported by Luciano Pisoni Fabbrica Accessori Strumenti Musicali (Pisoni); a dumping duty of 1.03 percent on the subject pads produced or exported by Pads Manufacturer s.r.l.; and a dumping duty of 1.16 percent on the pads produced or exported by all other Italian producers/exporters, of which none were known. On

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<sup>4</sup> See Pads for Woodwind Instrument Keys From Italy, USITC Pub. 1566, Aug. 1984.

<sup>5</sup> Because Commerce determined that the total net subsidy, 0.05 percent ad valorem, was an amount considered to be de minimis, a negative final determination resulted.

November 5, 1986, Commerce revoked its affirmative antidumping duty finding with respect to pads for woodwind instrument keys produced or exported by Pisoni.<sup>6</sup>

On October 22, 1992, Commerce published in the Federal Register (57 F.R. 48202) the final results of its most recent administrative review of the companies still covered by the antidumping duty order on pads. The review, for the period September 1, 1990, through August 31, 1991, covered the Italian producer/exporter Pads Manufacturer s.r.l.<sup>7</sup> Commerce determined that Pads Manufacturer s.r.l. had no imports during the covered period and, therefore, continued the existing dumping duty (1.03 percent) that was established during its last administrative review.

#### NATURE AND EXTENT OF SALES AT LTFV

Commerce published its final determination that pads for woodwind instrument keys from Italy are being, or are likely to be, sold in the United States at LTFV in the Federal Register of August 9, 1993 (58 F.R. 42295). To determine whether sales of pads for woodwind instruments were made at LTFV, Commerce compared the United States price (USP) with the foreign market value (FMV). USP was based on purchase prices paid by unrelated customers in the United States, and FMV was based on prices paid by unrelated customers in Taiwan because the home market was not viable. Commerce determined that the weighted-average dumping margin for Pisoni and Lucien, both of which are owned by Mr. Luciano Pisoni, is 1.82 percent. Commerce also determined that critical circumstances do not exist with respect to Pisoni.

#### THE PRODUCTS

##### Description and Uses

Most pads for woodwind instrument keys consist of a thin felt disc backed with cardboard or paper and covered with a fine layer of gut (lamb or cow bladder) or leather. Pads also may consist entirely of cork, plastic, or other synthetic material, but, until recently, the use of such pads has been severely limited. However, the development of more durable plastics and synthetic materials reportedly has resulted in increased use of synthetic pads in some higher-priced instruments. The function of all pads for woodwind

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<sup>6</sup> Following affirmative final determinations by Commerce and by the Commission, Pisoni filed suit in the Court of International Trade challenging Commerce's determination of LTFV sales. On July 21, 1986, the Court remanded the case to Commerce for redetermination. On remand, Commerce found that the weighted-average dumping margin on pads for woodwind instrument keys exported by Pisoni was 0.286 percent. Since the recalculated margin was considered by Commerce to be de minimis, Commerce redetermined that such merchandise exported by Pisoni was not being sold, nor was it likely to be sold, in the United States at LTFV.

<sup>7</sup> According to information provided to Commerce, Pads Manufacturer s.r.l. was declared bankrupt on Mar. 6, 1986.

instruments is the formation of an airtight closure over the tone holes in the instrument. The pads are glued or shellacked into pad cups on the inner side of the instrument keys, and in turn cover or uncover the tone holes as the keys are pressed and released. The key movement shortens or lengthens the vibrating air column within the instrument and results in differently pitched tones. No products can directly substitute for pads for woodwind instrument keys.

The production of pads for woodwind instrument keys has benefited from some increased usage of automation in recent years; however, the production process has tended to remain highly labor intensive. Pisoni reportedly uses automated equipment to obtain closer tolerances in thickness and diameters in cutting leather or bladder sheets and felt, and in stamping or punching individual disc covers for the imported pads.<sup>8</sup> Specifications for pads are diverse, because of the variety of woodwind instruments, differences in specific models of instruments produced by woodwind manufacturers, and somewhat limited production runs for different sizes and types of pads. These factors tend to limit wide-scale automation in the production of these products.

In addition to instrument specificity, pads may be differentiated further by altering the softness or hardness of the felt and by the thickness of the cover. Softer pads are usually of woven felt, whereas harder pads are generally made of pressed felt. Woven felt is used in the majority of both imported and domestically made pads. Most pressed felt is used in clarinet pads. Softer pads yield greater response in playing and aid students with imprecise fingering. Harder pads are normally used by more accomplished players and professional musicians.

In the manufacturing process, pad covers, felt discs, and cardboard backs are stamped from sheets, either by hand or by presses. The pad is assembled using a mold, usually a metal cylinder with an open center of specific diameter and depth. The dimensions of the mold depend on the instrument and manufacturer for which the pad is being produced. The pad cover is centered over the opening in the mold and the felt disc is pressed into the opening on top of the cover, leaving the edges of the cover material protruding from the opening. In a slightly different manner, the pad cover and felt disc may be aligned to each other before placement in the mold. The card backing, if used, is then centered over the felt and a small amount of glue is applied to the back of the card. The mold is then revolved and a small pick-like tool is used to fold the protruding edges of the cover material over the backing. With all edges secured, the pick is used to pluck the finished pad from the mold. Pads that require resonators (metal or plastic discs attached to the front of the pad for enhanced tone quality) are drilled through the center, and the resonator is positioned and fastened.

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<sup>8</sup> This equipment is also available in the United States. However, petitioner alleges that "reduced financial resources due to LTFV imports do not allow the purchase or lease of such equipment." See petitioner's postconference brief, p. 16.

Pads are purchased principally in bulk or in sets by woodwind instrument manufacturers, distributors, and instrument technicians and repairers. Replacement of worn pads is usually performed by trained repairers and requires first the disassembly of the key mechanism of the instrument and then the reassembly after the pads are replaced. Pads are ordered by the type of woodwind instrument, the cover material desired (leather or bladder), cover thickness (single or double), and the felt thickness and type (woven or pressed). Special instructions must also be included, such as the type of edges (straight or beveled) and whether resonators are required, and, if so, their type (plastic or metal; flat, curved, or convex).

#### U.S. Tariff Treatment

Pads for woodwind instrument keys are classified in HTS subheading 9209.99.40, which encompasses parts and accessories for other woodwind and brasswind musical instruments. Other parts in the subheading include reeds, mouthpieces, and key assemblies. The column 1-general rate of duty for subheading 9209.99.40, applicable to pads from Italy, is 4.9 percent ad valorem. U.S. imports of pads for woodwind instrument keys are eligible for duty-free entry under the Generalized System of Preferences, the Caribbean Basin Economic Recovery Act, and the Andean Trade Preference Act. Imports of pads from Israel also are eligible for duty-free entry under the United States-Israel Free Trade Area Implementation Act, and preferential rates are granted to qualifying imports from Canada under the United States-Canada Free Trade Agreement.

#### THE U.S. MARKET

##### U.S. Producers

Nine U.S. firms currently produce pads for woodwind instrument keys. The names of the firms, together with the locations of their production facilities, shares of aggregate production, and each firm's position on the petition, are shown in table 1.

Prestini, the principal U.S. producer of pads for woodwind instrument keys, is a \*\*\* company. Operating abroad for most of the century, Prestini moved its pad manufacturing operations to the United States in 1974, first establishing itself in Tucson, AZ, and later moving to its present location in Nogales, AZ. Prestini's manufacturing operations are devoted exclusively to the manufacture of pads for woodwind instrument keys.<sup>9</sup> Prestini's principal export markets are \*\*\*. Prestini has had significant operations producing pads for woodwind instrument keys in Mexico during the period. (See appendix D for information on Prestini's Mexican operations.)

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<sup>9</sup> A corporation that is unrelated to Prestini (Prestini Reed Corp.) but whose principal shareholders are also shareholders of Prestini, manufactures reeds for musical instruments and also imports musical instruments (conference transcript, pp. 79-80, staff fieldwork of July 8, 1993).

Table 1

Pads for woodwind instrument keys: Current U.S. producers, locations of production facilities, positions on the petition, and shares of production in 1992

Firm	Location of manufacturing facility	Share of U.S. production in 1992	Position on petition
		Percent	
Prestini Musical Instruments Corp. . . . .	Nogales, AZ <sup>1</sup>	*** <sup>2</sup>	Petitioner
Ed Myers Co. . . . .	Omaha, NE	***	***
Emerson Musical Instruments.	Elkhart, IN	***	***
Ferree's Band Instrument Tool & Supply. . . . .	Battle Creek, MI	*** <sup>3</sup>	***
Straubinger Flutes . . . . .	Indianapolis, IN	***	***
Valentino. . . . .	San Diego, CA	***	(4)
Brannen Brothers Flutemakers. . . . .	Woburn, MA	***	(4)
R. Seaman Co . . . . .	Tucson, AZ	***	***
Arizona Pad Manufacturers. .	Nogales, AZ	(5)	(4)

<sup>1</sup> From 1990 to 1991, Prestini also owned and operated an assembly plant (Prestini de Mexico) in Empalme, Sonora, Mexico. \*\*\*.

<sup>2</sup> On the basis of U.S. open market shipments, Prestini accounted for \*\*\* percent of shipments in 1992.

<sup>3</sup> \*\*\*.

<sup>4</sup> \*\*\*.

<sup>5</sup> \*\*\*.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and staff conversations with producers.

Ed Myers Co., Omaha, NE, \*\*\*, produces \*\*\*. According to its final questionnaire response, the company \*\*\*.

Emerson Musical Instruments, Inc. (Emerson), Elkhart, IN, a manufacturer of flutes and piccolos, makes pads \*\*\*. Occasionally Emerson \*\*\*.<sup>10</sup>

Ferree's Band Instrument Tool and Supply, Inc. (Ferree's), Battle Creek, MI, produces \*\*\*. The company \*\*\*.<sup>11</sup> Ferree's produces pads \*\*\*.<sup>12</sup> Ferree's \*\*\*. Ferree's employs \*\*\*.<sup>13</sup>

The R. Seaman Company (Seaman), Tucson, AZ, a manufacturer of piccolos, produces pads \*\*\*. The company has a total of \*\*\* employees and manufactures

<sup>10</sup> Letter from \*\*\*.

<sup>11</sup> Purchaser questionnaire supplied by Ferree's in the final investigation and staff conversations with \*\*\*.

<sup>12</sup> Staff conversation with \*\*\*.

<sup>13</sup> Staff conversation with \*\*\*.



\*\*\* to \*\*\* piccolos per year. Seaman states it has sold \*\*\* of pads to \*\*\*. The company \*\*\*.<sup>14</sup>

Straubinger Flutes (Straubinger), Indianapolis, IN, has manufactured pads for woodwind instrument keys since \*\*\*. Sales of flutes \*\*\*. In 1992, the company manufactured an estimated \*\*\* pads, \*\*\*. The company manufactures \*\*\*. The pads \*\*\*. Straubinger has a \*\*\*.<sup>15</sup>

Valentino, San Diego, CA, a manufacturer of musical instrument parts which began making pads \*\*\*, now produces about \*\*\* to \*\*\* pads per year. \*\*\*.<sup>16</sup>

Brannen Brothers Flutemakers (Brannen), Woburn, MA, a manufacturer of flutes and piccolos, produced an estimated \*\*\* pads for use in its flutes and an estimated \*\*\* for separate sale to repair technicians in 1992. The company manufactures \*\*\*. \*\*\*.<sup>17</sup>

Arizona Pad Manufacturers (APM), Nogales, AZ, is a new producer of pads for woodwind instrument keys in the U.S. market. APM entered the U.S. market in \*\*\*.<sup>18</sup> In a sales letter of introduction from APM to a U.S. purchaser of pads \*\*\*.<sup>19</sup>

#### U.S. Importers

In the final investigation, Commission staff sent importers' questionnaires to eight firms. Enzo Pizzi, Inc. (Pizzi), Woodside, NY, and Ferree's, Battle Creek, MI, are the only two U.S. importers of pads for woodwind instrument keys from Italy for resale purposes.

In addition, two manufacturers of flutes--Burkart-Phelan, Inc. (Burkart-Phelan), Stoneham, MA, and Verne Q. Powell Flutes, Inc. (Powell Flutes), Waltham, MA--purchased \*\*\*. However, \*\*\*.<sup>20</sup> Powell Flutes, which \*\*\*.<sup>21</sup>

#### Apparent U.S. Consumption

Data on apparent U.S. consumption of pads for woodwind instrument keys are presented in table 2 and are composed of the sum of U.S. producers' U.S. shipments (domestic shipments and company transfers) and U.S. importers' imports from the Italian producer/exporter Pisoni. These data are based on responses to Commission questionnaires and information provided to Commission staff by telephone.

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<sup>14</sup> Letter to the Commission from \*\*\*.

<sup>15</sup> Staff telephone conversation with \*\*\*.

<sup>16</sup> Staff telephone conversations with \*\*\*.

<sup>17</sup> Staff telephone conversation with \*\*\*; final questionnaire response.

<sup>18</sup> Staff telephone conversation with \*\*\*.

<sup>19</sup> Letter from \*\*\*.

<sup>20</sup> Staff telephone conversation with \*\*\*.

<sup>21</sup> Staff telephone conversation with \*\*\*.

Table 2

Pads for woodwind instrument keys: U.S. producers' company transfers and domestic shipments, U.S. importers' imports from Pisoni, total apparent U.S. consumption, and open market consumption, by quantity and by types, 1990-92, January-March 1992, and January-March 1993

\* \* \* \* \*

Demand for pads for woodwind instrument keys is affected by sales to two distinct types of end users: woodwind musical instrument manufacturers and dealers and instrument repair technicians that serve the replacement market. Based on Commission estimates, U.S. production of woodwind musical instruments rose by 5 percent from 1990 to 1992, increasing from 186,000 units in 1990 to 195,000 units in 1992.<sup>22</sup>

Total apparent U.S. consumption of all pads fluctuated during the period of investigation, increasing from \*\*\* million pads in 1990 to \*\*\* million pads in 1991, but declining to \*\*\* million pads in 1992. From January-March 1992 to January-March 1993, total apparent U.S. consumption fell further, decreasing from \*\*\* pads to \*\*\* pads. Open market consumption (that is, shipments not including company transfers or production for internal consumption) of all pads fluctuated during the period of investigation, increasing from \*\*\* million pads in 1990 to \*\*\* million pads in 1991, but declining to \*\*\* million pads in 1992. From January-March 1992 to January-March 1993, open market consumption fell further, decreasing from \*\*\* pads to \*\*\* pads.

U.S. producers' shipments fell in terms of quantity throughout the period, while imports increased. As a share of the quantity of total apparent U.S. consumption, pads made of bladder accounted for the bulk of U.S. consumption of all pads. As a share of total apparent U.S. consumption, pads purchased by U.S. importers from Pisoni increased steadily throughout the period of investigation. Such pads increased from \*\*\* percent of consumption in 1990 to \*\*\* percent of consumption in interim 1993. Conversely, U.S. producers' shipments as a share of apparent consumption declined steadily, falling from \*\*\* percent of consumption in 1990 to \*\*\* percent of consumption in interim 1993.

#### Channels of Distribution

The U.S. market for pads consists primarily of original equipment manufacturers (OEMs), distributors, and dealers. The nine U.S. producers of pads can be characterized as follows: two distributors producing limited quantities of pads to round out their product lines; three OEMs producing primarily for internal use; and four pad manufacturers shipping directly to

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<sup>22</sup> According to the National Association of Music Merchants, U.S. sales of woodwind musical instruments, which includes sales of U.S.-produced as well as imported instruments, fell from 294,400 units sold in 1990 to 273,496 units sold in 1992.

OEMs, distributors, dealers, and repair shops. Approximately \*\*\* of U.S. imports of Italian-produced instrument pads, by quantity, are purchased through Pizzi, which sells only to OEMs and distributors. Pisoni also ships directly to \*\*\*. In 1992, \*\*\* percent of Prestini's shipments were to OEMs, compared with \*\*\* percent of Pizzi's shipments; and in contrast, \*\*\* percent of Prestini's shipments were to dealers/retailers compared with \*\*\* shipments to this distribution outlet by Pizzi. The following tabulation shows 1992 shipments by channels of distribution (in percent):

	<u>OEMs</u>	<u>Distributors/ wholesalers</u>	<u>Dealers/ retailers</u>
Prestini . . . . .	***	***	***
Pizzi. . . . .	***	***	***

**CONSIDERATION OF ALLEGED MATERIAL INJURY**

Commission staff have confirmed that nine U.S. companies currently produce pads for woodwind instrument keys. The production, shipment, and inventory information in this section of the report is based on data provided by eight firms.<sup>23</sup> Prestini and \*\*\* supplied capacity data. Only Prestini provided complete employment data; seven firms supplied partial data or stated they could not break out these data. (For further explanation, see table 1 and the section entitled "U.S. Producers.")

**U.S. Production, Capacity, and Capacity Utilization**

U.S. production of all pads for woodwind instrument keys rose from 1990 to 1991, fell from 1991 to 1992, and further declined from January-March 1992 to January-March 1993. U.S. production increased from \*\*\* pads in 1990 to \*\*\* pads in 1991, fell to \*\*\* pads in 1992, and further dropped from \*\*\* pads in January-March 1992 to \*\*\* pads in the corresponding period of 1993 (table 3). U.S. producers' full production capability to produce pads for woodwind instrument keys fell by \*\*\* percent from 1990 to 1991, then remained unchanged from 1991 to 1992 and from January-March 1992 to January-March 1993. U.S. producers' capacity utilization declined irregularly from \*\*\* percent in 1990 to \*\*\* percent in 1992, and further declined from \*\*\* percent in January-March 1992 to \*\*\* percent in January-March 1993.

Table 3

Pads for woodwind instrument keys: U.S. capacity, production, and capacity utilization, by products, 1990-92, January-March 1992, and January-March 1993

\* \* \* \* \*

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<sup>23</sup> \*\*\*, the producer that did not provide these data, states \*\*\*.

U.S. production of pads made of bladder increased from \*\*\* in 1990 to \*\*\* in 1991, but declined to \*\*\* in 1992 and fell from \*\*\* in January-March 1992 to \*\*\* in January-March 1993. U.S. production of pads made of leather decreased steadily during the period, from \*\*\* in 1990 to \*\*\* in 1992, and from \*\*\* in January-March 1992 to \*\*\* in January-March 1993.

### U.S. Producers' Shipments

#### U.S. Shipments

Data on U.S. producers' U.S. shipments of pads for woodwind instrument keys are shown in table 4. Both the quantity and the value of U.S. producers' U.S. shipments of all pads for woodwind instrument keys declined throughout the period for which information was requested. The quantity of such shipments fell from \*\*\* pads in 1990 to \*\*\* pads in 1992, a decrease of \*\*\* percent. The quantity of such shipments further decreased by \*\*\* percent from January-March 1992 to January-March 1993. The value of U.S. producers' shipments declined by \*\*\* percent from 1990 to 1992, and further decreased, by \*\*\* percent, from January-March 1992 to January-March 1993. The average unit value of U.S. producers' shipments of pads of all types remained constant at \*\*\* cents per pad in 1990 and 1991, increased to \*\*\* cents per pad in 1992 and in January-March 1992, and further rose to \*\*\* cents per pad during January-March 1993.

Table 4

Pads for woodwind instrument keys: U.S. producers' shipments, by types, 1990-92, January-March 1992, and January-March 1993

\* \* \* \* \*

With respect to U.S. producers' U.S. shipments of bladder and leather pads, parallel trends are shown for both types, namely, an uninterrupted decrease in volume, as well as a decline in the total value of U.S. shipments throughout the period.

#### Exports

Prestini's principal export markets are \*\*\*. As a share of its total shipments by quantity, Prestini's exports increased from \*\*\* percent in 1990 to \*\*\* percent in 1991 and \*\*\* percent in 1992, and from \*\*\* percent in January-March 1992 to \*\*\* percent in January-March 1993. The following tabulation shows Prestini's export shipments of pads, by quantity, during the period for which information was requested (in pieces):

	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>January-March</u>		
				<u>1992</u>	<u>1993</u>	
	*	*	*	*	*	*

With respect to other U.S. producers of pads for woodwind instrument keys, Straubinger reported \*\*\*,<sup>24</sup> Valentino reported \*\*\*, and Brannen reported \*\*\*.

#### U.S. Producers' Inventories

U.S. producers' end-of-period inventories of all pads for woodwind instrument keys declined steadily throughout the period. Such inventories fell from \*\*\* pads in 1990 to \*\*\* pads in 1992, a decrease of \*\*\* percent (table 5). U.S. producers' end-of-period inventories further declined from January-March 1992 to January-March 1993, falling by \*\*\* percent. Pads made of bladder comprised \*\*\* of U.S. producers' inventories throughout the period. Although U.S. producers experienced a declining trend in their end-of-period inventories during 1990-92, the ratio of such inventories to production was generally high in all years, ranging from a low of \*\*\* percent in 1991 to a high of \*\*\* percent in 1992. Ferree's and Straubinger state they \*\*\*.<sup>25</sup>

Table 5

Pads for woodwind instrument keys: U.S. producers' end-of-period inventories, by products, 1990-92, January-March 1992, and January-March 1993

	*	*	*	*	*	*	*
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#### Employment, Wages, and Productivity

Data on Prestini's employment experience during the period for which information was requested are presented in table 6. The data are for Prestini's U.S., Mexican, and subcontracting operations. Additional data on Prestini's employment of workers in its Mexican facility are presented in appendix D.

The number of U.S. production and related workers (PRWs) producing pads (including subcontractors) employed by Prestini, all of which are non-union, \*\*\* from \*\*\* workers in 1990 to \*\*\* workers in 1992. Employment in Mexico declined from \*\*\* workers in 1990 to \*\*\* workers in 1991; Mexican operations were terminated in December 1991.

<sup>24</sup> Staff telephone conversation with \*\*\*.

<sup>25</sup> Staff telephone conversation with \*\*\*.

Table 6

Pads for woodwind instrument keys: Prestini's average number of production and related workers producing pads for woodwind instrument keys, hours worked, wages and total compensation paid to such employees, and hourly wages, productivity, and unit production costs, by types, 1990-92, January-March 1992, and January-March 1993

\* \* \* \* \*

Correspondingly, the number of hours worked by all U.S. PRWs (including subcontractors) producing pads \*\*\* from 1990 to 1992. Total compensation paid to such workers during the same period \*\*\*. From January-March 1992 to January-March 1993, hours worked by all U.S. PRWs \*\*\* and total compensation \*\*\* accordingly. Hourly total compensation paid to all U.S. PRWs (including subcontractors) \*\*\* irregularly throughout the period, \*\*\* from \$\*\*\* per hour in 1990 to \$\*\*\* per hour in January-March 1993.

Productivity of all (U.S. and Mexican) PRWs \*\*\* steadily from 1990 to 1992, but \*\*\* from January-March 1992 to January-March 1993. Productivity \*\*\* from \*\*\* pads per worker hour in 1990 to \*\*\* pads per worker hour in 1992, \*\*\* of \*\*\* percent. Productivity, however, \*\*\* from \*\*\* pads per worker hour in January-March 1992 to \*\*\* pads per worker hour in January-March 1993.

The overall average unit labor costs of PRWs producing all pads (including subcontracting and Mexican operations) remained fairly constant over the period for which information was requested.

Prestini \*\*\*. About \*\*\* of weekly production is conducted in the factory; \*\*\* is subcontracted to be assembled on the outside. Mr. Prestini stated that larger orders (from OEMs and wholesalers) tend to be \*\*\*; smaller orders (custom-made) typically are \*\*\*. All \*\*\*. Mr. Prestini estimates that one trained worker assembles on average \*\*\* leather pads per hour and \*\*\* to \*\*\* bladder pads per hour. He states that the average length of time to train assembly workers is \*\*\* weeks. See appendix D for further information on Prestini's subcontracting operations.

With respect to the other U.S. pad producers, Ferree's employs \*\*\* whose involvement with the production of pads requires \*\*\*.<sup>26</sup> Ed Myers reports it had \*\*\* employees who produced pads in 1990 and 1991 and has had \*\*\* employees in 1992 and during the interim periods of 1992 and 1993. Straubinger states it had \*\*\* employees producing pads in 1992, \*\*\* during January-March 1992, and \*\*\* during January-March 1993. Seaman states it has had \*\*\* throughout the period working on pads. Brannen states it has several part-time employees making pads on a piecemeal basis.<sup>27</sup>

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<sup>26</sup> Staff telephone conversation with \*\*\*.

<sup>27</sup> Final questionnaire responses.

Financial Experience of U.S. Producers

Prestini, the \*\*\* U.S. producer of pads for woodwind instrument keys, was the only U.S. producer to supply financial data. The company \*\*\* imported musical instruments. Because of \*\*\* of overall establishment sales.

The staff conducted an on-site verification of Prestini's data on August 18 and 19, 1993, to determine the validity of the questionnaire data and the nature of its manufacturing operations.<sup>28</sup> As a result of the verification, \*\*\* for leather and bladder pads.

Profit-and-loss data on Prestini's operations are shown in table 7. \*\*\*.

Table 7

Income-and-loss experience of Prestini on its instrument key pads, fiscal years 1990-92, January-March 1992, and January-March 1993

\* \* \* \* \*

Caution must be used when comparing interim 1993 data to interim 1992 data. Based upon information gathered during the verification, we believe the net sales quantity and value data are reasonable. These data show a \*\*\* in net sales value, as a \*\*\* in sales quantities more than offset a \*\*\* in unit sales value.

However, \*\*\*.

Costs associated with the firm's \*\*\*.

Investment in Productive Facilities and Net Return on Assets

Data on Prestini's investment in productive facilities and return on its assets are shown in table 8.

Table 8

Value of Prestini's assets and return on assets as of December 31, 1990-92, March 31, 1992, and March 31, 1993

\* \* \* \* \*

<sup>28</sup> For the \*\*\*. A detailed discussion of the verification is contained in the verification report.

### Capital Expenditures

Prestini's capital expenditures are shown in table 9.

Table 9

Prestini's capital expenditures, fiscal years 1990-92, January-March 1992, and January-March 1993

\* \* \* \* \*

### Research and Development Expenses

Prestini's research and development expenses were \*\*\*.

### Capital and Investment

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of pads for woodwind instrument keys from Italy on their growth, investment, ability to raise capital, and/or development and production efforts. Prestini's response is shown in appendix E.

### 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 the merchandise, the Commission shall consider, among other relevant economic factors<sup>29</sup>--

(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,

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<sup>29</sup> 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."



(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 731 or to final orders under section 706 or 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.<sup>30</sup>

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<sup>30</sup> 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

(continued...)

The available 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)) is presented in appendix E. Available information on U.S. inventories of the subject products (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), and (VIII) above); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets, follows. Other threat indicators have not been alleged or otherwise are not applicable.

#### U.S. Importers' Inventories

Three importers--Pizzi, Ferree's, and Powell Flutes--purchase pads for woodwind instrument keys exclusively from the Italian producer Pisoni for resale in the United States. All three maintain that the imported pads are sold upon entry into the United States and for that reason the companies maintain no U.S. inventories.<sup>31</sup>

#### Ability of Foreign Producers to Generate Exports and the Availability of Export Markets Other Than the United States

Three firms--Pisoni, Lucien s.n.c., and Olga Chiarugi & C. s.n.c. (Chiarugi)--are known to manufacture or assemble pads for woodwind instrument keys in Italy. Pisoni and Chiarugi were in existence at the time of the Commission's 1984 final antidumping investigation; however, only Pisoni was engaged in the production of the subject merchandise at that time. The information that follows is based on information provided by counsel for respondent Pisoni, Pisoni's final foreign producers' questionnaire, and information supplied by the U.S. embassy in Rome at the request of the Commission in the preliminary investigation.

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<sup>30</sup> (...continued)

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."

<sup>31</sup> Pizzi's and Powell Flute's final questionnaire responses; staff telephone conversation with \*\*\*.

Chiarugi was formed in the early 1970s as a maker of accessories, other than pads, for double reed (i.e., oboe and bassoon) instruments. In 1987 Chiarugi acquired the machinery and equipment of the then defunct Balsamo Manufacturing Co. and started producing pads for woodwind instrument keys. Employing fewer than five workers, Chiarugi is now believed to have very limited production of the subject merchandise.<sup>32</sup> Its sales are primarily directed to its home market and to other European markets. Chiarugi has not exported the subject merchandise to the United States from January 1990 to the present.

Respondent Pisoni began producing pads for woodwind instrument keys in 1976, after acquiring the physical assets of the bankrupt Italian operations of the Prestini Co. In addition to pads, Pisoni also produces tools and reeds for musical instruments. Lucien s.n.c. is owned by Mr. Luciano Pisoni.

Information on the combined operations of Chiarugi and Pisoni is presented in table 10. Information concerning Pisoni's operations alone is presented in table 11.

Table 10

Pads (bladder and leather) for woodwind instrument keys: Italy's capacity, production, inventories, capacity utilization, and shipments, 1989-91, January-June 1991, January-June 1992, and projected 1992-93

\* \* \* \* \*

Table 11

Pads (bladder and leather) for woodwind instrument keys: Pisoni's capacity, production, inventories, capacity utilization, and shipments, 1990-92, January-March 1992, January-March 1993, and projected 1993-94

\* \* \* \* \*

Operating at no less than \*\*\* percent of capacity during the period for which information was requested, Chiarugi's and Pisoni's aggregate production of pads for woodwind instrument keys in Italy rose from \*\*\* in 1989 to \*\*\* in 1991, an increase of \*\*\* percent. Production continued on the upswing in 1992, increasing by \*\*\* percent from January-June 1991 to January-June 1992. Although Pisoni and Chiarugi were unable to provide projected production or capacity data for 1992 and 1993, using reported production for the first 6 months of 1992 would result in annualized 1992 production of \*\*\* pads, representing an increase of \*\*\* percent over 1991 production. The ratio of inventories to production was minimal from 1989 to 1991, not exceeding \*\*\* percent. However, in the interim periods, the ratio increased from \*\*\* percent in interim 1991 to \*\*\* percent in interim 1992.

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<sup>32</sup> Conference transcript, p. 118.

As shown in table 10, Italy's production of pads for woodwind instrument keys is driven by export demand, the United States being the principal export market. As a share of total shipments, Italy's exports to the United States declined from \*\*\* percent in 1989 to \*\*\* percent in 1990, increased to \*\*\* percent in 1991, and declined by less than \*\*\* percentage points from interim 1991 to interim 1992. Although this particular trend fluctuated throughout the period, a different trend would result if such exports were measured in absolute terms. Measured as such, exports to the United States increased by just under \*\*\* percent from 1989 to 1990, rose significantly by \*\*\* percent from 1990 to 1991, and increased by \*\*\* percent from interim 1991 to interim 1992.

Data limited to Pisoni's operations concerning pads for woodwind instrument keys are shown in table 11. As shown in the table, Pisoni operated at a very high level of capacity utilization during the period for which information was requested, not falling below \*\*\* percent in any one period. As a share of its total shipments, Pisoni's exports to the United States accounted for \*\*\* percent in 1990, \*\*\* percent in 1991, and \*\*\* percent in 1992. The share \*\*\* from \*\*\* percent in January-March 1992 to \*\*\* percent in the corresponding period of 1993. Pisoni's shipments in its home market during the period for which information was requested were insignificant relative to its total shipments. Other than the United States, Pisoni's principal export markets are \*\*\*. Bladder pads accounted for \*\*\* percent of the firm's total exports to the United States in 1992.

#### CONSIDERATION OF THE CAUSAL RELATIONSHIP BETWEEN IMPORTS OF THE SUBJECT MERCHANDISE AND THE ALLEGED MATERIAL INJURY

##### U.S. Imports

Based on information obtained in this investigation, Pizzi and Ferree's account for the vast majority of U.S. imports of pads for woodwind instrument keys from Italy, and Pisoni is the sole Italian exporter of the subject merchandise to the United States. Because official import statistics include both the subject pads and nonsubject articles (e.g., reeds, mouthpieces, and key assemblies), we rely here on questionnaire responses rather than official import statistics.

Imports from Italy as shown in table 12 represent those imports reported by Pizzi, Ferree's, and Powell Flutes. In 1992 Pizzi imported \*\*\* percent of all Pisoni pads imported into the United States. Both the quantity and the value of U.S. imports of pads for woodwind instrument keys increased steadily during the period for which information was requested. Total U.S. imports increased from \*\*\* pads, valued at \$\*\*\*, in 1990 to \*\*\* pads, valued at \$\*\*\*, in 1992. From January-March 1992 to January-March 1993, total imports further rose by \*\*\* percent by quantity and by \*\*\* percent by value. The average unit value of U.S. imports of pads from all sources increased from \*\*\* cents per pad in 1990 to \*\*\* cents per pad in 1992, and further rose to \*\*\* cents per pad in January-March 1993. \*\*\*.

Table 12

Pads for woodwind instrument keys: U.S. imports from Pisoni, by types, 1990-92, January-March 1992, and January-March 1993

\* \* \* \* \*

With respect to the other importers from Italy of pads for woodwind instrument keys, which import pads mainly for internal use, Burkart-Phelan purchased \*\*\* bladder pads valued at \$\*\*\* in 1990 and \*\*\* bladder pads valued at \$\*\*\* in 1991 from \*\*\*.<sup>33</sup>

#### Market Penetration of Imports

Shares of apparent U.S. consumption, by quantity and value, of pads for woodwind instrument keys are presented in table 13. Total imports of Pisoni-produced pads for woodwind instrument keys as a share of the quantity of apparent U.S. consumption rose from \*\*\* percent in 1990 to \*\*\* percent in 1992. From January-March 1992 to January-March 1993, Pisoni's share of apparent U.S. consumption further increased, rising from \*\*\* percent to \*\*\* percent.

Table 13

Pads for woodwind instrument keys: Apparent U.S. consumption, by types, 1990-92, January-March 1992, and January-March 1993

\* \* \* \* \*

As a share of the value of apparent U.S. consumption, total imports of Pisoni-produced pads increased from \*\*\* percent in 1990 to \*\*\* percent in 1992 and further increased from \*\*\* percent in January-March 1992 to \*\*\* percent in January-March 1993.

Pisoni's exports to the United States of pads made of bladder as a share of the quantity of apparent U.S. consumption increased from \*\*\* percent in 1990 to \*\*\* percent in 1992, and further increased from \*\*\* percent in January-March 1992 to \*\*\* percent in January-March 1993. Pisoni's exports to the United States of pads made of leather as a share of the quantity of apparent U.S. consumption also rose, from \*\*\* percent in 1990 to \*\*\* percent in 1992.

U.S. producers' shipments as a share of the quantity and value of apparent U.S. consumption of all pads declined continuously throughout the period for which information was requested. As a share of the quantity of apparent U.S. consumption, U.S. producers' shipments fell from \*\*\* percent in 1990 to \*\*\* percent in 1992 and declined by \*\*\* percentage points from

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<sup>33</sup> Staff telephone conversation with \*\*\*.

January-March 1992 to January-March 1993. The value of U.S. producers' shipments as a share of apparent U.S. consumption fell by \*\*\* percentage points from 1990 to 1992 and declined by \*\*\* percentage points from January-March 1992 to January-March 1993. By types of pads, U.S. producers' shipments of bladder pads as a share of the quantity of apparent consumption fell by \*\*\* percentage points from 1990 to 1992 and further decreased by \*\*\* percentage points from January-March 1992 to January-March 1993. U.S. producers' shipments of leather pads as a share of the quantity of apparent U.S. consumption declined by \*\*\* percentage points from 1990 to 1992 and further decreased by \*\*\* percentage points from January-March 1992 to January-March 1993.

Shares by quantity of U.S. open market consumption (that is, shipments not including company transfers or production for internal consumption) of pads for woodwind instrument keys are presented in table 14.

Table 14

Pads for woodwind instrument keys: U.S. producers' domestic shipments, U.S. shipments of imports, and apparent open market consumption, by types, 1990-92, January-March 1992, and January-March 1993

\* \* \* \* \*

#### Pricing and Marketing Considerations

As indicated earlier, demand for U.S.-produced pads for woodwind instruments is determined by the demand for new U.S.-produced instruments, refurbished used instruments, and instrument maintenance.<sup>34</sup> Factors that directly affect the demand for new and refurbished woodwind instruments include macroeconomic conditions, changes in school budgets that affect musical education and band programs, and changes in the elementary and secondary school population.<sup>35</sup> Instrument keypads account for less than 3 percent of the total cost of a new woodwind instrument and generally less than 4 percent of a refurbished instrument.<sup>36</sup>

The Commission sent questionnaires to 85 purchasers of pads for woodwind instruments. Firms surveyed included manufacturers of woodwind instruments

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<sup>34</sup> To a lesser extent, demand for U.S.-produced keypads is also influenced by demand for foreign-produced woodwind instruments.

<sup>35</sup> Various industry officials indicated that cutbacks in school budgets have had a negative effect on the demand for their companies' woodwind instruments over the past few years. Nonetheless, virtually all of the questionnaire respondents indicated that demand for their firms' products or services either remained stable or increased from 1990 onward.

<sup>36</sup> Based on estimates provided by OEM purchasers in questionnaire responses and on average instrument refurbishing costs provided by Charles Hagler of the National Association of Professional Band Instrument Repair Technicians (NAPBIRT). Some repair shops responding to the questionnaire cited higher estimates, but the majority reported estimates of 5 percent or less.

(OEMs), distributors, and repair shops and instrument dealers.<sup>37</sup> The Commission received 64 responses, accounting for over 63 percent of the U.S. market for the subject products. Information presented in the following sections is derived, in part, from these responses.

### Purchase Considerations

In discussions with staff and in response to the Commission's questionnaire, all types of purchasers overwhelmingly identified quality as the most important factor influencing their purchasing decisions. Purchasers also reported that product consistency and the availability of the various types and styles of pads offered by suppliers were important factors influencing purchasing decisions. Price generally was cited as the second or third most important factor (if at all) by all types of purchasers. Table 15 lists the factors influencing purchase decisions identified by respondents to the purchaser questionnaire.

The design of different types and styles of woodwind instruments dictates the particular size (thickness and diameter) and hardness of the pads used in the instrument. Industry officials report that despite their low cost, keypads are extremely important because they affect the action and sound of the instrument. Incorrectly sized pads will not seat properly in the instrument's cups and variations in thickness cause problems in the calibration of the instrument. Pads that are too hard or soft affect the mechanical action of the instrument and distract the user.

The quality of the material inputs (e.g., leather, bladder, cardboard, and felt) and the degree of precision maintained during the production process determine the quality of the keypad. Purchasers, particularly OEMs, consider product consistency to be an element of quality. Inconsistencies in pad dimensions and hardness can render the pad unusable and disrupt the flow of production.<sup>38</sup> If a pad is too thin, it can be "built up" with a paper washer and glue. Pads that are too thick, not uniform, or of the wrong diameter or degree of hardness cannot be adjusted. Dealers and repair shops reported fewer problems with dimensional inconsistencies because these companies service a wide variety of products with different specifications. Nonetheless, because such inconsistencies increase the amount of time it takes

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<sup>37</sup> OEMs and distributors account for approximately 87 percent of total sales of the subject products. Questionnaires were sent to all known firms that fall within these categories. Questionnaires also were sent to a small sample of instrument repair establishments and dealers because \*\*\*.

<sup>38</sup> Instrument producers cited slowdowns in the production line and actual shutdowns as a result of shipments of pads of inconsistent quality. In addition, \*\*\* reported having to buy small lots of pads from alternative sources at higher prices in order to maintain normal operations (Nov. 13, 1992).

Table 15

Factors affecting the purchase of pads for woodwind instrument keys, by types of purchaser, levels of importance, and frequency

(In percent, except as noted)			
Factor	OEM	Distributor	All other
<u>Most important</u>			
Quality . . . . .	100	67	64
Availability . . . . .	-	33	5
Price . . . . .	-	-	10
Traditional supplier . . . . .	-	-	10
Buy American . . . . .	-	-	3
Delivery . . . . .	-	-	3
Product range . . . . .	-	-	3
Product specification . . . . .	-	-	3
Total . . . . .	100	100	100
No. of respondents . . . . .	13	6	39
<u>Second most important</u>			
Availability . . . . .	23	17	38
Quality . . . . .	31	17	28
Price . . . . .	8	50	3
Traditional supplier . . . . .	-	-	10
Delivery & reliability . . . . .	31	-	3
Consistency . . . . .	-	17	5
Variety . . . . .	-	-	8
Service . . . . .	8	-	3
Pre-arranged contract . . . . .	-	-	3
Total . . . . .	100	100	100
No. of respondents . . . . .	13	6	39
<u>Third most important</u>			
Price . . . . .	50	-	23
Availability . . . . .	8	-	21
Variety . . . . .	-	-	15
Traditional supplier . . . . .	8	-	12
Service . . . . .	8	-	12
Quality . . . . .	25	-	3
Delivery . . . . .	-	-	9
Consistency . . . . .	-	-	6
Total . . . . .	100	0	100
No. of respondents . . . . .	12	0	34

Note: Because of rounding, totals may not equal 100.

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



to repair an instrument, they are a concern for this sector of the industry as well.<sup>39</sup>

For the most part, OEMs reported having qualification requirements. OEMs generally specify the precise characteristics of the pads and evaluate samples submitted by pad manufacturers to determine whether the pads are acceptable. For some firms, the process may take less than a day. Other firms reported that the evaluation process takes up to two months. Although many of the distributors and firms in the "all other" category reported having no formal qualification process, 42 percent of the distributors and 34 percent of the dealers and repair shops reported having some method of evaluating the products.

In its final questionnaire response, Pizzi reported that \*\*\* various instrument manufacturers' requirements. Prestini indicated that \*\*\*.<sup>40</sup> Of the 11 OEMs that reported having qualification procedures, 4 reported qualification failures during the period of investigation. Of these failures, three incidents involved Prestini's products, and one involved the Italian products. Only one dealer reported problems qualifying products; the incident involved Prestini's products. Purchasers in the "all other" category reported problems with products made by Pisoni, Prestini, and other U.S. producers.<sup>41</sup> However, some of the incidents occurred prior to the period of investigation.

Purchasers of all types generally reported that they switched suppliers infrequently. The reasons most frequently cited for switching included declining quality, product inconsistency (e.g., differences between samples provided during qualification trials and subsequent shipments of the products), and slow delivery.<sup>42</sup> Of the firms that changed suppliers, the majority switched from U.S. producers (primarily Prestini) to suppliers of the Italian product.

A number of instrument dealers/repair shops reported sourcing products from a particular supplier. In addition to quality, other reasons cited include established working relationships, tradition, customer preferences,

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<sup>39</sup> In an attachment to its posthearing brief, Prestini provided a sample of its customers' complaints during 1993. According to Prestini's log, \*\*\*.

Commission staff contacted one customer listed in the attachment. \*\*\* reported that he has had repeated problems with Prestini's products during 1993. The leather used to make some of the pads has not been satisfactory (the finish wears off after limited use). Some pads are waterproofed; some are not. Delivered pads have not always resembled the samples. \*\*\* reported that Prestini initially did not respond to his complaints; however, recently Prestini has dealt with these problems.

<sup>40</sup> In its preliminary questionnaire response the petitioner indicated otherwise.

<sup>41</sup> For example, one firm reported problems with Pisoni's flute pads in 1991 or 1992. Another, \*\*\*, reported that \*\*\*.

<sup>42</sup> Other reasons cited included the combination of far superior quality and better pricing (switched to the Italian product); better quality, custom colors, and sizes (switched to Prestini); and the retirement of an employee (switched to the Italian product).

and (in the case of repair shops) the ability to purchase a wide variety of instrument parts from a single source.

### Comparison of U.S. and Italian Suppliers

A number of the OEMs and distributors responding to the questionnaire either reported no difference between the Italian and U.S. producers' marketing efforts or did not provide a response. However, approximately 50 percent of the OEMs and distributors reported differences and indicated that the Italian manufacturer (or U.S. importers) were superior to U.S. manufacturers in terms of service (sales and technical support), quality, and return provisions.<sup>43</sup> Most of the respondents in the "all other" category did not provide responses to these questions because the firms buy the Italian product from U.S. distributors.<sup>44</sup>

Purchasers were asked to rate how closely domestic and Italian keypads compare on the basis of factors such as availability, reliability of supply, delivery time, delivery terms, lowest price, quality, and service. Few respondents in the "all other" category responded to this question. The preferences of the OEMs and distributors are reported below (in percent):

	<u>U.S.</u>	<u>Italy</u>	<u>Equal</u>	<u>No</u> <u>response</u>	<u>Total</u>
Availability.....	6	44	50	-	100
Reliability of supply.....	-	56	44	-	100
Delivery time.....	25	38	31	6	100
Delivery terms.....	6	19	56	19	100
Lowest price.....	31	31	31	6	100
Quality.....	13	69	13	6	100
Service.....	13	50	31	6	100

### Pricing Strategies and Other Considerations

Instrument keypads are priced on the basis of the type and size of the pad and the total quantity of the sale. Both the petitioner and the respondent indicate that they follow price lists. Typically, prices charged to OEMs are lower than those charged to distributors. Prices for dealers and repair shops are marked up over the prices charged to distributors.<sup>45</sup>

<sup>43</sup> In addition, in its response to the Commission's producer questionnaire, \*\*\*.

<sup>44</sup> Many repair shops and instrument dealers indicated that they did not care where the pads came from. When they buy the pads from distributors, the firms indicated that the pads are not identified according to country of origin. Some respondents in the all other category were aware of the country of origin and the manufacturer of the pads. These firms provided mixed responses to questions regarding differences between the Italian and U.S. products.

<sup>45</sup> In its preliminary questionnaire, \*\*\*.

During the hearing, a witness for the respondents provided the Commission with \*\*\*. Mr. Prestini stated to Commission staff that \*\*\*.<sup>46</sup>

Commission staff contacted 13 of Prestini's customers in an effort to verify whether \*\*\* assertion was true. \*\*\*.

The petitioner reported that it prices pads on a \*\*\* basis. The respondent indicated that it prices its products on a \*\*\* basis. Transportation costs are not a significant factor affecting the sale of keypads. Purchasers report that transportation costs generally account for less than 4 percent of the cost per pad.

The petitioner and respondent reported that all sales were on a \*\*\* basis.<sup>47</sup> Purchase orders typically allow up to a \*\*\* lead time (for the respondent) and \*\*\* (for the petitioner) and may cover multiple shipments spread out over a number of months. A number of purchasers, including dealers and repair shops, reported experiencing problems with the delivery of \*\*\*'s products. In general, problems cited include late delivery, incorrect shipments (in terms of quantities and styles), and incorrect invoices.<sup>48</sup>

#### Producer and Importer Price Trends

The Commission requested value and quantity data from U.S. producers and importers for their overall sales of pads for woodwind instrument keys by quarter during January 1990-March 1993. U.S. producers and importers were requested to submit separate data for their quarterly sales to (a) OEMs, (b) distributors, and (c) all other types of purchasers.

The Commission requested value and quantity data for the following product specifications:

Product 1: Double bladder, transparent, pressed felt clarinet pads, 6mm-20mm (e.g., Prestini No. 3254; Pisoni No. 460)

Product 2: Double bladder, transparent, woven felt flute pads, 11mm-20mm (e.g., Prestini No. 4251; Pisoni No. 450)

Product 3: Leather saxophone pads with full cardboard back, woven felt, and plastic resonators, 22.5mm-30mm (e.g., Prestini No. 275; Pisoni No. 208)

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<sup>46</sup> Staff fieldwork of Aug. 19, 1993.

<sup>47</sup> Some purchasers (in particular, OEMs) reported having contracts with the \*\*\*.

<sup>48</sup> \*\*\* stated that his company had experienced problems with \*\*\* (Nov. 16, 1992). \*\*\* also stated that his company had to keep as much as 2 years of inventory on hand to insure against supply problems.

Product 4: Leather saxophone pads with full cardboard back, woven felt, and plastic resonators, 38.5mm-46mm (e.g., Prestini No. 275; Pisoni No. 208)<sup>49</sup>

Only one U.S. producer (Prestini) and two importers (Pizzi and Powell Flutes) submitted usable pricing data. The reported quantity data from these companies for products 1-4 accounted for approximately \*\*\* and \*\*\* percent of their domestic shipments of U.S.-produced and Italian instrument key pads, respectively, in 1992. Unit values reported below are shown by sales to OEMs, distributors, and all other purchasers.

**Average unit value trends**

The U.S. producer's average unit values \*\*\* of the products during January 1990-March 1993. In contrast, average unit values reported by the importer \*\*\*.<sup>50</sup> In the OEM and distributor markets, the \*\*\* price \*\*\* that did occur were \*\*\* than those reported by the \*\*\*. In the "all other" sector of the market, where the \*\*\*, reported \*\*\* in average unit values also were \*\*\* than those reported by the \*\*\* for the OEM and distributor market sectors.

**Sales to OEMs.--\*\*\*.** U.S. producer's and importers' average unit values and quantities of sales to OEMs are shown in table 16. \*\*\*.

Table 16

Pads for woodwind instrument keys: U.S. producer's and importers' average unit values and quantities of sales to OEMs, by products and by quarters, January 1990-March 1993

*	*	*	*	*	*	*
*	*	*	*	*	*	*

\*\*\* of \*\*\* percent. Average unit values for sales of domestic product 4 to OEMs \*\*\* percent between the first quarter of 1990 and the second quarter of 1992. During the same period the reported values for the Italian product \*\*\* percent; they \*\*\* by \*\*\* percent during the entire reporting period.

**Sales to distributors.--U.S. producer's and importers' average unit values and quantities of sales to distributors are shown in table 17.**

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<sup>49</sup> During the preliminary investigation, the Commission requested pricing data for a different type of saxophone pad. Because sales of this product were limited, the product type was changed during the final investigation.

<sup>50</sup> \*\*\* only reported sales of Italian product 2 to OEMs. \*\*\* reported that average unit values did not change during the period of investigation. This section reviews changes in average unit values reported by \*\*\*.

Table 17

Pads for woodwind instrument keys: U.S. producer's and importers' average unit values and quantities of sales to distributors, by products and by quarters, January 1990-March 1993

*	*	*	*	*	*	*
*	*	*	*	*	*	*

*Sales to other customers.*<sup>51</sup>--U.S. producer's average unit values and quantities of sales to "all other" customers are shown in table 18. \*\*\*.

Table 18

Pads for woodwind instrument keys: U.S. producer's average unit values and quantities of sales to "all other" customers, by products and by quarters, January 1990-March 1993

*	*	*	*	*	*	*
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#### Unit Value Comparisons

The reported sales information for the U.S. producer's and importers' quarterly shipments to OEMs during January 1990-March 1993 resulted in 31 unit value comparisons (table 19). In 28 of these comparisons, the Italian product undersold the domestic product, with margins ranging from \*\*\* to \*\*\* percent. In two cases, the Italian product was priced above the domestic product, by margins of \*\*\* and \*\*\* percent. In one case, the prices were equal.

Table 19

Pads for woodwind instrument keys: Margins of under/(over)selling for unit values of sales to OEMs and sales to distributors, by products and by quarters, January 1990-March 1993

*	*	*	*	*	*	*
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Calculated margins of underselling for products 1, 3, and 4 by \*\*\* declined steadily during the period. During the first 2 quarters of 1992, \*\*\* product 1 was priced below the \*\*\* product. No comparisons were possible after June 1992 because the \*\*\* reported no sales of these products to OEMs.

Forty-seven comparisons between U.S. and Italian average unit values were observed for sales to distributors. In 31 of these comparisons, the Italian product undersold the domestic product, with margins ranging from \*\*\* to \*\*\* percent. In 16 cases, the Italian product was priced above the U.S. product, with margins ranging from \*\*\* to \*\*\* percent. Overselling by the U.S. importer was limited to products 1 and 2.

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<sup>51</sup> \*\*\*.

## Purchaser Price Trends

The Commission requested product-specific quantity and value data for the January 1990-March 1993 period. Product specifications for which pricing data were requested were the same as those requested from producers and importers.<sup>52</sup> In addition, purchasers were asked to report these data on a vendor basis. Forty respondents to the Commission's questionnaire reported product-specific data.<sup>53</sup>

Appendix F contains purchaser responses to this section of the questionnaire. Average unit value and quantity data are provided on a product-specific basis by type of purchaser (OEMs, distributors, and all other). Although the data reported by the different types of purchasers generally are similar to data reported by the U.S. producer and two importers, there are differences in terms of average unit values and quantities. To some extent, these differences result from the various types of purchasers reporting purchases from suppliers that did not respond to the Commission's importer and producer questionnaires.<sup>54</sup>

Many of the purchasers in the "all other" category reported buying pads from distributors. In a number of cases, these purchasers were not able to identify whether the pads were of U.S. or Italian origin. Reported purchases from distributors that, in turn, purchase U.S. and Italian-produced pads were excluded by Commission staff unless the purchaser clearly indicated the products' country of origin. The following sections review average unit value trends of purchases reported by OEMs, distributors, and firms in the "all other" category.

### OEMs

Average unit values reported by OEMs for purchases of U.S.-produced products 1 and 4 generally show increases over the reporting period (figure 1). Average unit values of Italian-produced product 1 increased slightly; reported values for product 4 increased through 1992 and then declined in the first quarter of 1993. Reported unit values of U.S. product 2 declined somewhat, and values reported for U.S. product 3 fluctuated but showed little overall change through the end of 1992. Purchases of U.S. product 3 were not reported during the first quarter of 1993. In contrast, reported values for Italian products 2 and 3 generally increased throughout the reporting period.

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<sup>52</sup> Value and quantity data were requested for four specific types of keypads for clarinets, flutes, and saxophones. For exact product specifications, please see the section of this report entitled "Producer and Importer Price Trends."

<sup>53</sup> The Commission sent questionnaires to all known OEMs and distributors, based, in part, on information supplied by \*\*\*. Firms in the "all other" category were drawn from \*\*\*.

<sup>54</sup> \*\*\*.

## Figure 1

Average unit values reported by OEMs for purchases of pads for woodwind instrument keys, January 1990-March 1993

\* \* \* \* \*

Reported values of U.S. products 1, 3, and 4 generally were higher than the respective Italian products throughout the entire reporting period. Although values reported for U.S. product 2 were higher than those for the Italian product during 1990, values reported for the U.S. product declined in 1991 and were significantly lower than those reported for the Italian product. Purchases of U.S. product 2 were limited to the third quarter of 1992, and the reported average unit value continued to be lower than that for the Italian product during this period.

**Distributors**

Reported average unit values of U.S. and Italian products 1 and 2 exhibited trends that were similar to those reported by OEM purchasers (figure 2). However, differences in unit values reported for the U.S. and Italian products were generally smaller. Moreover, both U.S. products 1 and 2 exhibited fluctuations that may relate, to some extent, to fluctuations in purchase volumes. Reported average unit values of Italian products 3 and 4 increased steadily throughout the period and, for the most part, remained higher than those reported for comparable U.S. products.<sup>55</sup>

## Figure 2

Average unit values reported by distributors for purchases of pads for woodwind instrument keys, January 1990-March 1993

\* \* \* \* \*

**All other**

Reported average unit values of all four U.S. and Italian products fluctuated throughout the period (figure 3). Much of this fluctuation is related to differences in volumes reported by purchasers. Reported values for the Italian products generally were lower than those reported for the U.S. products during 1990. During the following years, reported values, quantities, and the number of respondents varied significantly and therefore make comparisons of unit values difficult.

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<sup>55</sup> Only one distributor, \*\*\*, reported purchasing U.S. products 3 and 4. The firm only provided data for 1991 and 1992. Consequently, unit value comparisons between U.S. products 3 and 4 are not possible for 1990.

Figure 3  
Average unit values reported by "all other" purchasers for purchases of pads for woodwind instrument keys, January 1990-March 1993

\* \* \* \* \*

### Lost Sales and Revenues

The Commission received allegations of lost sales and lost revenues \*\*\*. In its questionnaire response, \*\*\* reported \*\*\* that amounted to \*\*\* allegedly purchased from Italian suppliers during 1991 and 1992. The \*\*\* totalled \*\*\*.<sup>56</sup> The Commission contacted \*\*\*. The following provides a summary of the information obtained from these purchasers.

\*\*\* was named by \*\*\* in \*\*\*. During the preliminary investigation \*\*\* stated that his company was \*\*\* for keypads with \*\*\* and that the decision \*\*\* had been made after the company had experienced repeated problems with the \*\*\*. In particular, \*\*\* produced products of inconsistent quality, missed established delivery dates, shipped some orders early (forcing \*\*\* to carry extra inventory), and generated inaccurate invoices. He stated that price was a secondary consideration and that any price differences were incidental.

\*\*\*. In its questionnaire, \*\*\* reported declining purchases of both products during the 1991-92 period. The company \*\*\*. Average unit values reported by \*\*\* for the domestic and Italian products \*\*\* during the reporting period, with the \*\*\* products generally underselling the \*\*\* products. \*\*\* stated that \*\*\* purchases other sizes of this particular style of sax pad. He could not confirm whether the allegations were partially or substantially correct. He did indicate that alleged differences in price between the domestic and Italian product were overstated.<sup>57</sup>

The other \*\*\* lost sales allegations involved products \*\*\*. \*\*\*. In both cases, \*\*\* discontinued purchasing from \*\*\* after the third quarter of 1992. \*\*\*. \*\*\* reported that the purchases of products 1 and 2 listed in the company's questionnaire \*\*\* of these pad styles. In the case of all \*\*\* allegations, \*\*\*'s annual purchases of the specified products from all sources are \*\*\* (in terms of quantity) than alleged; unit values for the domestic and Italian product contained in the allegations \*\*\* to the unit values reported in \*\*\*'s questionnaire.

\*\*\* named \*\*\* in \*\*\* lost sales allegation involving product 1. In its questionnaire response, \*\*\* reported a \*\*\* pads. \*\*\* pads. In an interview with Commission staff, \*\*\* confirmed the alleged lost sale, although he did

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<sup>56</sup> These totals may not be accurate because some of the allegations appear to overlap.

<sup>57</sup> Staff interview with \*\*\*, July 20, 1993. \*\*\* did not provide specific dates (or months) for any of the allegations reported in its questionnaire. In addition, pad size was not specified. Because there are significant differences in the prices charged for different sizes of saxophone pads, it is difficult to compare these allegations with \*\*\* purchases.



not confirm the precise quantity or value. He stated that it had nothing to do with price. \*\*\* explained that \*\*\*.

\*\*\* named \*\*\* in \*\*\* lost sales allegation amounting to \*\*\* pads in 1991. In the preliminary investigation, \*\*\* stated that \*\*\*'s last purchase order with \*\*\* was dated \*\*\*. \*\*\* noted that in addition to experiencing problems with product consistency, \*\*\* repeatedly had experienced problems with inaccurate invoices. In its questionnaire response, the company reported \*\*\*. Its reported 1991 purchases of the \*\*\* product were \*\*\* than the amount specified in the allegation. Moreover, the unit values reported by \*\*\* for its purchases of the \*\*\* product were \*\*\* the unit value alleged by \*\*\*.

\*\*\* indicated that \*\*\* may have tested samples of the \*\*\* product identified in the allegation. Nonetheless, the \*\*\*. He reiterated the problems \*\*\* has had with \*\*\* regarding quality. In addition, he noted that \*\*\*.<sup>58</sup>

#### Exchange Rates

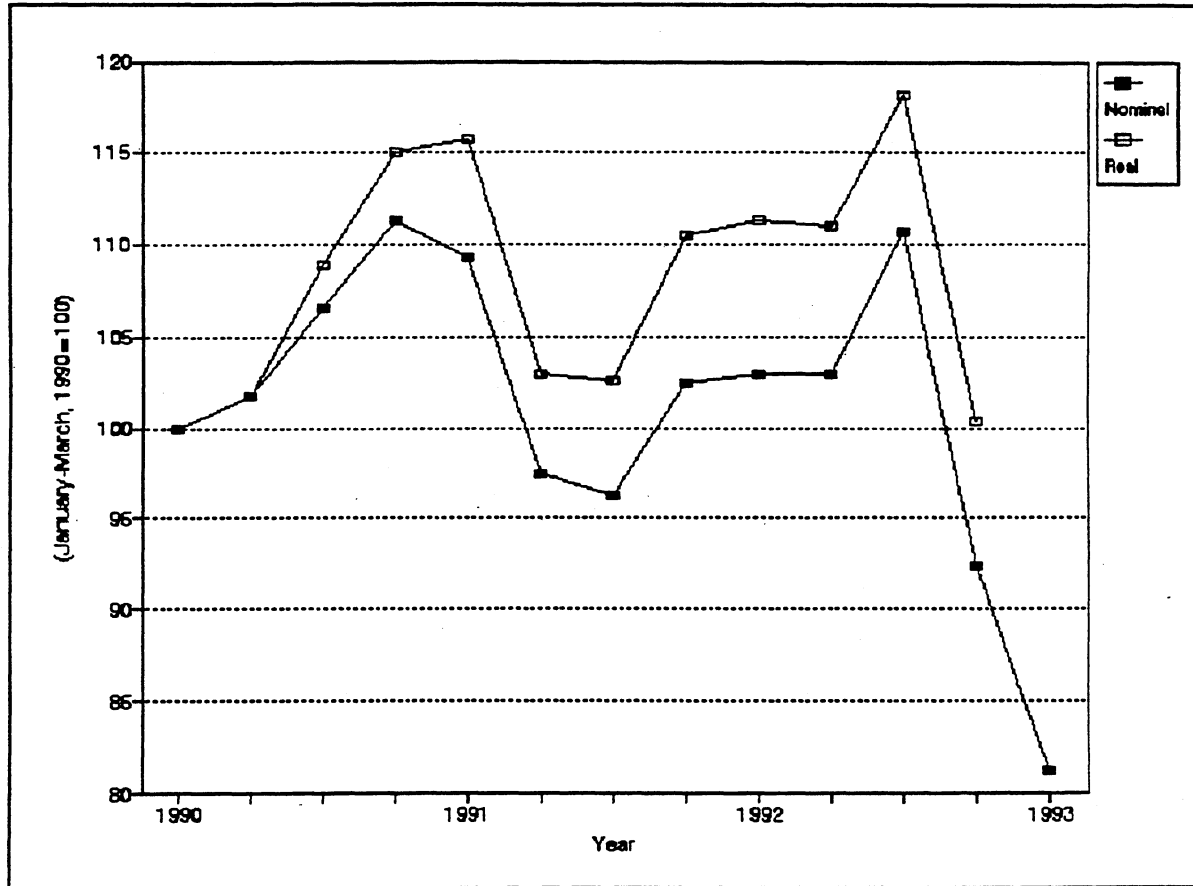
Quarterly data reported by the International Monetary Fund indicate that during January-March 1990 through January-March 1993 the nominal value of the Italian lira fluctuated, depreciating 18.8 percent overall relative to the U.S. dollar (figure 4).<sup>59</sup> Adjusted for movements in producer price indexes in the United States and Italy, the real value of the Italian currency showed an overall appreciation of 0.4 percent for the period January-March 1990 through October-December 1992, the most recent period for which official price data are available.

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<sup>58</sup> Interview with \*\*\*, July 20, 1993.

<sup>59</sup> International Financial Statistics, May 1993.

Figure 4  
Indexes of nominal and real exchange rates of the Italian lira, by quarters,  
January 1990-March 1993



Source: International Monetary Fund, International Financial Statistics, May 1993.

**APPENDIX A**

**THE COMMISSION'S AND COMMERCE'S FEDERAL REGISTER NOTICES**

**SUPPLEMENTARY INFORMATION:****Background**

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of pads for woodwind instrument keys from Italy are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on October 21, 1992, by Prestini Musical Instruments Corp., Nogales, AZ.

**Participation in the Investigation and Public Service List**

Persons wishing to participate in the 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, not later than twenty-one (21) days after publication of this notice in the Federal Register. The Secretary will prepare a public 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.

**Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List**

Pursuant to § 207.7(e) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is 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 BPI under the APO.

**Staff Report**

The prehearing staff report in this investigation will be placed in the public record on July 30, 1993, and thereafter, pursuant to § 207.21 of the Commission's rules.

**Hearing**

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on August 12, 1993, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before August 4, 1993. A nonparty who has testimony that may aid the Commission's

deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on August 9, 1993, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony in camera.

**Written Submissions**

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is August 6, 1993. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is August 20, 1993; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before August 20, 1993. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Audhearing:** 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.

Issued: June 7, 1993.

[Investigation No. 731-TA-627 (Final)]

**Pads for Woodwind Instrument Keys From Italy**

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

**ACTION:** Institution and scheduling of a final antidumping investigation.

**SUMMARY:** The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-627 (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 Italy of pads for woodwind instrument keys, provided for in subheadings 9209.99.4040 and 9209.99.4080 of the Harmonized Tariff Schedule of the United States.

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 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

**EFFECTIVE DATE:** May 25, 1993.

**FOR FURTHER INFORMATION CONTACT:**

Janine Wedel (202-205-3178), Office of Investigation, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

By order of the Commission.

Paul E. Bardoe,

Acting Secretary.

[FR Doc. 93-14203 Filed 6-15-93; 8:45 am]

BILLING CODE 7020-02-P

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[A-475-810]

**Final Determination; Antidumping Duty Investigation of Pads for Woodwind Instrument Keys From Italy Manufactured by Music Center s.n.c. di Luciano Pisoni and Lucien s.n.c. di Danilo Pisoni & C.**

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

**EFFECTIVE DATE:** August 9, 1993.

**FOR FURTHER INFORMATION CONTACT:** John Beck, Office of Antidumping Investigations, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC. 20230; telephone (202) 482-3464.

**Final Determination**

We have determined that pads for woodwind instrument keys manufactured by Music Center s.n.c. di Luciano Pisoni (Pisoni) and Lucien s.n.c. di Danilo Pisoni & C. (Lucien) (collectively respondent) from Italy are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margin is shown in the "Suspension of Liquidation" section of this notice.

**Case History**

Since publication of the affirmative preliminary determination on May 25, 1993 (58 FR 30015), the following events have occurred. Respondent requested a public hearing on May 25, 1993. On June 4, 1993, petitioner requested to participate in the public hearing.

We conducted verification on June 7 through June 9, 1993. Petitioner filed its case brief on July 12, 1993. Also on July 12, 1993, respondent notified the Department of Commerce (the Department) that it would not be submitting a case brief. A public hearing was held on July 19, 1993.

**Scope of Investigation**

The products covered by this investigation are pads for woodwind instrument keys (pads), which are manufactured by Pisoni and Lucien.

Pads for woodwind instrument keys covered by the scope of this investigation are currently classifiable under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 9209.99.4040 and 9209.99.4080. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

**Period of Investigation**

The period of investigation is April 1, 1982, through September 30, 1982.

**Such or Similar Comparisons**

We have determined that the products covered by this investigation comprise a single category of "such or similar" merchandise. Where there were no sales of identical merchandise in the third country to compare to U.S. sales, we made similar merchandise comparisons on the basis of Diameter, type of material, pad variety, type of core, type of disk, and thickness, as listed in Appendix V of the Department's antidumping questionnaire. We compared sets of pads sold in the U.S. market to sets of pads sold in the third country market, and compared individual pads to individual pads. We made adjustments, where appropriate, for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

**Fair Value Comparisons**

To determine whether sales of pads from Italy to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

**United States Price**

We based all USP on purchase prices, in accordance with section 772(b) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation and because exporter's sales price methodology was not otherwise indicated.

We calculated purchase prices based on f.o.b. sales to unrelated customers. We made one addition to USP for payments respondent received from respondent's distributor in the U.S. market for exchange rate fluctuations. We recalculated this adjustment based on the terms specified in the price protection agreement between respondent and its distributor. We made no adjustment for reported quantity discounts because the prices reported were already net of discounts. Also, we did not deduct reported expenses for air freight charges because the prices respondent reported were ex-factory prices which did not include any expenses associated with air freight. We discovered at verification that respondent did not report certain sales of pads made with cork. Therefore, we have used as best information available (BIA) for the U.S. sales of cork pads the

highest rate calculated for any other sale of the subject merchandise, as this rate was determined to be non-observational (see comment #3 in the "Analysis of Comments Received" section of this notice).

**Foreign Market Value**

We calculated FMV based on f.o.b. and c.f.f. prices to unrelated customers in Taiwan because the home market was not viable. Where possible, we compared U.S. sales to third country sales of identical and similar merchandise made at the same level of trade, in accordance with 19 CFR 353.58. We made deductions, where appropriate, for freight expenses incurred on c.f.f. sales. We made no adjustment for reported quantity discounts because the prices reported were already net of discounts.

Pursuant to 19 CFR 353.56, we made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses. Since respondent used an inconsistent methodology for calculating the credit period for U.S. and third country sales, we have added to every U.S. credit period the longest period between the date the bank receives the funds and the date the company receives the funds in either the U.S. or Taiwanese markets, as BIA (see comment #5 in the "Analysis of Comments Received" section of this notice). Since we are collapsing Pisconi and Luciani into one entity for purposes of this investigation, as stated in our preliminary determination (56 FR 30015, May 25, 1993), we have recalculated credit expenses using the average interest rate for Pisconi and Luciani.

We did not make a circumstance of sale adjustment for reported direct selling expenses because the expenses were not properly supported on the record, and it is not clear who incurs these reported expenses. Also, it is unclear how respondent derived the percentage factor it applied to USP to calculate these reported expenses. In two deficiency letters, we requested that respondent submit documents showing how this adjustment was calculated, but respondent did not do so. Respondent's narrative description only states that its direct selling expenses for products sold in the U.S. market are less than its expenses for products sold in the home market, and therefore, we should adjust upward the U.S. prices by the amount of this difference.

Moreover, at verification, respondent declined to present any documentation supporting these expenses and stated that it was no longer claiming that a

circumstance of sale adjustment should be made for them. In addition, respondent did not provide any information with respect to selling expenses incurred for products sold in third countries. Since we are using Taiwan sales as a basis for FMV and the reported expenses are not properly supported on the record, we have not made a circumstance of sale adjustment for reported direct selling expenses (see comment #9 in the "Analysis of Comments Received" section of this notice).

In reporting the physical differences in merchandise (dimer) adjustment, respondent incorrectly included amounts for packing. Because of this, as BIA we have denied respondent's claimed adjustment when it results in a decrease to the FMV (see comment #1 in the "Analysis of Comments Received" section of this notice). Where the dimer results in an increase to FMV, as BIA we made the adjustment.

**Currency Conversion**

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

**Verification**

As provided in section 776(b) of the Act, we verified information provided by respondent by using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

**Analysis of Comments Received**

**Comment 1:** Petitioner argues that the respondent omitted from the Japanese database a number of products based on the dimer adjustment, which was contrary to the Department's instructions to report all sales to Japan, regardless of the dimer adjustment. Petitioner contends that, based on the limited information gained at verification, respondent incorrectly calculated the dimer adjustment using packing charges. Thus, petitioner argues that numerous sales excluded by respondent from the Japanese database based on the dimer test should have been included and that the inclusion of these sales could have caused the Department to select Japan as the appropriate third country market.

**DOC Position:** We disagree with petitioner's assertion that the Department would have used sales to Japan as the basis for foreign market value if certain products from this

database had not been deleted by respondent. As stated in the preliminary determination (58 FR 30015, May 25, 1993), the Department selected Taiwan as the third country market because exports to Taiwan consisted of sales of the most similar merchandise and in the largest quantities. Although petitioner is correct in stating that respondent did not report all individual sales in the Japanese database, this issue is moot since we selected the Taiwanese market as the appropriate basis for FMV based on a review of the total amount of Taiwanese and Japanese sales, including those Japanese sales which were excluded from the Japanese database. These sales totals were also confirmed at the verification.

Regarding Taiwanese sales, we agree that these sales also incorrectly include packing charges in the difmer adjustment. We determined that the difmer adjustment included packing charges at the verification. The Department's policy is to calculate the difmer adjustment based on the variable cost of manufacture only, as indicated in the Department's questionnaire. Packing costs are not considered. Variable costs of manufacture and, therefore, should not be included in the difmer adjustment. Any differences in packing costs are recognized by adding the cost of U.S. packing to FMV, as required by section 773(a)(1) of the Act. Respondent made no arguments why packing should be included in the difmer adjustment in the course of the investigation. Furthermore, respondent did not provide the data in a manner that would allow us to remove the packing costs from the difmer adjustment. Therefore, as BIA, we have denied respondent's claimed difmer adjustment when it results in a decrease in FMV.

*Comment 2:* Petitioner argues that the proper date of sale should be the date when the price and quantity are agreed to, which in this case, petitioner claims, is the date of the purchase order.

(Respondent used date of the invoice to determine date of sale.) Petitioner maintains that, because respondents were unable to provide any purchase orders at verification, the Department should reject respondent's sales information and, instead, use BIA.

*DOC Position:* We disagree with petitioner. In our preliminary determination, we stated that the invoice date appears to be the date when the price and quantity are fixed. This topic was examined closely at the verification, where the Department found no evidence that the respondent ever officially confirms orders upon

receipt of the purchase order. Instead, we found that the first written documentation that could be considered to be an order confirmation is the invoice, which is produced upon shipment. Therefore, we believe that the date of sale methodology utilized by respondent in this case is reasonable.

*Comment 3:* Petitioner contends that respondent failed to report sales of pads made with cork which were discovered at verification, even though it was instructed to report these sales.

*DOC Position:* We agree with petitioner. Our scope states that: "The products covered by this investigation are pads for woodwind instrument keys." Pads made with cork are included in the scope since the scope clearly includes pads for woodwind instrument keys regardless of material. Respondent failed to report sales of pads made with cork. Therefore, the Department used as BIA for these sales the highest rate calculated for any other sale of the subject merchandise, as this rate was determined to be non-operational.

*Comment 4:* Petitioner argues that unreported bank charges were discovered during verification. Thus, petitioner states that the Department has incomplete and unreliable information to base the final determination and should therefore use petitioner's information as BIA to calculate a margin. If this is not done, petitioner argues that the Department should deduct the highest bank charge noted at verification from all sales in the U.S. market when calculating a margin.

*DOC Position:* We agree, in part, with petitioner. We found at verification that respondent incurred certain banking charges and should have reported them as direct selling expenses, as requested in the questionnaire. Therefore, as BIA, we have: (1) Calculated bank charges for U.S. sales, based on the highest percentage of the bank charge found on payments for U.S. sales; (2) calculated no bank charges for Taiwan sales; and (3) performed a circumstance of sale adjustment for the bank charges.

*Comment 5:* Petitioner asserts that the circumstance of sale adjustment for credit expenses should be disallowed because the methodology used to calculate the number of days of payment was inconsistent between U.S. sales and the third country sales. Petitioner contends as BIA, the Department should use the longest reported payment period for all U.S. sales.

*DOC Position:* We agree with petitioner. The Department's policy for calculating the credit period is to take the difference between the date of shipment and the date the company

receives payment. Based on information obtained at the verification, the methodologies between the U.S. and Taiwanese credit periods were found to be inconsistent. For U.S. sales, respondent calculated the payment period as the number of days between the date of shipment and the date the bank received payment from the customer; for Taiwan sales, it used the period between the date of shipment and the date the bank deposited the funds in respondent's bank account. As a result, the U.S. credit period was under-reported. Therefore, as BIA, we have added to every U.S. credit period the longest period found at verification, for either Taiwan or U.S. sales, between the date the bank received the funds and the date it deposited them in the respondent's account.

*Comment 6:* Petitioner maintains that the Department should deny respondent's attempt to revise at verification the interest rate it used to impute credit expenses, since it was unable to substantiate the revised rate.

*DOC Position:* We agree with petitioner. In its response, respondent had used all short-term borrowings to calculate the interest rate. At verification, respondent then attempted to revise its interest rate calculation by only including dollar-denominated short-term borrowings. However, we are not accepting this new rate since: (1) It is untimely; and (2) as described in the verification report, respondent could not substantiate the revised interest rate as they were unable to support interest paid on dollar-denominated loans. We have therefore used the rate reported in the questionnaire response and used in the preliminary determination.

*Comment 7:* Petitioner argues that the range adjustment cited by the respondent is not required because the difmer adjustment should capture the difference in physical characteristics. Petitioner requests that the Department use BIA in calculating the difmer adjustment since respondent failed to report all costs associated with different pad sizes and to delete the range adjustment.

*DOC Position:* The range adjustment only applies to Japanese sales. Because we are not basing foreign market value on sales to Japan, this issue is moot.

*Comment 8:* Petitioner maintains that since respondent did not provide information regarding inland freight on sales made to the United States, the Department should use BIA for this adjustment.

*DOC Position:* We disagree with petitioner. Based on information submitted on the record in the course of this investigation, as well as information



obtained at the verification, we have determined that respondent did not incur any inland freight on sales made to the United States. Therefore, we made no deduction to USP for U.S. inland freight charges.

**Comment 8:** Petitioner contends that since the respondent did not provide an explanation and supporting

documentation for an upward adjustment to USP which respondent had classified as a direct selling expense, the Department should use BIA for this adjustment.

**DOC Position:** We disagree with petitioner that an adjustment should be made. As stated in our preliminary determination, this adjustment was not properly supported on the record, and it was not clear who incurred this expense. This item was also examined at the verification. At the verification, company officials stated that they were withdrawing their claim for this adjustment, had no documentation to support it, and did not know what they had used to calculate it. Departmental officials checked to make sure that any selling expenses incurred had been reported and found no discrepancies. Therefore, we are not making any adjustment for this item.

**Comment 10:** Petitioner argues that, even though no documentation supporting a relationship between Pisoni or Lucien and Enzo Pizzi (the U.S. distributor) (Pizzi), Pizzi is a selling agent of Pisoni, and that the transactions between Pisoni and Pizzi are exporters' sales price transactions.

**DOC Position:** We disagree with petitioner. We informed petitioner on July 7, 1993, that we had found at verification no evidence of a relationship between the parties nor any evidence that Pizzi acted as a selling agent of Pisoni, and that we would not conduct a verification of Pizzi. Therefore, we are continuing to treat Pizzi as one of respondent's unrelated U.S. customers.

#### Critical Circumstances

Petitioner alleges that "critical circumstances" exist, with respect to imports of pads from Italy. Section 735(d)(3) of the Act provides that critical circumstances exist if we determine that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(i) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise

which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period. Since there is currently an antidumping duty order in effect with respect to imports of pads from Italy (other than those from Lucien and Pisoni), we find that there is a history of dumping in the United States of merchandise which is the subject of this investigation.

However, based on our analysis of the shipment data submitted by respondent, we have determined that massive imports do not exist. As stated in 19 CFR 353.16(f), we consider imports to be massive if there has been an increase in imports of 15 percent or more over a relatively short period of time. A comparison of respondent's shipments from April 1992 through October 1992 and those from November 1992 through May 1993, indicate that imports have increased by less than 15 percent. As such, we have determined that critical circumstances do not exist.

#### Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of pads from Italy from Pisoni and Lucien, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouses, for consumption on or after May 25, 1993, which is the date of publication of our preliminary determination in the Federal Register. There is no "All Others" rate in this investigation since the Department limited this investigation to Pisoni and Lucien, as an antidumping duty order currently exists with respect to exports of pads from all other companies in Italy. (See Pads for Woodwind Instrument Keys from Italy: Antidumping Duty Order, 49 FR 37137, September 21, 1984). This suspension of liquidation and the estimated margin shown below apply only to Pisoni and Lucien.

For previously reviewed or investigated companies, other than Pisoni and Lucien, the cash deposit rate will continue to be the company-specific rate published for the most recent review period. (See Pads for Woodwind Instrument Keys from Italy: Final Results of Antidumping Duty Administrative Review, 57 FR 48202, October 22, 1992). For unreviewed or non-investigated companies, the cash deposit rate will continue to be the all other rate published in this review period, (57 FR 48202, October 22, 1992).

For Pisoni and Lucien, the Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the FAVY of the merchandise exceeds the U.S. price, as shown below. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margin for Pisoni and Lucien is 1.62 percent.

#### ITC Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our determination. The ITC will make its determination whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled.

However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess and antidumping duty on pads from Italy entered, or withdrawn from warehouse, for consumption on or after the date of suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20(a)(4).

Dated: August 2, 1993.

Joseph A. Speerli,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-19027 Filed 8-6-93; 8:45 am]  
GALMO CODE 318-08-9



**APPENDIX B**  
**LIST OF WITNESSES WHO APPEARED AT THE HEARING**

CALENDAR OF PUBLIC HEARING

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

PADS FOR WOODWIND INSTRUMENT KEYS FROM ITALY

Investigation No. 731-TA-627 (Final)

Date and Time: August 12, 1993 - 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 St., S.W., Washington, D.C.

Opening Remarks

Petitioner

Respondents

In support of Imposition of  
Antidumping Duties:

Prestini Musical Instruments Corporation  
Nogales, Arizona

Giuseppe Prestini, President

In Opposition to the Imposition of  
Antidumping Duties:

Klayman & Associates  
Washington, D.C.  
On behalf of

Music Center s.n.c. di Luciano Pisoni & C.  
Lucien s.n.c. di Danilo Pisoni & C.  
Enzo Pizzi, Inc.

Luciano Pisoni, President, Music Center s.n.c. di  
Luciano Pisoni & C., Lucien s.n.c. di Danilo  
Pisoni & C.

In Opposition to the Imposition of  
Antidumping Duties:

Ronald Pizzi, Vice President, Enzo Pizzi, Inc.

Edward O. Kraus, President, Kraus Musical Instruments

Chuck Hagler, Executive Director, National Association  
of Professional Band Instrument Repair Technicians

Larry Klayman, Esq., President

Ms. Stephanie Luck, Assistant to  
the President



**APPENDIX C**  
**SUMMARY DATA CONCERNING THE U.S. MARKET**

Table C-1

Bladder pads for woodwind instrument keys: Summary data concerning the U.S. market, 1990-92, January-March 1992, and January-March 1993

\* \* \* \* \*

Table C-2

Leather pads for woodwind instrument keys: Summary data concerning the U.S. market, 1990-92, January-March 1992, and January-March 1993

\* \* \* \* \*

Table C-3

Pads (other than bladder or leather) for woodwind instrument keys: Summary data concerning the U.S. market, 1990-92, January-March 1992, and January-March 1993

\* \* \* \* \*

Table C-4

Pads for woodwind instrument keys: Summary data concerning the U.S. market, 1990-92, January-March 1992, and January-March 1993

\* \* \* \* \*



**APPENDIX D**  
**PRESTINI'S MEXICAN OPERATIONS**

PRESTINI'S MEXICAN OPERATIONS: 1988-91

Prestini produced pads for woodwind instrument keys in two Mexican facilities during 1988-91. Its facility in Empalme, wholly owned by Prestini, commenced production in 1988 and closed in 1991. In 1991, Prestini both opened and shut down an operation in Navojoa, Sonora, which was neither owned nor leased by Prestini. The operation was conducted \*\*\*.

The full production assembly capability of Prestini's Empalme plant was estimated at \*\*\* pads annually. Prestini stated that, to achieve this optimum capability, the plant would have had to operate at its designed full employment level of \*\*\* workers, which was never achieved. In 1989, average employment was \*\*\* workers. When the plant closed in 1991, only \*\*\* workers were employed.

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

In a supplementary questionnaire response requested by Commission staff, Prestini provided data regarding the number of pads assembled in Mexico in 1990 and 1991. Of the \*\*\* pads made by Prestini in 1990, \*\*\* were assembled in Mexico. Of the \*\*\* pads produced by Prestini in 1991, \*\*\* were assembled in Mexico.<sup>2</sup>

Prestini maintains that it \*\*\*.<sup>3</sup> \*\*\*.<sup>4</sup>

\* \* \* \* \*

POSSIBLE MEXICAN SUBCONTRACTING

As stated earlier, Prestini \*\*\*.

\* \* \* \* \*

<sup>1</sup> Staff fieldwork of July 8, 1993.

<sup>2</sup> Supplementary questionnaire response provided by Prestini in response to queries of Commission staff, July 15, 1993.

<sup>3</sup> Staff fieldwork of July 8, 1993.

<sup>4</sup> Staff fieldwork of Aug. 18-19, 1993.

<sup>5</sup> Staff fieldwork at \*\*\*.

<sup>6</sup> Staff telephone conversation with \*\*\*.

<sup>7</sup> Staff fieldwork of Aug. 18-19, 1993.

**APPENDIX E**

**COMMENTS RECEIVED FROM U.S. PRODUCERS ON THE IMPACT OF IMPORTS  
OF PADS FOR WOODWIND INSTRUMENT KEYS FROM ITALY ON THEIR GROWTH,  
INVESTMENT, ABILITY TO RAISE CAPITAL, OR EXISTING  
DEVELOPMENT AND PRODUCTION EFFORTS, INCLUDING EFFORTS TO  
DEVELOP A DERIVATIVE OR MORE ADVANCED VERSION OF THE PRODUCT**

The Commission requested U.S. producers to describe any actual or anticipated negative effects of pads for woodwind instrument keys from Italy on existing development and production efforts, growth, investment, and ability to raise capital. Prestini's comments are as follows:

1. Since January 1, 1990, has your firm experienced any actual negative effects on its growth, investment, ability to raise capital, or existing development and production efforts, including efforts to develop a derivative or more advanced version of the product, as a result of imports of pads for woodwind instrument keys from Italy?

\*\*\*."

2. Does your firm anticipate any negative impact of imports of pads for woodwind instrument keys from Italy?

\*\*\*."

3. Has the scale of capital investments undertaken been influenced by the presence of imports of pads for woodwind instrument keys from Italy?

\*\*\*."

**APPENDIX F**  
**PURCHASER UNIT VALUE DATA**

Table F-1

Pads for woodwind instrument keys: OEMs' average unit values and quantities of purchases from U.S. and Italian suppliers, by purchaser types, product types, and quarters, January 1990-March 1993

\* \* \* \* \*

Table F-2

Pads for woodwind instrument keys: Distributors' average unit values and quantities of purchases from U.S. and Italian suppliers, by purchaser types, product types, and quarters, January 1990-March 1993

\* \* \* \* \*

Table F-3

Pads for woodwind instrument keys: Repair shop/retailers' average unit values and quantities of purchases from U.S. and Italian suppliers, by purchaser types, product types, and quarters, January 1990-March 1993

\* \* \* \* \*