

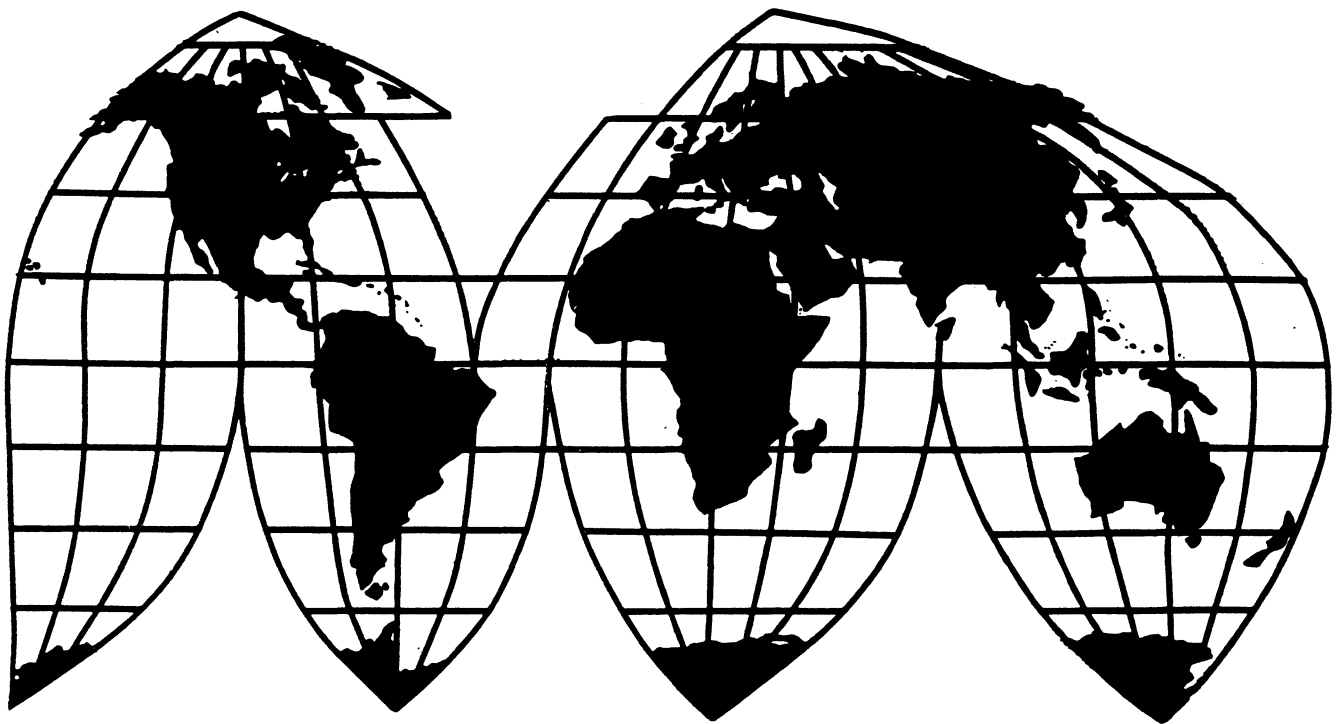
# **Certain Cased Pencils From The People's Republic of China and Thailand**

Investigations Nos. 731-TA-669-670 (Preliminary)

Publication 2713

December 1993

**U.S. International Trade Commission**



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

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

Washington, DC 20436

## **Certain Cased Pencils From The People's Republic of China and Thailand**



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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



**PART I**

**DETERMINATIONS AND VIEWS OF THE COMMISSION**



# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-669-670 (Preliminary)

## CERTAIN CASED PENCILS FROM THE PEOPLE'S REPUBLIC OF CHINA AND THAILAND

### Determinations

On the basis of the record<sup>1</sup> developed in the subject investigations, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the People's Republic of China and Thailand<sup>2</sup> of certain cased pencils, provided for in subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

### Background

On November 10, 1993, a petition was filed with the Commission and the Department of Commerce by the Pencil Makers Association, Inc., Marlton, NJ, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of certain cased pencils from the People's Republic of China and Thailand. Accordingly, effective November 10, 1993, the Commission instituted antidumping investigations Nos. 731-TA-669-670 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of November 17, 1993 (58 F.R. 60670). The conference was held in Washington, DC, on December 1, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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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> Commissioner Brunsdale and Commissioner Crawford determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of certain cased pencils from Thailand.



## IEWS OF THE COMMISSION

Based on the record in these investigations, we determine that there is a reasonable indication that an industry in the United States producing cased pencils is materially injured by reason of imports of the subject merchandise from the People's Republic of China ("China") and Thailand allegedly sold at less than fair value (LTFV) in the United States.<sup>3 4</sup>

### I. THE LEGAL STANDARD FOR PRELIMINARY INVESTIGATIONS

The legal standard in preliminary antidumping duty investigations requires the Commission to determine, based upon the best information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury by reason of the allegedly LTFV imports.<sup>5</sup> In applying this standard, the Commission weighs the evidence before it to determine whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of material injury; and (2) no likelihood exists that any contrary evidence will arise in a final investigation."<sup>6</sup> The U.S. Court of Appeals for the Federal Circuit has held that this interpretation of the standard "accords with clearly discernible legislative intent and is sufficiently reasonable."<sup>7</sup>

### II. LIKE PRODUCT

In determining whether there is a reasonable indication that 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 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>8</sup> In turn, the Act 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>9</sup>

The imported products subject to investigation are cased pencils from China and Thailand.<sup>10</sup> The principal like product issue in these investigations concerns whether "raw

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<sup>3</sup> Material retardation is not an issue in these investigations and will not be discussed further.

<sup>4</sup> Commissioners Brunsdale and Crawford determine that there is no reasonable indication that an industry in the United States producing cased pencils is materially injured or threatened with material injury by reason of the subject imports from Thailand. See Dissenting Views of Commissioners Brunsdale and Crawford.

<sup>5</sup> 19 U.S.C. § 1673b(a). See also American Lamb Co. v. United States, 785 F.2d 994 (Fed. Cir. 1986); Calabrian Corp. v. United States, 794 F. Supp. 377, 386 (CIT 1992).

<sup>6</sup> American Lamb, 785 F.2d at 1001. See also Torrington Co. v. United States, 790 F. Supp. 1161, 1165 (CIT 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993).

<sup>7</sup> American Lamb, 785 F.2d at 1004.

<sup>8</sup> 19 U.S.C. § 1677(4)(A).

<sup>9</sup> 19 U.S.C. § 1677(10).

<sup>10</sup> In its notice of initiation, the International Trade Administration of the Department of Commerce ("Commerce") defined the scope of investigation as follows:

(continued...)

pencils" should be treated as a separate like product from other pencils like those subject to investigation. A "raw pencil" is a cased pencil that is unsharpened, unpainted, and untipped.<sup>11</sup> Petitioner Pencil Makers Association, Inc. ("PMA") and respondent Government of Thailand contend that all cased pencils should be treated as a single like product. Respondent Pentech International, Inc. ("Pentech") argues that raw pencils and other cased pencils should be treated as separate like products.

PMA's witness characterized the manufacture of raw pencils as an intermediate stage in the pencil production process.<sup>12</sup> Pentech also characterizes raw pencils as unfinished products.<sup>13</sup> Accordingly, we believe that the appropriate like product analysis for determining like product treatment of raw pencils vis a vis finished pencils is the Commission's "semifinished products" analysis.<sup>14</sup> <sup>15</sup>

The record indicates that raw pencils do not need further processing to function as writing instruments; they can be sharpened and used for writing. Without further processing, however, they would warp when exposed to moisture. Consequently, pencils in the United States are lacquered and tipped before they are sold commercially.<sup>16</sup> The costs of further processing vary markedly for different types of finished pencils. Processing costs can be relatively substantial for pencils decorated by processes requiring specialized machinery.<sup>17</sup> By contrast, the most commonly sold finished pencil, the "commodity" yellow pencil, is merely lacquered, a process that does not in itself add substantial value to the pencil.<sup>18</sup>

There is some degree of interchangeability between raw and finished pencils insofar as both can be used for writing. As previously stated, the raw pencil would not be a perfect substitute for the finished pencil because of its susceptibility to warping.

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<sup>10</sup> (...continued)

The products covered by these investigations are certain cased pencils of any shape or dimension which are writing and/or drawing instruments that feature cores of graphite or other materials encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (e.g., with erasers, etc.) in any fashion, and either sharpened or unsharpened. . . .

Specifically excluded from the scope of these investigations are mechanical pencils, cosmetic pencils, pens, non-cased crayons (wax), pastels, charcoals, or chalks.

58 Fed. Reg. 64548 (Dec. 8, 1993).

<sup>11</sup> Tr. at 17, 67-68 (Dahlberg). An "untipped" pencil lacks a ferrule or eraser. See Confidential Report ("CR") at I-9, Public Report ("PR") at II-5.

<sup>12</sup> Tr. at 17-18 (Dahlberg).

<sup>13</sup> Pentech Postconference Brief at 16.

<sup>14</sup> Under this analysis, the Commission examines five factors to determine whether parts, components, subassemblies, or semifinished products should be included as the same like product as a finished product. These are: (1) the necessity for, and costs of, further processing; (2) the degree of interchangeability of articles at different stages of production; (3) whether the article at an earlier stage of production is dedicated to use in the finished article; (4) whether there are significant independent uses or markets for the finished and unfinished articles; and (5) whether the article at an earlier stage of production embodies or imparts to the finished article an essential characteristic or function. See Class 150 Stainless Steel Threaded Pipe Fittings from Taiwan, Inv. No. 731-TA-658 (Preliminary), USITC Pub. 2678 at 8-10 (September 1993); Silicon Carbide from the People's Republic of China, Inv. No. 731-TA-651 (Preliminary), USITC Pub. 2668 at 5-6 (August 1993); Uranium from Tajikistan and Ukraine, Invs. Nos. 731-TA-539D-539E (Final), USITC Pub. 2669 at 9-12 (August 1993).

<sup>15</sup> Commissioner Rohr notes that he has questioned the analytical soundness of the traditional semifinished products analysis in the past and continues to have reservations about it. He will pursue this matter further in the event that these investigations return to the Commission.

<sup>16</sup> Tr. at 17-18 (Dahlberg).

<sup>17</sup> Pentech Postconference Brief at 6, 16; see also CR at I-9-10, PR at II-5.

<sup>18</sup> See PMA Response to Commission Staff Questions, ex. 1.

There are no independent markets in the United States for raw pencils. All raw pencils produced in the United States are consumed captively by pencil producers for use in the manufacture of finished pencils.<sup>19</sup> Pentech also uses raw pencils as an input in the production of finished decorated pencils.<sup>20</sup>

Pentech argues that the "essential characteristic" of a finished pencil is its physical appearance, presumably because it markets its decorated pencils to end-users on the basis of their distinctive physical appearance.<sup>21</sup> <sup>22</sup> This is not true for pencils generally, however. The yellow "commodity" pencil does not have a distinctive physical appearance.<sup>23</sup> Moreover, raw and finished pencils share numerous physical characteristics -- indeed, they are the same article, except that raw pencils have not been tipped and decorated or lacquered. Consequently, in these investigations we believe that it is more appropriate to focus on the function of pencils in determining their essential characteristic. The essential function of a pencil would appear to be its ability to be used as a writing instrument. As stated above, both raw and finished pencils can be used for writing.

Based upon the dedication for use, independent market, and essential characteristic factors, we determine that there is one like product, cased pencils, in these investigations.<sup>24</sup>

## II. DOMESTIC INDUSTRY

Section 771(4)(A) of the Tariff Act of 1930 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>25</sup> There are two issues in these investigations pertaining to the definition of the domestic industry. The first concerns whether Pentech's U.S. operations that process raw pencils into decorated pencils constitute domestic "production." The second concerns whether appropriate circumstances exist to exclude Pentech from the domestic industry as a related party.

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<sup>19</sup> Tr. at 91 (Jorgenson).

<sup>20</sup> See Pentech Postconference Brief at 3-5.

<sup>21</sup> See Tr. at 126-27 (Melnick).

<sup>22</sup> Commissioner Brunsdale does not believe the "essential characteristic concept" has any clear relationship to the determination of the like product. Rather, she considered whether there are substantial domestic operations whose main economic interest is finishing, as opposed to producing, raw pencils. While she acknowledges that Pentech may be such a producer, it appears to be an exception in this industry.

<sup>23</sup> See CR at I-5, PR at II-4.

<sup>24</sup> The Commission has relied on these elements in recent investigations to justify single like product treatment for "semifinished" and finished products, even when other elements did not support single like product treatment. See, e.g., Class 150 Stainless Steel Threaded Pipe Fittings, USITC Pub. 2678 at 8-10; Uranium, USITC Pub. 2669 at 12.

<sup>25</sup> 19 U.S.C. § 1677(4)(A).

#### A. Status of Pentech's Decorated Pencil Operations

Pentech processes raw pencils imported from China into decorated pencils at its Edison, New Jersey facility.<sup>26</sup> It argues that these processing operations constitute domestic pencil production; petitioner PMA disagrees.

In deciding whether a firm qualifies as a domestic producer, the Commission often has analyzed the overall nature of a firm's production-related activities in the United States.<sup>27</sup> Proprietary questionnaire data indicate that Pentech's capital investments are reasonably substantial and are comparable to those of some PMA members that operate integrated production facilities in the United States.<sup>28</sup>

Pentech's processing of decorated pencils requires a degree of technical expertise. Pentech's processing encompasses a variety of steps.<sup>29</sup> Careful monitoring of the process used to decorate the pencil is necessary to ensure the design is correctly reproduced on the finished pencil. Because of the elaborate nature of some of the designs used, this process is more labor intensive and requires more skill than the lacquering process used to make "commodity" yellow pencils.<sup>30</sup>

Pentech has provided information indicating that the processing it undertakes in its New Jersey facility accounts for a substantial percentage of the total value of its decorated pencils.<sup>31</sup> It also has provided proprietary data concerning the number of its employees in

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<sup>26</sup> Pentech additionally produces from wood slats one line of pencils, the "Grip Stix," at its New Jersey facility. See Pentech Postconference Brief at 2-3. It is undisputed that Pentech's production of "Grip Stix," which entails Pentech manufacturing the raw pencil as well as the finished product, constitutes domestic production. To enable us to evaluate domestic industry-related issues in any final investigations, we will seek further data from Pentech concerning the relative importance of its "Grip Stix" production operations vis a vis its decorated pencil processing operations.

<sup>27</sup> The Commission has examined six specific factors in this regard: (1) the extent and source of a firm's capital investment; (2) the technical expertise involved in U.S. production activity; (3) the value added to the product in the United States; (4) employment levels; (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 of the like product, including where production decisions are made. Stainless Steel Wire Rod from India, Inv. No. 731-TA-638 (Final), USITC Pub. 2704 at I-9-10 n.33 (November 1993); Class 150 Stainless Steel Threaded Pipe Fittings from Taiwan, Inv. No. 731-TA-658 (Preliminary), USITC Pub. 2678 at 13 (September 1993); Compact Ductile Iron Waterworks Fittings, USITC Pub. 2671 at 22; DRAMS, USITC Pub. 2519 at 11-12. The Commission has emphasized that no single factor -- including value added -- is determinative and that value added information becomes more meaningful when other production activity indicia are taken into account. See, e.g., Compact Ductile Iron Waterworks Fittings, USITC Pub. 2671 at 23; Color Television Receivers from the Republic of Korea and Taiwan, Invs. Nos. 731-TA-134-135 (Final), USITC Pub. 1514 at 7-8 (May 1984). It also has stated that it will consider any other factors it deems relevant in light of the specific facts of any investigation. Compact Ductile Iron Waterworks Fittings, USITC Pub. 2671 at 23; Erasable Programmable Read Only Memories from Japan, Inv. No. 731-TA-288 (Final), USITC Pub. 1927 (December 1986).

<sup>28</sup> See Producers' questionnaire data.

<sup>29</sup> Pentech states that it first conducts a quality control inspection of the imported raw pencils and discards defects. Second, it applies wood fillers and sealers to even out rough finishes, pits, or cracks in the raw pencils. It then lacquers the pencils. Next is painting and foil application, in which it uses multicolor printing presses and foil application machinery to apply proprietary designs to the pencils. Pentech then cuts a shoulder in one end of the pencil, places a ferrule on the shoulder, and inserts an eraser in the ferrule. A Universal Product Code is then placed on those pencils that will be sold in bulk by mass merchandisers. Finally, the pencils are packaged. Pentech Postconference Brief at 4-5.

<sup>30</sup> See CR at I-9-10, PR at II-5.

<sup>31</sup> Pentech Postconference Brief at 6. We will seek to verify this information in any final investigations.



cased pencil production.<sup>32</sup> The designs and decorations for Pentech's pencils are created by its employees or other designers in the United States.<sup>33</sup> Pentech uses mostly U.S.-purchased production equipment, but imports from China the raw pencils that it uses as inputs for the decorated pencils that it processes.<sup>34</sup>

We have concluded that because Pentech's activities employ a relatively substantial amount of capital and technical sophistication, and add substantial value to the product, they should be treated as domestic production.<sup>35</sup> The domestic processing activities in these investigations appear to be more extensive than the type of "finishing" or packaging activities that the Commission has determined in recent investigations do not constitute domestic production.<sup>36</sup>

#### B. 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 allegedly dumped or subsidized merchandise, may be excluded from the domestic industry in appropriate circumstances.<sup>37</sup> Pentech imports subject merchandise – both in the form of raw pencils and finished cased pencils – from China.<sup>38</sup> Pentech is therefore a related party and the Commission consequently must decide whether appropriate circumstances exist to exclude it from the

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<sup>32</sup> Compare Table C-1, CR at C-3-4, PR at C-3 with Table C-2, CR at C-5-6, PR at C-3-5.

<sup>33</sup> Tr. at 126-27 (Melnick); Pentech Postconference Brief at 10.

<sup>34</sup> Tr. at 125, 139-40 (Melnick); Pentech Postconference Brief at 10; CR at I-18, PR at II-11.

<sup>35</sup> As indicated above, this is because of the particular nature of the activities performed by Pentech with respect to its decorated pencils. Whether processing of yellow "commodity" pencils from raw pencils would constitute domestic production would raise somewhat different issues.

<sup>36</sup> Compare Ferrosilicon from Egypt, Inv. No. 731-TA-642 (Final), USITC Pub. 2688 at I-10-11 (October 1993) (ferrosilicon processors not part of domestic industry because of small capital investment, low value added attributable to processing) and Certain Compact Ductile Iron Waterworks Fittings and Accessories Thereof from the People's Republic of China, Inv. No. 731-TA-621 (Final), USITC Pub. 2671 at 22-23 (August 1993) (packaging of purchased components insufficient to constitute domestic production) with Class 150 Stainless Steel Threaded Pipe Fittings from Taiwan, Inv. No. 731-TA-658 (Preliminary), USITC Pub. 2678 at 13-14 (September 1993) ("finishing" of pipe fittings considered domestic production in light of finishers' significant capital investments and the value they add to the finished product).

<sup>37</sup> 19 U.S.C. § 1677(4)(B).

<sup>38</sup> CR at I-21, PR at II-12.

domestic cased pencil industry pursuant to the related parties provision.<sup>39</sup> Petitioner PMA contends that Pentech should be excluded as a related party; Pentech objects to exclusion.

Pentech's chief executive officer testified that, when Pentech began operations, the firm determined that if it used the domestic cedar wood available on the market, the "cost of the pencils would be higher than the pencil prices then charged by the domestic manufacturers to my proposed customers."<sup>40</sup> Thus it appears that Pentech made a conscious decision to import raw pencils from China as a way to minimize its production costs, and thereby maximize its profits. We therefore believe that the record supports the conclusion that Pentech imports pencils primarily to benefit from alleged LTFV pricing and is shielded from the effects of the subject imports in a manner that is unique among U.S. producers. This conclusion is corroborated by our analysis of the firm-specific financial data in these investigations, which are proprietary.<sup>41</sup> We have therefore excluded Pentech from the domestic industry as a related party.<sup>42</sup>

In light of our previous determination concerning like product, we find a single domestic industry, consisting of cased pencil producers, excluding Pentech as a related party.

#### IV. CONDITION OF THE INDUSTRY

In assessing whether there is a reasonable indication of material injury to a domestic industry by reason of allegedly dumped imports, the Commission considers "all relevant economic factors which have a bearing on the state of the industry in the United States . . . ."<sup>43</sup> These include 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>44</sup> No single factor is determinative, and we consider all relevant factors "within the context of the business cycle and conditions of competition that are

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<sup>39</sup> The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude 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
- (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; Empire Plow Co. v. United States, 675 F. Supp. 1348, 1353 (CIT 1987). 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 (January 1986).

<sup>40</sup> Tr. at 123 (Melnick). See also Tr. at 125, 127-28, 165 (Melnick).

<sup>41</sup> See Table 9, CR at I-34-37, PR at II-17.

<sup>42</sup> Even if we had included Pentech in the domestic industry, most industrywide performance indicators would have remained at similar levels and our ultimate determination would not have changed. Nonetheless, the inclusion of Pentech data would have the effect of increasing certain indicators in 1992 and interim 1993. See Tables C-1, C-2, CR at C-3-6, PR at C-3-5.

<sup>43</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>44</sup> 19 U.S.C. § 1677(7)(C)(iii).

distinctive to the affected industry."<sup>45</sup> In evaluating the condition of the domestic industry, we look at the domestic industry as a whole.<sup>46</sup>

The quantity and value of U.S. consumption of cased pencils rose throughout the period of investigation, which encompassed the period January 1990 through September 1993. Measured by quantity and value, consumption increased by approximately 25 percent from 1990 to 1992 and by over 10 percent in the first three quarters of 1993 as compared with the first three quarters of 1992 ("the interim period comparison").<sup>47</sup>

U.S. shipments by domestic industry participants (all producers except Pentech) generally increased during the period of investigation, but by lower percentages than consumption. The quantity of U.S. shipments increased by 10.8 percent from 1990 to 1992, and fell by 1.2 percent in the interim period comparison. Measured by value, U.S. shipments increased by 22.6 percent from 1990 to 1992 and by 9.5 percent during the interim period comparison. The share of total domestic consumption supplied by U.S. producers, measured by quantity, ranged between approximately 65 percent and 85 percent over the period of investigation. This share declined by approximately nine percentage points from 1990 to 1992 and by a slightly lesser amount in the interim period comparison.<sup>48</sup>

Reflecting increasing capital expenditures, the domestic industry's productive capacity rose by 6.3 percent from 1990 to 1992 and by 4.1 percent in the interim period comparison. Production increased by 16.0 percent from 1990 to 1992 and by 5.6 percent in the interim period comparison. Capacity utilization increased throughout the period of investigation as production expanded at a greater rate than capacity.<sup>49</sup>

Inventories held by the domestic industry declined irregularly from 1990 to 1992. They increased by 45.3 percent in the interim period comparison.<sup>50</sup>

Employment-related indicators were mixed. The number of production workers declined by 5.5 percent from 1990 to 1991, rose by 1.6 percent from 1991 to 1992, and then declined by 6.2 percent in the interim period comparison. Hourly total compensation increased from \$10.52 in 1990 to \$10.86 in 1991 and \$11.22 in 1992 and declined from \$12.15 to \$11.97 in the interim period comparison. Productivity, by contrast, increased by 12.6 percent from 1990 to 1991, declined by 5.5 percent from 1991 to 1992, and increased by 1.7 percent in the interim period comparison.<sup>51</sup>

The domestic industry showed gross profits throughout the period of investigation. Gross profits increased from \$24.4 million in 1990 to \$31.2 million in 1992, and rose by 0.8 percent during the interim period comparison. Operating income, however, moved erratically. The industry showed operating income of \$681,000 during 1990 and \$2.7 million in 1992, but posted an \$840,000 operating loss during 1991. There was a \$2.1 million operating profit during interim 1992; by contrast, interim 1993 figures show a \$2.3 million operating loss.<sup>52 53 54</sup>

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<sup>45</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>46</sup> See, e.g., Welded Steel Pipe from Malaysia, Inv. No. 731-TA-644 (Preliminary), USITC Pub. 2620 at 19-20 and n.79 (Apr. 1993) ("The Commission may take into account the departures from an industry or the unique circumstances of individual companies, but ultimately must assess the condition of the industry as a whole, and not on a company-by-company basis.") (citing Metallwerken Nederland B.V. v. United States, 728 F. Supp. 730, 735 (CIT 1989)).

<sup>47</sup> Table 1, CR at I-13, PR at II-8. We have not used precise figures to avoid disclosing proprietary data.

<sup>48</sup> Table C-2, CR at C-5-6, PR at C-3-5.

<sup>49</sup> Table C-2, CR at C-5-6, PR at C-3-5.

<sup>50</sup> Table C-2, CR at C-5-6, PR at C-3-5.

<sup>51</sup> Table C-2, CR at C-5-6, PR at C-3-5.

<sup>52</sup> Table C-2, CR at C-5-6, PR at C-3-5.

## V. CUMULATION<sup>55</sup>

In determining whether there is a reasonable indication of material injury by reason of LTFV imports, the Commission is required to assess cumulatively the volume and effect of imports from two or more countries subject to investigation if such imports are reasonably coincident with one another and "compete with each other and with like products of the domestic industry in the United States market."<sup>56</sup> Cumulation is not required, however, when imports from a subject country are negligible and have no discernible adverse impact on the domestic industry.<sup>57</sup>

The first question that we consider in determining whether to cumulate the subject imports from China and Thailand is whether they compete with each other and with the domestic like product. In connection with this inquiry, the Commission has generally considered four factors:

- (1) the degree of fungibility between the imports from different countries and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographic markets of imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and
- (4) whether the imports are simultaneously present in the market.<sup>58</sup>

No party has squarely argued that the subject imports fail to satisfy the "competition" requirement for cumulation, and we find that the record demonstrates that this requirement is satisfied. The same types of pencils imported from China and Thailand are also produced by the domestic industry.<sup>59</sup> Unfinished and colored pencils were imported from both China and Thailand.<sup>60</sup> Chinese and Thai pencils reach the market through the same nationwide channels

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<sup>55</sup> (...continued)

<sup>53</sup> Vice Chairman Watson, Commissioner Brunsdale, and Commissioner Crawford note that the operating losses experienced by the domestic industry in interim 1993 can be attributed predominantly to one domestic producer. Table 9, CR at I-34-37, PR at II-17. They shall seek more information concerning these losses in any final investigations.

<sup>54</sup> Based on the foregoing, Chairman Newquist and Commissioner Rohr determine that there is a reasonable indication that the domestic industry is experiencing material injury.

<sup>55</sup> Commissioners Brunsdale and Crawford do not join this section of the opinion. See their Dissenting Views.

<sup>56</sup> 19 U.S.C. § 1677(7)(C)(iv)(I); Chaparral Steel Co. v. United States, 901 F.2d 1097 (Fed. Cir. 1990).

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

<sup>58</sup> See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1988), aff'd, Fundicao Tupy S.A. v. United States, 678 F. Supp. 898 (CIT), aff'd, 859 F.2d 915 (Fed. Cir. 1988). Only a "reasonable overlap" of competition is required. See Wieland Werke, AG v. United States, 718 F. Supp. 50, 52 (CIT 1989); Granges Metallverken AB v. United States, 716 F. Supp. 17, 21-22 (CIT 1989); Florex v. United States, 705 F. Supp. 582, 592 (CIT 1989).

<sup>59</sup> CR at I-55, PR at II-26.

<sup>60</sup> CR at I-44, I-55, PR at II-20, II-26.

of distribution as domestic pencils.<sup>61</sup> Imports from both China and Thailand have been present in the domestic market throughout the period of investigation.<sup>62</sup> Although cased pencils imported from China are of lower quality than those produced in the United States, petitioner's and respondents' witnesses agreed that these quality differentials did not impair the acceptance of the Chinese pencil in the marketplace.<sup>63</sup> The limited information available from importers of Thai pencils indicated that the quality of the Thai product is somewhere in between that of the U.S. product and that of Chinese pencils.<sup>64</sup> We accordingly find that the subject imports compete with each other and with the domestic like product.

We next consider whether the subject imports from Thailand are "negligible." Section 771(7)(C)(v) of the Tariff Act of 1930 provides that we are not required to cumulate those imports of the merchandise subject to investigation that "are negligible and have no discernable adverse impact on the domestic industry."<sup>65</sup> In determining whether imports are negligible, the statute directs us to consider all relevant economic factors including, but not limited to, whether:

- (I) the volume and market share of the imports are negligible,
- (II) sales transactions involving the imports are isolated and sporadic, and
- (III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.<sup>66</sup>

For purposes of these preliminary investigations, we find that official import statistics provide the best information available concerning the volume of cased pencil imports from Thailand.<sup>67</sup> Measured by quantity, the market penetration of subject imports from Thailand rose to above 2 percent in 1991, and then declined to below 1 percent in 1992 and interim 1993.<sup>68</sup>

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<sup>61</sup> CR at I-22-23, PR at II-12-13.

<sup>62</sup> Table 15, CR at I-50, PR at II-24.

<sup>63</sup> Tr. at 99 (Jorgenson), 150 (Melnick); see CR at I-59-60, PR at II-28.

<sup>64</sup> CR at I-60, PR at II-28.

<sup>65</sup> 19 U.S.C. § 1677(7)(C)(v).

<sup>66</sup> Id.

<sup>67</sup> Respondent Government of Thailand has argued that the official import statistics are not reliable because they include considerable volumes of nonsubject merchandise. It instead contends that the Commission should use Thai export statistics for determining the volume and market share of cased pencils imported from Thailand.

We cannot conclude that the Thai export statistics constitute the best information available for purposes of these preliminary investigations. Insofar as Thailand has demonstrated that the U.S. Customs Service classifies articles other than cased pencils within the Harmonized Tariff Schedule entry for such pencils, the practice is not limited to imports from Thailand. If the official import statistics are overstated for Thailand, they are overstated for China and nonsubject countries as well. Thailand, however, has not suggested a method for adjusting the overall import database. Additionally, Thailand admits that the export data that it has proffered do not contain usable information concerning the quantity of pencils exported to the United States. See Thailand Postconference Brief at 18 & n.23.

We acknowledge, however, that Thailand has raised legitimate concerns concerning the accuracy of the official import statistics. In any final investigations, we will explore further the reliability of these data. We will also attempt to obtain more complete questionnaire data concerning the quantity and value of subject imports from Thailand.

<sup>68</sup> Table C-2, CR at C-5-6, PR at C-3-5. Measured by value, market penetration showed declines throughout the investigation and was below 1 percent for all periods. Id. To avoid disclosure of proprietary data, we have not used precise figures.

Imports from Thailand were present in the U.S. market nationwide.<sup>69</sup> They entered the United States throughout the period of investigation.<sup>70</sup>

The record in these investigations reasonably indicates that the cased pencil market is price-sensitive. Price is important in some purchasing decisions.<sup>71</sup> The Commission determined in 1992, in adding cased pencils from Thailand and several other countries to the Generalized System of Preferences, that price elasticity of U.S. demand was high, which also suggests a price-sensitive market.<sup>72</sup>

Viewed in isolation, the market penetration figures for the latter portion of the period of investigation are within the range that the Commission has previously applied the negligible import provision.<sup>73</sup> The quantity-based figures for 1990 and 1991, however, were substantially above that range and the quantity of Thai subject imports increased substantially from 1990 to 1991. Moreover, the available questionnaire data do not corroborate the contention of counsel for Thailand that Thai pencil producers have decided since 1991 to exit the U.S. market or reduce their presence in the market.<sup>74</sup> Further, the questionnaire data that are available are insufficiently complete to permit us fully to gauge the nature of the Thai presence in the U.S. market.<sup>75</sup>

In light of the conflicting inferences concerning Thai import volumes and trends raised by the official import statistics, the lack of other complete data concerning the Thai imports, and the price-sensitive nature of the pencil market, we cannot conclude in these preliminary investigations that imports from Thailand are negligible and have no discernible adverse impact on the domestic industry.<sup>76</sup> Consequently, in these preliminary investigations, we have cumulated the subject imports from Thailand with those from China.

#### VI. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGED LTFV IMPORTS

In making a preliminary determination in an antidumping investigation, the Commission is to determine whether there is a reasonable indication that an industry in the United States is materially injured "by reason of" the imports under investigation.<sup>77</sup> The Commission must consider the volume of imports, their effect on prices for the like product,

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<sup>69</sup> See CR at I-22-23, PR at II-12-13.

<sup>70</sup> See Petition, Ex. E; Table 15, CR at I-50, PR at II-24. Thailand does not contend that imports of Thai pencils were sporadic. See Thailand Postconference Brief at 39-40.

<sup>71</sup> See CR at I-74-75, PR at II-33-34. See also Tr. at 27 (Spies).

<sup>72</sup> President's List of Articles Which May Be Designated or Modified as Eligible Articles for Purposes of the U.S. Generalized System of Preferences, Invs. Nos. TA-131-18, 503(a)-23, and 332-319, USITC Pub. 2491 at 313 (March 1992).

<sup>73</sup> See, e.g., Certain Flat-Rolled Carbon Steel Products, Invs. Nos. 701-TA-319 et seq., 731-TA-573 et seq. (Final), USITC Pub. 2664 at 28-33, 108-18, 180-86, 224-36 (August 1993).

<sup>74</sup> See Table 14, CR at I-48, PR at II-22. Additionally, Thailand's arguments concerning "attenuated competition" between domestic pencils and pencils imported from Thailand are unpersuasive. Thailand argues that competition with the domestic like product is attenuated because most of its subject exports to the United States were colored pencils. There is significant production of colored pencils by U.S. pencil producers, however. See Petition, Ex. AA. Thailand also has failed to establish that its use of jelutong wood is a source of "attenuated competition," or to document its assertion that U.S. firms have expressed concerns about their ability to sell Thai pencils in the U.S. market because of their use of jelutong wood.

<sup>75</sup> See CR at I-19, I-62 (noting lack of pricing data for Thai imports), PR at II-12, II-29.

<sup>76</sup> Commissioner Nuzum finds that much of the available data tend to support the application of the negligible imports exemption with regard to imports from Thailand. The incompleteness of the record at this time (for example, with regard to prices of Thai pencils), however, prevents her from drawing firm conclusions with regard to any alleged adverse impact on the domestic industry by reason of the imports from Thailand. She notes that she will closely reexamine this issue in any final investigations.

<sup>77</sup> 19 U.S.C. § 1673b(a).

and their impact on domestic producers of the like product, but only in the context of U.S. production operations.<sup>78</sup> Although the Commission may consider causes of injury other than the alleged LTFV imports, it is not to weigh causes.<sup>79 80 81</sup> For the reasons discussed below, we find that there is a reasonable indication that the domestic cased pencil industry is materially injured by reason of alleged LTFV imports of cased pencils from China and Thailand.<sup>82</sup>

Subject import volumes increased sharply in both absolute and relative terms over the period of investigation. The quantity of subject imports increased from 1.3 million gross in 1990 to 1.7 million gross in 1991 and to 3.4 million gross in 1992. Subject import quantity increased from 2.3 million gross to 3.2 million gross in the interim period comparison. The value of imports declined slightly from 1990 to 1991, but increased by 91.4 percent from 1991 to 1992 and by 23.1 percent in the interim period comparison.<sup>83</sup> By quantity, the

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<sup>78</sup> 19 U.S.C. § 1677(7)(B)(i).

<sup>79</sup> See, e.g., Citrosuco Paulista, S.A. v. United States, 704 F.Supp. 1075, 1101 (CIT 1988).

Chairman Newquist, Commissioner Rohr and Commissioner Nuzum further note that the Commission need not determine that imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249, 96th Cong., 1st Sess. 57, 74 (1979). Rather, a finding that imports are a cause of material injury is sufficient. See, e.g., Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741 (CIT 1989); Citrosuco Paulista, 704 F. Supp. at 1101.

<sup>80</sup> Vice Chairman Watson notes that the courts have interpreted the statutory requirement that the Commission consider whether there is material injury "by reason of" the subject imports in a number of different ways. Compare United States Engineering & Forging v. United States, 779 F. Supp. 1375, 1391 (CIT 1991) ("[I]t must determine whether unfairly-traded imports are contributing to such injury to the domestic industry...Such imports, therefore, need not be the only cause of harm to the domestic industry") (citations omitted) with Metallverken Nederland B.V. v. United States, 728 F.Supp. at 741 (affirming a determination by two Commissioners that "the imports were a cause of material injury") and USX Corp. v. United States, 682 F. Supp. 60, 67 (CIT 1988) ("any causation analysis must have at its core the issue of whether the imports at issue cause, in a non de minimis manner, the material injury to the industry").

Accordingly, Vice Chairman Watson has determined to adhere to the standard articulated by Congress, in the legislative history of the pertinent provisions, which states that "the Commission must satisfy itself that, in light of all the information presented, there is a sufficient causal link between the less-than-fair-value imports and the requisite injury." S. Rep. No. 249 at 75.

<sup>81</sup> Commissioners Brunsdale and Crawford note that the statute requires that the Commission determine whether a domestic industry is "materially injured by reason of" the allegedly LTFV imports. They find that the clear meaning of the statute is to require a determination on whether the domestic industry is materially injured by reason of LTFV imports, not by reason of LTFV imports among other things. Many, if not most domestic industries, are subject to injury from more than one economic factor. Of these factors, there may be more than one that independently is causing material injury to the domestic industry. It is assumed in the legislative history that the "ITC will consider information which indicates that harm is caused by factors other than less-than-fair-value imports." S. Rep. No. 249 at 74. However, the legislative history makes it clear that the Commission is not to weigh or prioritize the factors that are independently causing material injury. *Id.*; H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979). The Commission is not to determine if the allegedly LTFV imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249 at 74. Rather, it is to determine whether any injury "by reason of" the alleged LTFV imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effect of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry." S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987) (emphasis added).

<sup>82</sup> The following discussion is applicable to the affirmative determinations with respect to China by Commissioners Brunsdale and Crawford. They find that the cumulated import volumes are not materially different from those for China alone.

<sup>83</sup> Table 15, CR at I-50, PR at II-24. A gross is 144 pencils. We have not included imports from Hong Kong in these figures, inasmuch as Commerce's initiation notice did not indicate that  
(continued...)

market penetration of subject imports increased steadily throughout the period of investigation, and exceeded 15 percent in 1992 and interim 1993.<sup>84</sup>

During the period of investigation, prices for the predominant raw material used in the production of U.S. pencils rose sharply.<sup>85</sup> The pricing data in the record, which principally concern economy "commodity" pencils, indicate that prices of domestically-produced cased pencils also rose.<sup>86</sup> Prices of the subject imports were stable or declining over the period of the investigation.<sup>87</sup> The subject imports undersold the domestic like product in the great majority of pricing comparisons.<sup>88</sup> Particularly in the latter stages of the period of investigation, the margins of underselling by the subject imports were substantial.<sup>89</sup>

The record further indicates that, despite being considered inferior in quality to the domestic like product, the subject imports were generally perceived to be competitive with and substitutable for the domestic like product.<sup>90</sup> A number of market participants reported that they perceive price differentials as outweighing differences in quality for purposes of making purchasing decisions.<sup>92</sup>

In light of these market characteristics, we believe that there is a reasonable indication that the subject imports had adverse price effects on the domestic industry. The incidence and margins of underselling appear to be significant. The fact that domestic prices generally rose over the period of investigation does not mean that the subject imports did not necessarily have adverse price effects; our statutory inquiry concerns not only whether domestic prices have been depressed, but also whether such imports cause price suppression.<sup>93</sup> The introduction of increasing volumes of low-priced imports, in a market where purchasing decisions are influenced by price, likely precluded U.S. producers from increasing prices commensurately to recoup their increased costs and thereby contributed to

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<sup>85</sup> (...continued)

pencils transshipped through Hong Kong were within the scope of the investigation and the Commission staff was unable to confirm that all pencil imports reported from Hong Kong were produced in China. See CR at I-21, I-49, PR at I-12, I-23; compare Refined Antimony Trioxide from the People's Republic of China, Inv. No. 731-TA-517 (Final), USITC Pub. 2497 at 15 n.50 (April 1992); Sparklers from the People's Republic of China, Inv. No. 731-TA-464 (Final), USITC Pub. 2367 at 13 n.42 (June 1991). In any final investigations, we intend to gather further information concerning any transshipments through Hong Kong of pencils produced in China. We expect that Commerce will clarify whether pencils produced in China and transshipped through Hong Kong are within the scope of these investigations.

<sup>84</sup> Table C-2, CR at C-5-6, PR at C-3-5.

<sup>85</sup> CR at I-60-61, PR at II-28.

<sup>86</sup> See Table 17, CR at I-64, PR at II-29.

<sup>87</sup> Tables 17, 18, CR at I-64, 68, PR at II-29-31. All pricing information in the record concerns imports from China.

<sup>88</sup> CR at I-69, PR at II-31.

<sup>89</sup> Commissioner Brunsdale and Commissioner Crawford do not rely on underselling data. They believe such reliance is particularly inappropriate in cases such as this, where there is a clear quality difference between the subject imports and the domestic like product.

<sup>90</sup> Table 19, CR at I-70, PR at II-31.

<sup>91</sup> See CR at I-59-60, PR at II-28; Tr. at 99 (Jorgenson). Most U.S. producers and importers reported in questionnaire responses that they consider mechanical pencils close substitutes for cased pencils. CR at I-10, PR at II-7. Consequently, we will seek further information concerning the degree to which the mechanical pencil market affects the cased pencil market to facilitate our causation analysis in any final investigations.

<sup>92</sup> CR at I-59-60, I-74-75, PR at II-28, II-33-34.

<sup>93</sup> 19 U.S.C. § 1677(7)(C)(ii)(II) (directing Commission to consider whether "the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree").



price suppression.<sup>94</sup> <sup>95</sup> Consequently, based on the record before us, we cannot conclude that the subject imports had no significant adverse price effects or did not adversely impact the domestic industry, particularly as evidenced by its impaired financial performance. Accordingly, we have reached affirmative determinations in these preliminary investigations.<sup>96</sup>

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<sup>94</sup> Cost of goods sold as a percentage of sales did not appreciably change during the period of investigation. See Table C-2, CR at C-5-6, PR at C-3-5. This may, however, be attributable to changes in domestic producers' production techniques and product mix. See CR at I-7, PR at II-5; Tr. at 28 (Spies). We will explore this issue further in any final investigations.

<sup>95</sup> Commissioner Brunsdale and Commissioner Crawford believe that, given the extremely large dumping margins alleged in this case, no Chinese imports would be sold in the U.S. market at fairly traded prices. They believe that because the pencil industry appears to be competitive and there is existing excess capacity, the volume of domestic producers' sales would likely increase. If domestic producers increased their output, and producers of fairly traded imports increased their sales to the U.S., it is unlikely that prices for the U.S. product would increase substantially.

<sup>96</sup> Because we have reached affirmative determinations on the basis of reasonable indication of present material injury, we need not reach the question of reasonable indication of threat of material injury. We note, however, that the current record lacks substantial data pertinent to the factors that we must consider in making threat determinations. For example, the record contains virtually no information concerning either the identity of Chinese producers or the nature of their pencil production operations, and highly fragmentary information concerning the nature of Thai producers' operations. See CR at I-46-49, PR at II-20-22. We intend to develop further information on these matters in any final investigations.



## DISSENTING VIEWS OF COMMISSIONERS BRUNSDALE AND CRAWFORD

### Certain Cased Pencils from the People's Republic of China and Thailand Invs. Nos. 731-TA-669-670 (Preliminary)

Based on the record in these preliminary investigations, we determine that there is no reasonable indication that the industry in the United States producing certain cased pencils (pencils) is materially injured or threatened with material injury by reason of imports of pencils from Thailand that are allegedly sold at less than fair value in the United States.

#### THE LEGAL STANDARD FOR PRELIMINARY DETERMINATION

Our approach to preliminary determinations is derived from the decision in American Lamb Co. v. United States.<sup>97</sup> The court's language in that decision specifies that a negative determination is appropriate only when "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of material injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."<sup>98</sup>

This does not mean, of course, that the absence of some information normally considered in a final investigation would require the Commission to find in the affirmative in a preliminary investigation. Clearly, given the short time period allowed in a preliminary investigation, the burden of requiring that all information be collected to find in the negative would nearly preclude such a finding. Rather, we consider the relation of any missing information to the likely disposition of a final investigation. In cases where there is a question as to what the evidence would show in a final investigation, we give all benefit of doubt, as instructed by the statute, to Petitioners.

We join the majority in finding a reasonable indication of material injury to the domestic pencil industry by reason of allegedly dumped imports from China, and join the majority opinion, with the exception of the discussion on cumulation.

#### Cumulation

The Commission is instructed to cumulate imports from two or more countries for the purpose of making its injury determination. However, the Commission may make an exception if imports are "negligible and have no discernable adverse impact on the domestic industry."<sup>99</sup> In deciding if imports are negligible the Commission is instructed to consider (1) the volume and market share of imports; (2) whether sales have been isolated or sporadic; and (3) whether a small quantity of imports can result in price suppression or depression, because of the price sensitive nature of the product.

In this case dumped imports are alleged to come from China and Thailand. The volume and market share of imports from Thailand, although confidential, has been extremely small and, when measured in terms of value, has declined throughout the period of investigation.<sup>100</sup> In the most recent full year of the investigation, 1992, imports from

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<sup>97</sup> 785 F.2d 994 (Fed. Cir. 1986).

<sup>98</sup> *Id.*, at 1001-04. "Clear and convincing" evidence supporting a negative determination must be "substantial," and more than a preponderance of the evidence. Since the Commission is permitted to weigh the evidence in the record, however, a negative preliminary determination may be issued if some evidence supports an affirmative determination, and even if some reasonable doubt exists as to whether a negative determination is warranted. See, e.g., Buildex Inc. v. Kason Industries, Inc., 849 F.2d 1461, 1463 (Fed. Cir. 1988).

<sup>99</sup> See 19 U.S.C. 1677(7)(C)(v).

<sup>100</sup> Measured in terms of quantity the volume and market share increased from 1990 to 1991, and declined thereafter. See Report at Table C-2.

Thailand accounted for less than 1 percent of the market in terms of quantity and was extremely small in terms of value. In the first nine months of 1993, that share declined further to even more extremely low levels in terms of quantity and value. If anything, the reported market share is overstated since a category of products broader than pencils is measured in the import statistics, and the output of one domestic producer may not have been included in the calculation of domestic production.<sup>101</sup>

According to importers, the quality of Thai pencils is lower than the quality of U.S. pencils, and higher than the quality of Chinese pencils.<sup>102</sup> Yet, the unit value of Thai pencils has been low compared to the unit value of Chinese pencils, other imported pencils, and domestic pencils.<sup>103</sup> This indicates that Thai pencils were concentrated in the low end of the market, or that cheaper non-pencil items were included in the unit value calculation.

Only in rare circumstances could we find the strikingly low levels of Thai import penetration to result in price suppression or depression because of price sensitivity in the domestic market. It is particularly unlikely that in the pencil market, the small quantity of Thai imports suppressed prices. The pencil industry is competitive and has a reasonable amount of excess capacity. Therefore, it is unlikely that any domestic producer would be able to sustain a price increase. Rather domestic producers, acting individually, would be more likely to increase output in response to any increased demand. In addition, even if domestic producers could act in concert to raise prices, it is likely that fairly traded imports would have a price disciplining effect on the market.<sup>104</sup>

There is no evidence on the record in this case that would lead us to believe that imports from Thailand are anything other than negligible.<sup>105</sup> Based on this analysis, I do not cumulate imports from China and Thailand in this case.

#### **REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY DUMPED IMPORTS FROM THAILAND**

To make an affirmative determination, the statute requires the Commission to find a reasonable indication that material injury to the domestic industry is by reason of the allegedly dumped imports. In assessing the effect of dumped imports, we compare the current condition of the domestic industry to that which would have existed had imports not been dumped. Then, taking into account the condition of the industry, we determine whether the resulting change of circumstances constitutes material injury.

In determining whether material injury is by reason of allegedly dumped imports, we must consider, among other factors, (1) the volume of the imports subject to the investigation, (2) the effect of those imports on prices in the United States for like products, and (3) the impact of those imports on domestic producers of like products.<sup>106</sup>

We have discussed the volume of imports in detail in the cumulation section. In considering the impact of that volume of imports on domestic prices and domestic producers, we give petitioner all benefit of the doubt, with respect to missing information. Thus, we assume that there would be no Thai pencils imported at fairly traded prices, and that there are no close substitutes for pencils.

In the extreme, if domestic producers captured the entire Thai market share, the increase in their volume of output would not be significant. The volume of Thai imports is insignificant compared to the volume of domestic production. In addition, for the reasons

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<sup>101</sup> See Report at II-12-16. Thai respondent provides detailed information about the inappropriate products that were included in the official import statistics. See Thailand Postconference Brief at 6-13.

<sup>102</sup> See Report at II-28.

<sup>103</sup> This was true in all periods other than interim 1993.

<sup>104</sup> The market share of fairly traded imports was about 5 percent by quantity and 15 percent by value in 1992. See report at Table C-2.

<sup>105</sup> We take into account that imports of Thai pencils have not been isolated or sporadic.

<sup>106</sup> See 19 U.S.C. 1677(7)(B).

detailed above, we do not believe that domestic producers would be able to raise prices if Thai pencils were no longer sold in the U.S. market. There are a large number of U.S. firms that appear to behave competitively, there is significant excess capacity, and capacity has been increasing throughout the investigation. Thus, it is likely that firms would increase output rather than price by a small amount, if Thai pencils were not sold in the U.S. market. In addition, it appears likely that fairly traded imports would have a price disciplining effect on the market.<sup>107</sup>

#### **THREAT OF MATERIAL INJURY BY REASON OF THE ALLEGEDLY DUMPED IMPORTS FROM THAILAND**

There is no reasonable indication that the domestic industry producing pencils is threatened with material injury by reason of allegedly dumped imports from Thailand. We have examined all the relevant statutory factors, keeping in mind that this determination must 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."<sup>108</sup>

While we do not have data on Thai capacity from every firm, there is no evidence that any excess capacity, assuming it exists, will result in a significant increase in imports to the United States. There has been no substantial increase in market penetration of imports from Thailand. In fact, imports have decreased every year in value terms, and since 1991 in quantity terms.

Relying on official data that, if anything, overstates their quantity and market share, Thai imports have remained negligible despite their low unit value. In the interim period the unit value of Thai imports increased substantially. Thus, any supposition that the prices of Thai imports would have price suppressing or depressing effects would be pure speculation.

There are no inventories of Thai pencils in the United States, and no other demonstrable adverse trends indicating the probability that the importation of the merchandise will be the cause of actual injury.

#### **CONCLUSION**

Based on the record in this investigation, we find no reasonable indication that the pencil industry is materially injured or threatened with material injury by reason of allegedly dumped imports from Thailand.

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<sup>107</sup> Certain low-priced fairly traded imports, made of the same type of wood as Thai pencils, may be closer substitutes for the subject imports than the domestic like product. See Report at II-24.

<sup>108</sup> 19 U.S.C. §1677(7)(F)(ii)



## **INFORMATION OBTAINED IN THE INVESTIGATIONS**





## INTRODUCTION

On November 10, 1993, counsel for the Pencil Makers Association, Inc. (PMA), Marlton, NJ, filed a petition with the U.S. International Trade Commission (the Commission) and the U.S. Department of Commerce (Commerce) alleging that an industry in the United States is materially injured and is threatened with material injury by reason of imports from the People's Republic of China (China) and Thailand of certain cased pencils<sup>1</sup> that are alleged to be sold in the United States at less than fair value (LTFV). Accordingly, effective November 10, 1993, the Commission instituted antidumping investigations Nos. 731-TA-669-670 (Preliminary) under section 733(a) of the Tariff Act of 1930 (the Act)<sup>2</sup> to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially injured, by reason of imports of such merchandise into the United States.

The statute directs the Commission to make its preliminary determination within 45 days after receipt of the petition, or, in these investigations, by December 27, 1993. Notice of the institution of the Commission's investigations was posted in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and published in the *Federal Register* on November 17, 1993. Commerce published its notice of initiation in the *Federal Register* on December 8, 1993. Copies of the cited *Federal Register* notices are presented in appendix A.<sup>3</sup> The Commission held a public conference in Washington, DC, on December 1, 1993, at which time all interested parties were allowed to present information and data for consideration by the Commission. A list of conference participants is presented in appendix B. The Commission's votes in these investigations were held on December 20, 1993. The Commission has not conducted a previous investigation on the subject product.

A summary of the data collected in these investigations is presented in appendix C.

## THE PRODUCT

### Description and Uses

Pencils and crayons, with leads encased in a rigid sheath, include many articles. A cased pencil is a writing, drawing, or marking instrument usually having a graphite core encased within a wooden sheath.<sup>4</sup> The wood, in most instances, is covered with several coats of quick-drying lacquer (painted) and is tipped with an eraser and ferrule (the small circular bands of aluminum which affix the eraser to the top of the pencil) to make a finished pencil.

In addition to ordinary writing pencils, many different types of pencils are produced in the United States, including colored, golf, decorated, designer, novelty, promotional, advertising, carpenter, and drawing pencils. Pencils of all types are used almost exclusively for writing and drawing on paper or making marks on other objects. Decorated, designer, and novelty pencils are used not only for writing, but also for collecting, especially by children.

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<sup>1</sup> The products covered by these investigations are certain pencils of any shape or dimension which are writing and/or drawing instruments that feature cores of graphite or other materials encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (e.g., with erasers, etc.) in any fashion, and either sharpened or unsharpened, provided for in subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States (HTS).

<sup>2</sup> 19 U.S.C. 1673b(a).

<sup>3</sup> 58 F.R. 60670 and 58 F.R. 64548.

<sup>4</sup> Empire Berol uses a polymer core as well as an extruded plastic case for some of its pencils. Faber-Castell recently introduced a pencil with a sheath made from recycled cardboard and paper.

The most commonly sold pencil is the so-called commodity or economy pencil, the standard yellow number 2 pencil,<sup>5</sup> and the majority of subject imports consist of this product. Industry descriptions of these goods are more specific than the tariff nomenclature. For tariff purposes, a sheathed crayon is a "pencil" with a colored core, usually called a colored pencil;<sup>6</sup> and any article whether or not in finished form would be classified as a pencil when imported. A raw pencil has neither been lacquered nor had the eraser and ferrule added.<sup>7</sup> Such a raw pencil is always further processed in the United States into a finished pencil.<sup>8</sup> Most imported articles are yellow economy pencils, colored pencils, decorated pencils, or raw pencils. The differences in appearance between U.S.-produced and imported pencils are not sufficiently great for the average retail customer to detect them.<sup>9</sup> However, the imported pencils subject to these investigations are made from lower-quality, less expensive wood, erasers, ferrules, and cores than comparable U.S.-made articles.<sup>10</sup>

The pencil "blank" is the next stage of production after the raw pencil. Lacquer (sometimes also ferrules and erasers) has been added to the raw pencil to make a blank.<sup>11</sup> Pencil blanks are sold to other producers for finishing and, usually, round pencil blanks are sold to advertising firms for imprinting logos of clients.

### Production Process

The production process for both domestic and imported pencils is believed to be essentially the same, although there are differences from plant to plant in the degree of automation.<sup>12</sup> Even within the same factory, some U.S. producers have lines with different degrees of automation. The largest U.S. firms are more vertically integrated (making the core (the "lead"), ferrule, and/or eraser), while others may purchase those items. The standard core is made of graphite, clay, wax, and proprietary chemical mixtures, the specific combination of which determines its "hardness." The clay is weighed and mixed with water and graphite. This mixture is passed through a formulated wax solution that determines the strength and quality of the core. It is then processed in a centrifuge, ground in a hot tank, sent through a filtration process (to reduce the amount of water), cooled on rotating rollers, pressed into pellets that are shaped by a die into cores, and cut to length, dried, and furnace heated (to add strength). The process of making colored cores is similar except that pigments are used in place of graphite to give color, more wax is added, and the mixture is not furnace heated. Of those few cores made from plastic, the polymer is extruded.

The ferrules are stamped from coils of thin aluminum strip. Following stamping, they are shaped in a series of dies that form the ends and add the circular indentations needed to attach them to the wood and the eraser.

The pencil sheaths are usually made of wood, but small amounts are made of extruded plastic (by Empire Berol) and recycled cardboard/paper (by Faber-Castell). Virtually all the rest of U.S.-

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<sup>5</sup> The number designation on a pencil refers to the hardness of the core, 1 being the softest and 4 the hardest. Artists' drawing pencils and drafting pencils each have separate hardness designation labeling systems.

<sup>6</sup> Various pigments are used instead of graphite in the colored core.

<sup>7</sup> The petitioners use this definition of a raw pencil. Pentech International defines this as a raw pencil blank; transcript of the public conference (conference TR), pp. 152-155.

<sup>8</sup> Conference TR, p. 91 and p. 125.

<sup>9</sup> Conference TR, pp. 61-62.

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

<sup>11</sup> The petitioners use this definition of a pencil blank. Pentech defines a finished pencil blank (in contrast to its "raw" pencil blank) as a pencil having the lacquer, eraser, and ferrule added, without any imprinting, and usually round and white; conference TR, p. 125.

<sup>12</sup> The Chinese pencil industry is believed to be fully integrated, i.e., the pencil manufacturers produce all components; petition, p. 30.

produced pencils use California incense cedar wood.<sup>13</sup> The producer receives a precut rectangular piece of wood called a slat, slightly over 7 inches long and slightly under 3 inches wide (see figure 1 for the nine steps to produce a pencil). The number of pencils that can be made from a slat depends on the ply of the wood. Traditionally, 7 pencils were made from a 7-ply slat, the most commonly used size, but most producers now make 9 pencils from this slat. A single groove is cut lengthwise on one side of the slat to allow it to be guided through the equipment and multiple grooves are cut on the other side for the cores.

These slats are fed into a gluing machine from two points. One slat lying flat with the core grooves facing up has glue placed on this surface. The slat passes under a rotating ferris wheel type machine that puts cores in the grooves. A second slat with glue coated on its grooved side is placed on top of the first slat, making what is called a "sandwich." About 40 sandwiches are clamped together under pressure for a least two hours to insure bonding and reduce warping.

Next, an end saw trims the rough ends of the sandwich. The sandwich then passes through a shaping or milling blade that cuts the top half into pencil shapes. The unshaped half then passes through either the same milling blade or another blade further along the production line. Changing the milling blade allows cutting either the hexagonal standard commodity pencil, the round pencil used in decorated pencils and other applications, or other shapes and sizes.

Next, three-to-seven coats of quick-drying colored lacquer are added to "paint" the pencil, followed by a final clear coat. The pencil passes through a container of lacquer after which it is forced through a rubber gasket that removes the excess paint to hasten the drying process. The number of coats varies depending upon the use and quality of the pencil. A heading machine shaves off the tip of one end of the pencil where paint has gathered to improve appearance and quality. The process of tipping also indents the other end of the pencil to form a shoulder onto which the ferrule is fixed. The other end of the ferrule receives the eraser. Crimping pressure or piercing holes secure the ferrule to the wood and the eraser to the ferrule.

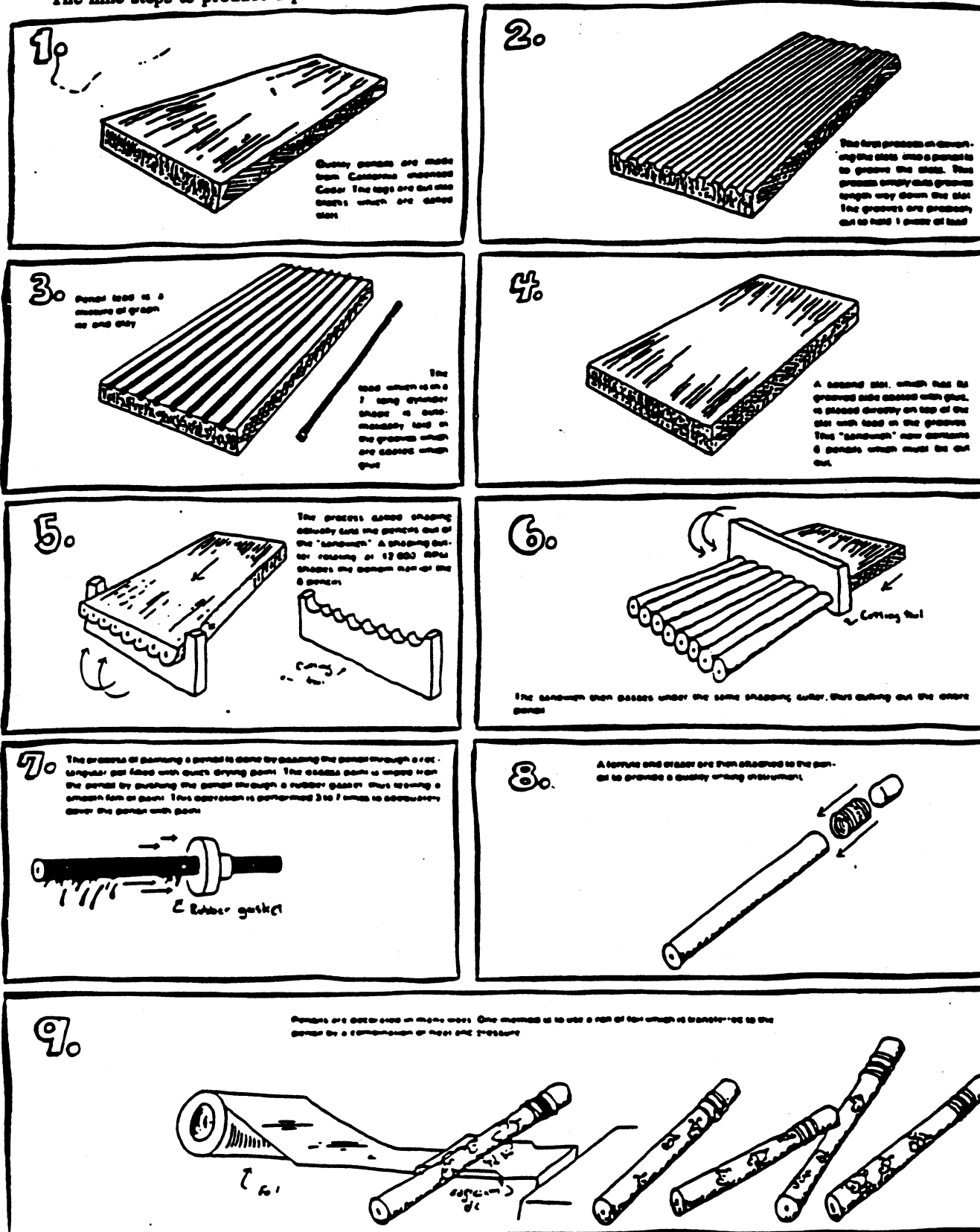
Specialty pencils, such as decorated pencils, undergo other operations to improve appearance, catch the eye of the customer, or encourage collecting of different designs. These operations are more labor intensive and require more skill than those used to produce commodity pencils because greater care must be taken in monitoring the various decoration application processes and to assure quality control. The specialized design of these pencils allows producers to charge more to overcome this cost disadvantage. One printing technique is to transfer designs from a roll of colored and/or design-covered foil to a round pencil by a combination of a hot die and pressure. Multicolored designs, including intricate comic strips produced under license, can be created using a carefully monitored \*\*\*. A recent innovation used by certain producers of specialty pencils is a UPC bar code labeling machine. This machine places a label with a code on it on a single pencil so it can be purchased separately.

Throughout the production process, manual quality control checks identify rejects or seconds that may be sold at reduced prices. The reject rate is much higher for specialty pencils.

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<sup>13</sup> Dixon Ticonderoga uses a small amount of imported Indonesian jelutong wood, a rain forest product. Pentech International imports raw Chinese basswood pencils (raw pencil blanks) from China that it processes into finished pencils.

Figure 1  
The nine steps to produce a pencil



Source: J. R. Moon Pencil Co.

## Substitute Products

Many substitute products perform the same writing, drawing, and marking functions as pencils, including all types of pens, mechanical pencils,<sup>14</sup> markers and/or highlighters, chalk, wax crayons, and even word processing and other computer software.<sup>15</sup> The most direct substitutes are used for writing, the principal function for which pencils are used.

Most U.S. producers and importers reported in their questionnaire responses that close substitutes for cased pencils were mechanical pencils (especially the disposable mechanical pencil), disposable stick pens, and erasable pens. These products are priced within the range of cased pencils. However, some U.S. importers and the largest U.S. producer, \*\*\*, reported that the lowest-priced black-lead commodity pencil, the economy pencil, has no real substitute because it is priced lower than any other writing instrument.

## U.S. Tariff Treatment

Pencils and crayons with leads encased in a rigid sheath are classified in HTS subheading 9609.10.00, with a column 1-general duty rate of 14 cents per gross (144 pencils) plus 4.3 percent *ad valorem*.<sup>16</sup> This rate applies to countries entitled to the column 1-general (most-favored-nation) duty rate, including China. Such pencils imported from designated beneficiary countries under the Generalized System of Preferences (GSP) are eligible to be entered free of duty. Thailand is a GSP-eligible country.

## THE NATURE AND EXTENT OF ALLEGED SALES AT LTFV

### China

In order to calculate the estimated dumping margins for certain cased pencils from China, the petitioner compared U.S. prices<sup>17</sup> of the subject merchandise with estimates for foreign market value (FMV) based on constructed value. As China is a state-controlled-economy country under section 773(c) of the Act, the constructed FMV was based, in part, on the value of various factors of production in India, a country with comparable economic development. Petitioner believes that India provides the appropriate surrogate country because India is at a level of economic development similar to China and India is a significant producer of pencils that are comparable to the subject pencils from China. Based on petitioner's primary method of valuing raw materials, petitioner alleges that imports of pencils from China are being sold in the United States at LTFV margins of between 123.08 and 223.94 percent *ad valorem*. The estimated LTFV margins derived from petitioner's alternative method of valuing raw materials ranged between 78.46 and 160.64 percent *ad valorem*.<sup>18</sup>

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<sup>14</sup> One inexpensive type is a nonrefillable disposable pencil with a retractable polymer core, eraser, and plastic pen-like case with a clip, but having a hexagonal shape like the standard yellow pencil.

<sup>15</sup> For example, many accountants, formerly major users of pencils, use spread sheet programs. Recently, the New Jersey-based Educational Testing Service announced that the Graduate Record Exam will be given in a computerized version, eliminating the use of the number 2 pencil. Mary Jordan, "'Mouse' Replaces No. 2 Pencil on Graduate Test," *The Washington Post*, Nov. 15, 1993, p. A-1.

<sup>16</sup> Mechanical pencils are covered in HTS heading 9608; cosmetic pencils are covered in chapter 33, according to note 1(a) to chapter 96.

<sup>17</sup> Petitioner based the U.S. price on 1993 price quotes made on a packed, f.o.b. Hong Kong basis from a Hong Kong trading company involved in a joint venture with a Chinese pencil manufacturer.

<sup>18</sup> Amendment of Antidumping Petition, p. 7.

## Thailand

To calculate the estimated dumping margins for certain cased pencils from Thailand, the petitioner compared U.S. prices<sup>19</sup> of the subject merchandise with FMV based on a price quotation for Mitsubishi pencils in Thailand. Petitioner estimates that the LTFV margins for Thai pencils range from 7.76 percent to 115.52 percent *ad valorem*.

## THE U.S. MARKET

### Apparent U.S. Consumption<sup>20</sup>

Data on apparent consumption of cased pencils based on U.S. producers' shipments (including Pentech International<sup>21</sup>) and official U.S. imports are presented in table 1.<sup>22</sup> Apparent consumption, based on quantity, increased by \*\*\* percent during the period 1990-92 and increased by \*\*\* percent between the interim periods January-September 1992 and January-September 1993. Such consumption by value increased by \*\*\* percent during 1990-92 and by \*\*\* percent between interim 1992 and interim 1993. Demand for cased pencils is based on population levels which have been increasing in recent years.

Table 1

Cased pencils: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

### U.S. Producers

Eight companies were identified in the petition as producing the subject pencils during the period January 1990 through September 1993.<sup>23</sup> The Commission sent questionnaires to the eight identified companies and one additional company (Pentech International) that is producing and

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<sup>19</sup> Petitioner based the U.S. price on a 1993 price quote made on an f.o.b. basis by a Thai wholesaler to an unrelated U.S. importer.

<sup>20</sup> The Commission received complete questionnaire responses from six U.S. producers (including Pentech International) in operation between 1990 and September 1993. \*\*\* provided its data on a fiscal year basis; \*\*\* did not provide any interim 1992 or 1993 data; and Pentech International began pencil production in 1992. Since the Commission did not receive questionnaire responses from three small U.S. producers, and does not have data from Industries for the Blind (which accounted for \*\*\* percent of apparent consumption in 1990, \*\*\* percent in 1991, \*\*\* percent in 1992, and \*\*\* percent in January-September 1993, based on data provided in respondent's postconference brief, pp. 23-24), apparent U.S. consumption will be slightly understated during the period examined.

<sup>21</sup> Pentech International imports raw pencil blanks from China, finishes and packages the pencils, and then ships them as a finished product. This operation will create some double counting in apparent consumption.

<sup>22</sup> Summary table C-2 presents industry data with Pentech International's share of apparent consumption broken out. Pentech accounted for \*\*\* percent of apparent consumption in 1992 (the year it began producing pencils), \*\*\* percent in interim 1992, and \*\*\* percent in interim 1993.

<sup>23</sup> The number of companies producing cased pencils in the United States declined from 17 in 1990, largely due to consolidations and modernization in the industry; conference TR, p. 173. Petitioners' note in their postconference responses to the Commission's questions that the consolidations in the industry were completed by 1988, when imports of the subject pencils were far lower than the levels achieved during the period examined, p. 2.

importing cased pencils.<sup>24</sup> Table 2 presents the names of the U.S. producers, the location of the manufacturing facilities, each company's share of production in 1992, and each company's position with respect to the petition.

Table 2

Cased pencils: U.S. producers during the period Jan. 1990-Sept. 1993, plant locations, shares of reported production in 1992, and position taken with respect to the petition<sup>1</sup>

Firm	Plant location	Share of reported production in 1992	Position taken with respect to the petition
Blackfeet . . . . .	Browning, MT	***	Petitioner
Dixon Ticonderoga . . . . .	Versailles, MO	***	Petitioner
Empire Berol . . . . .	Shelbyville, TN	***	Petitioner
Faber-Castell . . . . .	Lewisburg, TN	***	Petitioner
General Pencil . . . . .	Jersey City, NJ	***	Petitioner
J.R. Moon . . . . .	Lewisburg, TN	***	Petitioner
Musgrave Pen . . . . .	Shelbyville, TN	***	Petitioner
Panda . . . . .	Trenton, OH	***	Petitioner
Pentech International . . . . .	Edison, NJ	***	Opposes

<sup>1</sup> Pentech International is the only pencil producer that is not a petitioner in the investigations.

<sup>2</sup> No data provided.

<sup>3</sup> Partial response provided to the Commission's questionnaire.

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

### Blackfeet Indian Writing Instrument Co. (Blackfeet)<sup>25</sup>

The Blackfeet pencil business was started in 1971 when Small Business Administration consultants recommended that the tribe make pencils as a minority supplier to the Government. With \$200,000 from the Government and private sources, the tribe built the factory and leased the pencil-producing equipment. Approximately a year later Congress opted to give pencil-making preference to the blind. The Blackfeet company managed to survive by winning minority contracts from more than 300 Fortune 500 customers. A deal with K-mart, for instance, more than tripled its sales to retail outlets.<sup>26</sup> This firm \*\*\*.

<sup>24</sup> The Commission received complete responses from six firms and a partial response from \*\*\*.

<sup>25</sup> \*\*\*.

<sup>26</sup> Daniel Cohen, "The Blackfeet Discover Capitalism," *Success*, Jan./Feb. 1988.

### **Dixon Ticonderoga Corp. (Dixon)<sup>27</sup>**

Dixon, Versailles, MO, accounting for \*\*\* percent of U.S. pencil production in 1992, mainly produces and sells commodity wood-cased pencils.<sup>28</sup> Dixon also produces cased crayons and drafting and specialty pencils. Dixon has been producing pencils in the United States since 1827. Dixon acquired the Wallace Pencil Co., Versailles, MO, Ruwe Pencil Co., CN, and National Pen & Pencil Co., TN, in the 1980s.<sup>29</sup> Dixon \*\*\*.

### **Empire Berol Corp. (Empire)**

Empire, Brentwood, TN, a wholly owned subsidiary of Pen Investors II and Pen Holdings, Inc., New York, NY, accounted for \*\*\* percent of production in 1992. Empire was formed in 1986 when Empire Pencil acquired Berol Corp. and Reliance Pencil Co.<sup>30</sup> Empire has a wholly-owned subsidiary in \*\*\*. In 1992, Empire eliminated pencil production in its wholly owned Canadian and United Kingdom subsidiaries, and moved such production to its Brentwood plant and to \*\*\*. In addition to wood-cased pencils,<sup>31</sup> Empire also produces pencils using a proprietary plastic extrusion process. These plastic pencils are indistinguishable from wood-cased pencils by the average consumer.

### **Faber-Castell Corp. (Faber)**

Faber, Parsippany, NJ, has an 800,000 square foot manufacturing facility in Lewisburg, TN, that produces wood-cased pencils, pens, and markers. A plant in Newark, NJ, produces the erasers it uses on its pencils. Faber has a subsidiary in \*\*\*. In addition, Faber has a \*\*\*. Faber, ranked as the industry's \*\*\* producer of commodity pencils, accounted for \*\*\* percent of U.S. pencil production in 1992.

Faber began producing pencils in Germany in the mid-1700s. The U.S. pencil industry started in the mid-1800s when many of the German pencil producers moved pencil producing facilities to the United States. In the beginning there were four companies: American Lead Pencil, Eagle, Faber-Castell, (which was a sales office for the German parent), and Eberhard-Faber, the brother of A.W. Faber of Faber-Castell. The structure of the industry remained this way until the 1920s. By 1950 there were 13 other pencil producers in addition to the 4 original companies.<sup>32</sup> Faber bought Eberhard-Faber in the late 1980s in order to obtain its worldwide trademarks for exporting purposes.

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<sup>27</sup> \*\*\*.

<sup>28</sup> Dixon purchases both California incense cedar and jelutong wood from Indonesia for use in its production of pencils.

<sup>29</sup> Conference TR, p. 20.

<sup>30</sup> Mr. Melnick, Chairman and Chief Executive of Pentech International, testified at the conference that it is rumored that Empire is about to be acquired by Newell Industries, a multi-billion dollar conglomerate with a major position in the stationery market; conference TR, p. 133.

<sup>31</sup> Empire mainly produces \*\*\*.

<sup>32</sup> Ten years ago there were 17 domestic producers of pencils. Many of these firms consolidated or went out of business. Most recently, Mallard Pencil Co., KY, Connecticut Pencil Co., CN, and Richard Best Pencil Co., NJ, ceased producing pencils and left the industry.



### **General Pencil Co. (General)**

General, Jersey City, NJ, \*\*\*. General has been a pencil producer since 1889 and is also a producer of office and art products. In addition to yellow commodity pencils, General also produces advertising and golf pencils.

### **J.R. Moon Pencil Co. (Moon)**

Moon, a family-owned business in Lewisburg, TN, ranked as the pencil industry's \*\*\* producer, accounted for \*\*\* percent of U.S. pencil production in 1992. Moon produces a range of different types of pencils and pens but specializes in the production of decorated pencils. Moon's decorated pencils come in many varieties, such as awards and gifts, promote a positive image (e.g., Caught doing good!), scribble'n sniff, seasonal glitz, and personalized pencils.

### **Musgrave Pen & Pencil Co., Inc. (Musgrave)**

Musgrave, Shelbyville, TN, accounted for \*\*\* percent of production of pencils in 1992. Approximately \*\*\* percent of Musgrave's production is devoted to producing blanks for advertising; approximately \*\*\* percent are finished pencils that go to school districts.

### **Panda, Inc. (Panda)**

This firm in Trenton, OH, \*\*\*.

### **Pentech International (Pentech)**

Pentech, Edison, NJ, invested \$5 million in new equipment in 1992<sup>33</sup> to get Sawdust Pencil Co. (Sawdust),<sup>34</sup> its new 50,000 square foot manufacturing facility, up-and-running. The investment expanded annual production to 900,000 gross and added about 150 employees to the workforce. Pentech accounted for \*\*\* percent of U.S. pencil production in 1992. Pentech produces a patented pencil called the Grip Stix from U.S. incense cedar, which is designed to help children write with better handwriting.<sup>35</sup> In addition to producing pencils, Pentech also imports raw pencil blanks from China that it further processes to produce decorated pencils.<sup>36</sup> Sawdust is an important part of Pentech's long-term investment and growth strategy. In 1992, Pentech began developing new items to catch the growth curve in the child-oriented activity marketplace. This fast-growing market provides year-round opportunity and is less seasonal than the back-to-school market.<sup>37</sup>

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<sup>33</sup> Approximately \*\*\* percent of the equipment was purchased from \*\*\*.

<sup>34</sup> Conference TR, p. 122.

<sup>35</sup> Conference TR, p. 124.

<sup>36</sup> Pentech estimates that the value added in the United States to the raw pencil blanks is \*\*\* percent of the total value of the pencil.

<sup>37</sup> \*\*\*.

## U.S. Importers

Questionnaires were sent to 42 firms believed to be importing certain cased pencils from China and Thailand.<sup>38</sup> The Commission received complete or partial responses from 31 of these companies.<sup>39</sup> According to the questionnaire responses, 18 U.S. firms imported pencils from China during the period January 1990 to September 1993<sup>40</sup> and three companies imported from Thailand.<sup>41</sup> Firms involved in importing pencils from China are located throughout the United States and reportedly sell the imported product nationwide.<sup>42</sup> \*\*\*, \*\*\*, small importers of Chinese yellow commodity pencils, claimed that the quality of the pencils was not good. \*\*\*, \*\*\* commented that although the pencils it imports from China are of a lower quality than the U.S.-produced pencils, \*\*\*.<sup>43</sup>

Pentech imports \*\*\* from China (about \*\*\* percent of its imports) but mainly imports raw blanks (about \*\*\* percent of its imports from China).<sup>44</sup> Officials of Pentech testified at the conference that a significant portion of the value of the pencil is added in the United States.<sup>45</sup> Pentech also imported some yellow commodity pencils from China in January-September 1993. \*\*\*.

The petition alleges that cased pencils produced in China are often transshipped through Hong Kong. Ten of the responding firms reported importing Chinese pencils either through Hong Kong or through an agent in Hong Kong. Two companies reported purchasing pencils in Taiwan, shipping the pencils to China, and having decorative tops affixed to the pencils in China prior to exportation to the United States.<sup>46</sup> A third company reportedly purchased pencils from China/Hong Kong that were produced in Taiwan and finished and repackaged in China.

## Channels of Distribution<sup>47</sup>

Cased pencils produced in the United States are mainly sold to retailers such as K-mart, Wal-Mart, Staples, Target, and National Office Supply, and to distributors such as United Stationers, Associated Stationers, and S.P. Richards,<sup>48</sup> which in turn sell to end users, including schools, businesses, and individual consumers.<sup>49</sup> U.S. producers of pencils reported that shipments of pencils

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<sup>38</sup> The petition identified 22 firms believed to be importing pencils from China and Thailand.

<sup>39</sup> Of these 31 companies, 3 imported Taiwanese pencils through China, 7 reported that their firms did not import pencils from the subject countries, and 21 provided partial or complete responses (16 provided usable data).

<sup>40</sup> Most of the reported imports are of commodity and decorated pencils.

<sup>41</sup> \*\*\*.

<sup>42</sup> Because Chinese pencils are now offered for sale in nationally circulated catalogues, they are sold and offered for sale on a nationwide basis; conference TR, pp. 35-36.

<sup>43</sup> The quantity of Chinese imports of pencils, as reported in questionnaire responses, accounted for 21.3 percent in 1990, 40.4 percent in 1991, 51.1 percent in 1992, 58.6 percent in interim 1992, and 63.2 percent in interim 1993, of the official import statistics. Reported Thai imports accounted for \*\*\*.

<sup>44</sup> \*\*\*. Pentech argued at the conference that its imports of raw pencils from China are different than the pencil blanks produced and sold by other U.S. firms. Raw pencils have no paint, lacquer, erasers, or ferrules, whereas pencil blanks are painted and may have erasers and ferrules for sale to advertising firms; conference TR, p. 125.

<sup>45</sup> Conference TR, p. 127. Pentech estimates that the imported wood blanks constitute only \*\*\* percent of the value of its decorated pencils, while \*\*\* percent of the value is added in the United States; Pentech's postconference brief, pp. 5-6.

<sup>46</sup> One firm, \*\*\*; letter dated Nov. 30, 1993.

<sup>47</sup> Pencils are sold through many channels of trade, including school distributors, office supply wholesalers, specialty advertisers, and mass merchandisers.

<sup>48</sup> The distinction between the retail mass market and office supply segments of the domestic industry is blurring, as more office supply firms offer their wares through national catalogues and office supply superstores; petitioners' postconference brief, p. 41.

<sup>49</sup> \*\*\*.

in 1992 went to the following unrelated channels of distribution: 36.6 percent to distributors, 40.0 percent to retailers, 11.1 percent to office supply superstores, 8.4 percent to school supply stores, and 4.0 percent to other government sales. During the first half of 1993, 58.4 percent of total shipments of U.S.-produced pencils were in retail packs and 41.6 were in commercial packs or in bulk.<sup>50</sup> Many distributors sell both domestic and imported pencils.<sup>51</sup> Pencils imported from China and Thailand reach the market essentially through the same channels of distribution, including the mass retail, school supply, and office supply segments. U.S. importers of pencils from China reported that shipments of the imported pencils in 1992 went to the following channels of distribution: \*\*\* percent to distributors, \*\*\* percent to retailers, \*\*\* percent to office supply superstores, \*\*\* percent to school supply stores, and \*\*\* percent to other government sales. Shipments of Thai pencils in 1992 went to \*\*\*.

The largest segment of the U.S. market for pencils is the retail mass market segment. This consists of pencils which are sold directly to the public in retail and discount store chains, drug stores, supermarkets, and similar outlets, usually in boxes or blister-packed cards containing a dozen pencils or fewer. Mass market purchasers generally buy pencils for back-to-school or general household use. The office supply market is another large market segment and has tended to be the most profitable for domestic producers. The pencils sold in this market tend to be higher-priced than in the mass market. The office supply market is undergoing significant change. Smaller regional distributors are being increasingly supplanted by nationwide catalogue wholesalers or by office supply superstore chains such as Staples. Direct sales to government agencies and school districts are also a factor in the market for pencils. For many years U.S. pencil manufacturers have been foreclosed from selling to the Federal government, which has established an exclusive procurement set-aside for pencils manufactured in sheltered workshops for the blind and physically handicapped. These workshops are integrated U.S. producers. Decorated and novelty pencils form another significant market segment.<sup>52</sup>

### CONSIDERATION OF ALLEGED MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES

Six firms,<sup>53</sup> accounting for about \*\*\* percent of U.S.-cased pencil production (as reported to PMA) in 1992, provided responses to the Commission's request for data.<sup>54</sup>

#### U.S. Producers' Capacity, Production, and Capacity Utilization

Table 3 presents data on U.S. producers' capacity, production, and capacity utilization. U.S. producers' end-of-period capacity to produce cased pencils increased by \*\*\* percent from 1990 to 1992, and increased by \*\*\* percent between the interim periods. \*\*\* increased its productive capacity throughout the period of investigation.<sup>55</sup> \*\*\* increased its productive capacity in 1992<sup>56</sup> and \*\*\*. A number of firms reported that productive capacity is expected to increase over the next few years as demand for cased pencils increases. One firm, \*\*\*.<sup>57</sup>

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<sup>50</sup> Calculated from data prepared for the PMA.

<sup>51</sup> Conference TR, p. 23.

<sup>52</sup> Conference TR, pp. 29-34.

<sup>53</sup> The six firms are \*\*\*. A summary table providing data excluding Pentech is shown in appendix C.

<sup>54</sup> Pentech began operations in 1992. The other 5 firms accounted for \*\*\* percent and \*\*\* percent of reported U.S. pencil shipments in 1990 and 1991, respectively.

<sup>55</sup> \*\*\*.

<sup>56</sup> \*\*\*.

<sup>57</sup> \*\*\*.

Table 3

Cased pencils: U.S. capacity, production, and capacity utilization, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

End-of-period capacity utilization increased from \*\*\* percent in 1990 to \*\*\* percent in 1992. During the interim periods, end-of-period capacity utilization increased from \*\*\* percent to \*\*\* percent.

### U.S. Producers' Shipments

#### U.S. Shipments

Table 4 presents data on U.S. producers' total U.S. shipments of cased pencils during January 1990-September 1993. U.S. shipments, based on quantity, increased by \*\*\* percent between 1990 and 1992, and \*\*\* by \*\*\* percent between the interim periods.

Table 4

Cased pencils: Shipments by U.S. producers, by types, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

#### Export Shipments

U.S. producers' export shipments accounted for \*\*\* percent of total shipments in 1990, \*\*\* percent in 1991, \*\*\* percent in 1992, \*\*\* percent in January-September 1992, and \*\*\* percent in the corresponding period of 1993. Export shipments, based on quantity, increased by \*\*\* percent between 1990 and 1992,<sup>38</sup> but then decreased by \*\*\* percent between the interim periods. U.S. producers' export markets include Canada, Mexico, Latin America, and the Middle East.

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<sup>38</sup> During this period, Empire and Dixon shut down pencil plants in Canada and moved the operations to their plants in the United States. The increase in U.S. exports could be pencil production going to satisfy the Canadian market; conference TR, p. 55 and petitioners' postconference brief, p. 37.

## Total Shipments

The total quantity of U.S. producers' shipments of domestically produced cased pencils increased by \*\*\* percent between 1990 and 1992 and \*\*\* by \*\*\* percent between interim 1992 and interim 1993. The value of such shipments increased by \*\*\* percent between 1990 and 1992 and \*\*\* by \*\*\* percent between the interim periods.

## U.S. Producers' Inventories

Table 5 presents data on U.S. producers' end-of-period inventories during the period of investigation. Such inventories \*\*\* irregularly by \*\*\* percent between 1990 and 1992, and then \*\*\* by \*\*\* percent between the interim periods. The ratio of U.S. producers' inventories to U.S. shipments \*\*\* irregularly from \*\*\* percent in 1990 to \*\*\* percent in 1992, and then \*\*\* from \*\*\* percent in interim 1992 to \*\*\* percent in interim 1993.

Table 5

Cased pencils: End-of-period inventories of U.S. producers, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

## Employment, Wages, and Productivity

The U.S. producers' employment and productivity data are presented in table 6. The number of production and related workers (PRWs) producing cased pencils \*\*\* by \*\*\* percent between 1990 and 1992, and then \*\*\* by \*\*\* percent between interim 1992 and interim 1993. The number of hours worked by PRWs increased irregularly by \*\*\* percent between 1990 and 1992 and increased by \*\*\* percent in the interim periods.

Table 6

Average number of production and related workers in U.S. establishments wherein cased pencils are produced, hours worked, wages and total compensation paid to such employees, and hourly wages, productivity, and unit production costs, by products, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

Total compensation paid to PRWs increased irregularly by \*\*\* percent between 1990 and 1992 and increased by \*\*\* percent in the interim periods. Hourly total compensation paid to U.S. producers' PRWs increased from \$\*\*\* in 1990 to \$\*\*\* in 1992. Hourly total compensation declined from \$\*\*\* in January-September 1992 to \$\*\*\* in the corresponding period of 1993. Productivity of PRWs increased irregularly from \*\*\* gross per hour in 1990 to \*\*\* gross per hour in 1992. Productivity increased from \*\*\* gross per hour in interim 1992 to \*\*\* gross per hour in interim 1993.

Virtually all of the U.S. pencil manufacturers are not represented by unions. \*\*\*. In its questionnaire the Commission requested U.S. producers to provide detailed information concerning

reductions in the number of PRWs producing cased pencils during January 1990 through September 1993, if such reductions involved at least 5 percent of the workforce or 50 workers. \*\*\*.

### Financial Experience of U.S. Producers

Six producers<sup>99</sup> of cased pencils, representing about \*\*\* percent of 1992 U.S. production, reported profit-and loss information on their domestic operations. The producers provided data on both trade sales and intercompany transfers. However, transfers were small, generally accounting for less than \*\*\* percent of net sales (whether on a quantity or value basis). Therefore, the tables present aggregate sales data.

### Overall Establishment Operations

Data on overall establishment operations of the U.S. producers are shown in table 7. These data were dominated by \*\*\*, \*\*\* reported 1992 overall establishment net sales of about \$\*\*\*.

Table 7

Income-and-loss experience of U.S. producers on the overall operations of their establishments wherein cased pencils are produced, fiscal years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

While 1991 net sales were \*\*\* from the previous year, profitability was \*\*\*. Operating profits were \*\*\*. Despite \*\*\* in net sales in 1992 (most of which was due to \*\*\*), \*\*\*. The main reason was \*\*\*. Interim data were much the same—\*\*\*.

Aggregate net sales of cased pencils represented about \*\*\* percent of overall establishment net sales in 1992 (\*\*\* from \*\*\* percent in 1990), but only \*\*\* percent of operating profits. The percentage of overall establishment operations representing cased pencil operations varied widely from producer to producer. For instance, \*\*\* net sales of cased pencils accounted for \*\*\* percent of its overall establishment net sales, while \*\*\* accounted for \*\*\* percent.

### Operations on Cased Pencils

Profit-and-loss data for the cased pencil operations of the producers are shown in table 8. While there were increases in net sales quantities and values every period, operating profits, net profits, and cash flow all fluctuated. From 1990 to 1991, sales quantities \*\*\* by \*\*\* percent as \*\*\* of the \*\*\* producers in operation experienced \*\*\* (see table 9, which presents selected financial data on a company-by-company basis). \*\*\*.

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<sup>99</sup> The producers and their respective fiscal year ends (if other than Dec. 31) are \*\*\* (Sept. 30), \*\*\* (Sept. 30), \*\*\* (Mar. 31), and \*\*\* (Sept. 30).

Table 8

Income-and-loss experience of U.S. producers on their operations producing cased pencils, fiscal years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

Table 9

Income-and-loss experience of U.S. producers<sup>1</sup> on their operations producing cased pencils, by firms, fiscal years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

Despite the \$\*\*\* increase in net sales value, operating income decreased by about \$\*\*\*. The primary reason was \*\*\*. Almost all producers reported increases, both on an absolute and unit basis. Accordingly, the thin 1990 operating profit became a loss, the net loss deepened, and cash flow was less than \$\*\*\*.

In 1992, a \*\*\* increase in sales quantities combined with a sizeable increase in unit sales value to increase net sales by about \$\*\*\*, or over \*\*\* percent. \*\*\*. Beyond the increase in net sales, the unit gross profit margin increased by \*\*\* from \$\*\*\* to \$\*\*\*. As a result, gross profits increased by about \*\*\* to \$\*\*\*. Since selling, general, and administrative (SG&A) expenses remained the same relative to net sales, much of the increase flowed through to succeeding profit levels. Therefore, operating and net income became positive, albeit small.

Net sales value increased another \*\*\* percent from interim 1992 to interim 1993, the result of increases in both net sales quantities and unit sales value. Despite a \*\*\* percent increase in unit cost of goods sold (COGS), the unit gross margin again increased, resulting in a \*\*\* percent increase in gross profits. However, these increased profits were overcome by the almost \$\*\*\* increase in SG&A expenses, and the previous period's operating income became an operating loss. The approximate \$\*\*\* decrease in operating income in turn flowed through to net income and cash flow.

The main reason for the steep increase in SG&A expense was \*\*\*. At least for the first nine months of 1993, this hasn't been the case.

Table 9 shows that the \*\*\*.

## Investment in Productive Facilities and Net Return on Assets

Data on assets and return on assets are shown in table 10. More than half the assets relating to cased pencils \*\*\*. From 1990 to the first nine months of 1993, \*\*\* increased their investment in fixed assets relating to cased pencils by about \$\*\*\*.

Table 10

Value of assets and return on assets of U.S. producers' operations producing cased pencils, fiscal years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

## Capital Expenditures

Data on capital expenditures are shown in table 11. \*\*\*.

Table 11

Capital expenditures by U.S. producers of cased pencils, by products, fiscal years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

## Research and Development Expenses

Research and development expenditures are shown in table 12. \*\*\*.

Table 12

Research and development expenses of U.S. producers of cased pencils, by products, fiscal years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

## Capital and Investment

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of cased pencils from China and/or Thailand 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). Their responses are shown in appendix D.

### CONSIDERATION OF THE QUESTION OF THREAT OF MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES

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>60</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),

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<sup>60</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."



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

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

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

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

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

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

(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 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>61</sup>

Subsidies (item (I)) and agricultural products (item (IX)) are not issues in these investigations; information on the volume, U.S. market penetration, and pricing of imports of the

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<sup>61</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 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."

subject merchandise (items (III) and (IV) above) and any dumping in third-country markets 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 the section entitled "Consideration of Alleged Material Injury to an Industry in the United States." Presented below is the 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); and any other threat indicators, if applicable (item (VII) above).

#### **U.S. Importers' Inventories**

Table 13 presents U.S. importers' end-of-period inventories of certain cased pencils from China and Thailand. The Commission received inventory data from eight importers. Most of the inventories reported were in January-September 1993. U.S. importers' end-of-period inventories of pencils from China and Thailand \*\*\* from 1990 to 1992 and \*\*\* between the interim periods.

#### **U.S. Importers' Current Orders**

Subsidies (item (I)) and agricultural products (item (IX)) are not issues in these investigations; information on the volume, U.S. In its questionnaire the Commission asked firms to report future contracts for importing certain cased pencils from China and Thailand after September 30, 1993. Such reported imports from China totaled approximately 932,000 gross with delivery scheduled through May 1994. Future orders for imports of the subject product from Thailand totaled \*\*\*. Some firms reported current orders in amounts that could not be converted into gross units.<sup>62</sup>  
\*\*\*

#### **Ability of Foreign Producers to Generate Exports and the Availability of Export Markets other than the United States**

According to the petitioner there are numerous producers of cased pencils in China and Thailand.<sup>63</sup>

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<sup>62</sup> For example, one firm reported that it had an order for \*\*\*.

<sup>63</sup> The Commission requested information from the U.S. Embassies in Beijing and Bangkok; the Embassy in Beijing did not respond to the request and the Embassy in Bangkok provided the volume (in kilograms) and value of Thailand's exports of pencils during 1990-92, Jan.-July 1992, and Jan.-July 1993.

Table 13

Certain cased pencils: End-of-period inventories of U.S. importers, by sources, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.- 1992	1993
<i>Quantity (1,000 gross)</i>					
China . . . . .	***	***	***	***	***
Thailand . . . . .	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***
Other sources . . . . .	***	***	***	***	***
Total . . . . .	42	79	210	126	409
<i>Ratio to imports (percent)</i>					
China . . . . .	***	***	***	***	***
Thailand . . . . .	***	***	***	***	***
Average . . . . .	***	***	***	***	***
Other sources . . . . .	***	***	***	***	***
Average . . . . .	10.4	11.1	18.1	12.8	16.0
<i>Ratio to U.S. shipments of imports (percent)</i>					
China . . . . .	***	***	***	***	***
Thailand . . . . .	***	***	***	***	***
Average . . . . .	***	***	***	***	***
Other sources . . . . .	***	***	***	***	***
Average . . . . .	10.6	11.7	20.4	13.9	16.6

Note.--Ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

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

### The Industry in China

The Commission requested information from the U.S. Embassy in Beijing but the Embassy was unable to obtain any data regarding cased pencils within the deadline provided by the Commission. In addition, the Commission requested Chinese industry data from the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) but was unable to obtain any data. The Chinese pencil industry is heavily labor-intensive and uses significant amounts of energy and raw materials in the production process.<sup>64</sup> Chinese pencils are mainly produced from basswood or

<sup>64</sup> The majority of the production costs are accounted for by the costs of raw materials, labor wages, and energy; petition, p. 27.

lindenwood<sup>65</sup> although some jelutong wood from Indonesia is also used. These raw materials are less expensive than the California incense cedar used by U.S. pencil producers. According to petitioner, the Chinese capacity to produce cased pencils is virtually limitless.<sup>66</sup>

### The Industry in Thailand<sup>67</sup>

The Commission received data submitted by counsel for Aruna Co., Ltd., a Thai producer that the Government of Thailand believes is Thailand's major exporter of the subject merchandise to the United States (table 14).<sup>68</sup> Aruna only exported colored pencils of 3.5 inches and 7 inches in length during 1990-92.<sup>69</sup> Aruna's U.S. exports in January-September 1993 were \*\*\* percent colored pencils and \*\*\* percent black-lead blank pencils. \*\*\*.<sup>70</sup> According to information received from the U.S. Embassy in Bangkok, brand name pencils are manufactured by Thai firms on a contract or license basis rather than by a facility owned or operated by the company owning the brand name. The Embassy provided the quantity (in kilograms) and values of Thai exports of pencils to the United States during the period of investigation. The values, provided by the Embassy on an f.o.b. basis, are as follows (in thousands of dollars): \$119.1 in 1990, \$402.3 in 1991, \$910.5 in 1992, \$623.1 in January-July 1992, and \$214.2 in the corresponding period of 1993.

Table 14

Certain cased pencils: Aruna's capacity, production, inventories, capacity utilization, and shipments, 1990-92, Jan.-Sept. 1992, Jan.-Sept. 1993, and projected 1994-95

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<sup>65</sup> The Chinese and Thai producers have access to virtually unlimited quantities of such woods. In Northern China, these woods are harvested without regard for environmental consequences, often by military units. Many Chinese pencil producers are believed to be supplied with wood free of charge or at minimal cost; petitioners' postconference brief, p. 35; conference TR, p. 79.

<sup>66</sup> Conference TR, p. 49.

<sup>67</sup> Thailand has competitive advantages based on its low-cost labor and its use of jelutong wood, a cheaper raw material than incense cedar, but the quality of its pencils is inferior to those produced in the United States; Report to the President on Inv. Nos. TA-131-18 503(a)-23, and 332-319, ITC Pub. 2491, Mar. 1992.

<sup>68</sup> Aruna accounted for \*\*\* percent of total production of cased pencils in Thailand in 1992. Aruna estimates that its exports to the United States in 1992 and 1993 accounted for \*\*\* percent and \*\*\* percent, respectively, of total exports to the United States from Thailand. The U.S. Embassy identified three Thai firms that manufacture pencils for export: Aruna Co., Ltd (manufactures Mitsubishi brand pencils); Nan Mee Industry Co., Ltd. (manufactures Horse brand pencils); and S.N. Siamagraph Co., Ltd. (manufactures Panda brand pencils but is not currently exporting pencils to the United States).

<sup>69</sup> Counsel testified at the conference that in 1993 most of the subject imports from Thailand were colored pencils and a large proportion of those were short; conference TR, pp. 170 and 176.

<sup>70</sup> Respondent's postconference brief, p. 20, n. 25.

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

### U.S. Imports

U.S. imports of certain cased pencils are presented in table 15. The Commission sent importers' questionnaires to 42 firms believed to be importing certain cased pencils from China or Thailand.<sup>71</sup> Responses with usable data were received from 16 U.S. importers of cased pencils from the subject countries. Such responses accounted for \*\*\* percent of imports from China and Thailand in 1992, as reported in the official statistics of Commerce.

#### China<sup>72</sup>

The quantity of U.S. imports of certain cased pencils from China increased by 209 percent from 1990 to 1992 and by 48 percent during January-September 1993 compared with the corresponding period in 1992.<sup>73</sup> Imports of Chinese pencils accounted for 67 percent of total imports in 1992.<sup>74</sup> The value of Chinese pencil imports declined by 19 percent between 1990 and 1991 and then increased by 99 percent between 1991 and 1992. Such values continued to increase, by 24 percent, in interim 1993.

#### Thailand

The quantity of imports of pencils from Thailand rose 49 percent from 1990 to 1991, but fell 53 percent from 1991 to 1992, accounting for a decline of 30 percent during 1990-92. The declining trend continued in interim 1993 with imports falling by 68 percent in January-September 1993 compared with the corresponding period in 1992. Imports of Thai pencils accounted for 4 percent of total imports in 1992. The value of imports of pencils declined by 47 percent during 1990-92 and by 38 percent in interim 1993.

Counsel for the Government of Thailand argues that the official statistics of Commerce for imports of the subject merchandise from Thailand are grossly overstated and that the Government of Thailand's export statistics should be used instead. Counsel argues that nonsubject merchandise (e.g., sets, mechanical type pencils, wax crayons, etc.) are included in Commerce's official statistics.<sup>75</sup>

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<sup>71</sup> Twenty-two firms were identified in the petition as importing the subject merchandise from China and Thailand.

<sup>72</sup> The imports reported from Hong Kong in official statistics are believed to be transshipments of Chinese pencils (although some pencils may also be from Taiwan) since cased pencils are not produced in Hong Kong. Accordingly, import data are presented separately for China and for China and Hong Kong combined. Ten importers responded in their questionnaires that some or all of their imports of Chinese pencils were through Hong Kong.

<sup>73</sup> Petitioner argues that U.S. imports of pencils from China are likely to continue increasing since Mexico imposed antidumping duties against Chinese pencils at the rate of 451 percent *ad valorem* in August 1993. Such a high duty raises the likelihood, petitioner argues, that pencils originally targeted for the Mexican market will be deflected into the United States at LTFV prices; petition, pp. 80-81 and conference TR, pp. 49-50.

<sup>74</sup> Pentech's imports of raw pencils from China accounted for \*\*\* percent of total Chinese imports in 1990, \*\*\* percent in 1991, \*\*\* percent in 1992, \*\*\* percent in interim 1992, and \*\*\* percent in interim 1993.

Pentech's imports of finished pencils from China accounted for \*\*\* percent of total imports in interim 1993.

<sup>75</sup> Respondent's (Thailand) postconference brief, pp. 5-21; Exhibits 1-11.

Table 15

Certain cased pencils: U.S. imports, by sources, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.-- 1992	1993
<i>Quantity (1,000 gross)</i>					
China .....	1,009	1,230	3,241	2,135	3,149
Hong Kong .....	50	76	35	29	58
Subtotal .....	1,059	1,306	3,276	2,164	3,207
Thailand .....	290	432	204	186	59
Subtotal <sup>1</sup> .....	1,348	1,738	3,481	2,350	3,266
Other sources <sup>2</sup> .....	1,263	1,359	1,438	1,061	1,621
Total .....	2,611	3,098	4,918	3,411	4,887
<i>Value (1,000 dollars)<sup>3</sup></i>					
China .....	10,361	8,429	17,412	12,367	15,541
Hong Kong .....	770	601	546	439	380
Subtotal .....	11,131	9,029	17,957	12,806	15,921
Thailand .....	1,179	993	620	511	315
Subtotal <sup>1</sup> .....	12,310	10,022	18,578	13,317	16,236
Other sources <sup>2</sup> .....	22,030	22,558	28,146	21,316	19,894
Total .....	34,339	32,580	46,724	34,633	36,130
<i>Unit value (per gross)</i>					
China .....	\$10.27	\$6.85	\$5.37	\$5.79	\$4.94
Hong Kong .....	15.39	7.93	15.39	15.06	6.56
Average .....	10.51	6.91	5.48	5.92	4.96
Thailand .....	4.07	2.30	3.04	2.75	5.36
Average .....	9.13	5.77	5.34	5.67	4.97
Other sources .....	17.44	16.59	19.58	20.09	12.27
Average .....	13.15	10.52	9.50	10.15	7.39

<sup>1</sup> Subtotals not including Hong Kong are 1,299,000 gross/\$11.54 million in 1990; 1,662,000 gross/\$9.42 million in 1991; 3,445,000 gross/\$18.03 million in 1992; 2,321,000 gross/\$12.88 million in interim 1992; and 3,208,000 gross/\$15.86 million in interim 1993.

<sup>2</sup> Imports of pencils from nonsubject countries such as Japan and Germany tend to be sold in specialty markets, or feature licensed characters or logos. Taiwan was traditionally a major supplier of low-priced pencils and continues to supply such pencils to the U.S. market; however, recent Commerce statistics indicate that entered values for Taiwanese imports have increased. There has been an upward trend in recent years of low-priced imports from Malaysia and Indonesia, countries which are believed to rely heavily on jelutong wood in pencil manufacture; petitioners' postconference response to questions, p. 3.

<sup>3</sup> C.i.f. duty-paid value.

Note.—Because of rounding, figures may not add to the totals shown; unit values are calculated from unrounded figures.

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

## Total Subject Imports

Cumulative imports of certain cased pencils from China and Thailand rose from 1.4 million gross in 1990 to 3.5 million gross in 1992, representing an increase of 158 percent. Total subject imports increased from 3.4 million gross in January-September 1992 to 4.9 million gross in the corresponding period in 1993, or by 43 percent. The value of such imports increased irregularly by 36 percent from 1990 to 1992, rising from \$12.3 million in 1990 to \$18.6 million in 1992. Imports increased from \$13.3 million in interim 1992 to \$16.2 million in interim 1993, representing an increase of 22 percent.

## Market Penetration by the Subject Imports

The market shares of U.S. producers and imports from China, Thailand, and all other sources, based on apparent U.S. consumption of certain cased pencils, are presented in table 16. Apparent consumption is calculated from U.S. shipment data provided in response to Commission questionnaires and from imports provided in official statistics.

Table 16

Certain cased pencils: Shares of apparent U.S. consumption based on U.S. shipments of domestic product and U.S. imports, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

U.S. producers' market share, based on the quantity of apparent consumption, decreased from \*\*\* percent in 1990 to \*\*\* percent in 1992. During the interim periods, U.S. producers' market share continued to decline from \*\*\* percent in interim 1992 to \*\*\* percent in interim 1993.<sup>76</sup> U.S. producers' market shares, based on the value of apparent consumption, followed somewhat different trends by declining irregularly from \*\*\* percent in 1990 to \*\*\* percent in 1992, \*\*\* from \*\*\* percent to \*\*\* percent between the interim periods.

The market share of imports from China, based on the quantity of apparent U.S. consumption, increased from \*\*\* percent in 1990 to \*\*\* percent in 1992 and increased from \*\*\* percent in January-September 1992 to \*\*\* percent in the corresponding period of 1993. The Chinese imports' greatest inroads in the U.S. market are in the economy/commodity pencil end of the market.<sup>77</sup>

The market share of imports from Thailand, based on the quantity of apparent consumption, increased from \*\*\* percent in 1990 to \*\*\* percent in 1991, and then declined to \*\*\* percent in 1992. The Thai share of consumption declined from \*\*\* percent in interim 1992 to \*\*\* percent in interim 1993. Counsel for the Government of Thailand argues that the value of Thai export statistics should be used in lieu of Commerce official statistics (see arguments in "U.S. Imports" section of the report), and that imports of the subject merchandise from all other countries should be based on official statistics. The results of such a calculation show the following U.S. market penetration ratios

<sup>76</sup> U.S. producers' market share would be slightly lower if Pentech's data were not included in the industry data (see table C-2).

<sup>77</sup> Conference TR, pp. 42 and 49.

by imports of certain cased pencils from Thailand: \*\*\* percent in 1990, \*\*\* percent in 1991, \*\*\* percent in 1992, and \*\*\* percent in January-June 1993.<sup>78</sup>

The aggregated market share of imports from China and Thailand, based on the quantity of apparent consumption, increased from \*\*\* percent in 1990 to \*\*\* percent in 1992 and increased from \*\*\* percent in January-September 1992 to \*\*\* percent in the corresponding period of 1993.

## Prices

### Marketing Characteristics

Demand for pencils is primarily influenced by population changes, especially in the school-age (kindergarten through 12th grade) population category. As the general and school-age population increases, demand for pencils increases. Since 1990, consumption of pencils in the United States increased by nearly 4.3 million gross pencils (24.2 percent) while the overall U.S. population increased by 7.9 million (3.2 percent) and the school-age sector of the population increased by 1.7 million (3.4 percent).<sup>79</sup> This growth in demand was concentrated not only in the standard, black-lead commodity pencil (i.e., the yellow No. 2) but also in specialty pencils, that is, pencils that are decorated with characters, designs, and shapes.

Pencils are sold to virtually all channels of distribution within the mass merchant and office products markets, including wholesalers, office supply superstores, mail-order catalogs, retail mass marketers, advertisement specialty dealers, and major discount stores. U.S. producers reported selling the full range of pencil products, including commodity, colored, carpenter, drafting, golf, and specialty pencils, and pencil blanks. U.S. importers of the Chinese product reported that they sell primarily the \*\*\*.<sup>80</sup> U.S. importers of the Thai product reported that they sell primarily \*\*\*.

One U.S. producer, Pentech, imports raw pencils from China as an input for their U.S.-produced specialty pencil. Raw pencils are non-lacquered wood-cased pencils. Pentech reported that the cost of the raw pencil represents only \*\*\* percent of the cost of its finished specialty pencil.<sup>81</sup> Pentech then adds a markup of nearly \*\*\* percent for the final selling price.<sup>82</sup> Although raw pencils are not sold by U.S. producers, they argue that the cost of the lacquering process is a small portion of the cost of the pencil blank. Empire reported that lacquering adds approximately \*\*\* percent to the cost of a finished wood-cased pencil blank. However, a finished wood-cased pencil blank is not only a lacquered raw pencil, but also has a ferrule and an eraser, \*\*\*. Pentech reported that the cost of the raw pencil represents approximately \*\*\* percent of the cost of an equivalent finished pencil blank, deducting the cost for decoration.<sup>83</sup>

Pencils are priced differently according to the pencil type (e.g., commodity, carpenter, colored, specialty, etc.), the quality of the specific pencil, the size of the order, and the required packaging (i.e., blister-wrapped packages for retail sales or boxed in bulk). Pencils are generally sold on a delivered basis and typically priced by the gross by both U.S. producers and importers. Pencils sold through the retail mass market will typically be sold in blister-wrapped packages containing many configurations, e.g., 3, 5, 10, 12, or 20 pencils per pack. U.S. producers reported that their average lead times generally ranged between \*\*\* whereas U.S. importers reported lead times ranging between \*\*\* for product from inventory and between \*\*\* for new pencil orders. Sales

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<sup>78</sup> Respondent's (Thailand) postconference brief, pp. 21-30 and Exhibit 12.

<sup>79</sup> Statistical Information Office, Bureau of the Census.

<sup>80</sup> Some importers reported that the specialty pencils that they import from China consist of a Taiwan-produced pencil and a Chinese-produced topper such as a troll head for the top of the pencil. The topper is attached in China.

<sup>81</sup> Pentech's postconference brief, p. 5.

<sup>82</sup> \*\*\*, and conference TR., p. 165.

<sup>83</sup> \*\*\*.



terms typically ranged between \*\*\* for U.S. producers and \*\*\* for U.S. importers. Nearly all of the U.S. producers and importers reported that transportation costs are not considered an important factor in the sale of pencils and ranged generally between \*\*\* percent of the total price of the product.

Although as a group, U.S. producers offer a full line of pencil products, each producer may specialize in a specific type of pencil. The three largest producers, Faber, Empire, and Dixon, offer primarily the standard, black-lead, commodity pencil. Moon and Pentech concentrate primarily in the higher-priced specialty pencils.<sup>84</sup> One U.S. producer, Musgrave, reported that it sells primarily pencil blanks, a finished pencil without any writing on it, to advertising specialty companies who will imprint some form of advertisement or promotion. The larger U.S. producers also reported producing pencil blanks but stated that this product is a minor portion of their business, sold mainly to keep up their pencil-making capacity.

U.S. producers have alleged that the imported products from China and Thailand compete, for the most part, within the standard, black-lead commodity pencil category, and specifically with the lowest-priced pencil in this category, the economy pencil. Commodity pencils as a category vary according to the quality of the pencil and its price. U.S. producers reported that prices for commodity pencils range between \$\*\*\* to \$\*\*\* per gross. Higher-priced commodity pencils have a better quality wood casing, ferrule, and eraser, and have a smoother lead. The lower-priced economy pencil is the low-end, standard, yellow No. 2 pencil and is typically targeted for the back-to-school market segment. At the conference, Erik Jorganson, chairman of Faber, reported that prices for a specific pencil type do not influence prices for other types of pencils.<sup>85</sup> For example, prices for commodity pencils do not influence prices for specialty pencils or carpenter pencils. However, U.S. producers argued that prices for the different-quality pencils being sold within the commodity pencil segment can be influenced by pricing tactics for the low-end economy pencil.

Similar to the commodity pencil, specialty pencils also vary widely in price but not necessarily due to differing levels of quality. Rather, specialty pencil prices can range widely depending on the complexity of the specific design or the type of the topper attached at the top of the pencil. Some U.S. importers reported purchasing specialty pencils with a more decorative topper than just an eraser that costs far more than the pencil itself.<sup>86</sup> Specialty pencils are also fashion-oriented pencil products and they are quickly changed to follow the current style or trend. Because of the fashion/trendy nature of this type of pencil, they are also more likely to be collected.

U.S. producers and importers of pencils also sell other products to the same customers that purchase pencils. These products include writing instruments such as pens, markers, and mechanical pencils, as well as other stationery products. In addition, U.S. importers also sell other office products or novelty items. U.S. producers and importers agreed that pencils are often bought as part of a package that includes some of these other products. \*\*\* reported that sales of the economy pencil drive sales of the other more profitable products that they sell and that they will typically link low-priced economy pencils with the more profitable products that they sell.

U.S. producers and importers also reported offering incentive programs for their sales of pencil products. Both U.S. producers and importers offer volume discounts to customers based on the value of their total purchases of all products from the supplier (not necessarily only pencils). Some producers and importers also offer cooperative advertising allowances to customers up to a specific percentage of the previous year's purchases, typically 3 to 5 percent.

A large portion of pencil sales each year occur during mid-summer for the back-to-school season. The economy pencil is the largest selling pencil product during this season and is often used by large retailers as a loss leader to encourage traffic in their stores. As such, these retailers attempt

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<sup>84</sup> Dixon and Empire also produce specialty pencils. \*\*\*.

<sup>85</sup> Conference TR., pp. 90-91.

<sup>86</sup> For example, \*\*\*.

to get the lowest price possible for the economy pencils. \*\*\* also reported that retailers are becoming more concentrated, increasing the volume of their purchases, and thereby benefiting from even more volume discounts and lower prices. \*\*\* stated that \*\*\*.

Four of the seven responding U.S. producers and nearly half of the responding importers reported that U.S.-produced pencils are of better quality than Chinese-produced pencils. Some of the responses stated that Chinese pencils use lower quality wood, did not sharpen or erase well, had loose ferrules and erasers, and had leads that would break easily. However, these U.S. producers did acknowledge that the Chinese quality had been improving and that the price differential was more significant than and outweighed the quality differences between the U.S. and Chinese pencil. \*\*\*. It reported that in this specific market segment, the pencil is used for promotional giveaways and its purchasers are less likely to care about the quality of the pencil.

The few responding importers of Thai pencils reported that the quality of the Thai pencil was lower than that of the U.S. product but better than the Chinese pencil. Accordingly, these importers reported that the Thai product was priced below the U.S. pencil but was typically higher than the Chinese pencil.

The Commission requested U.S. producers and importers to report whether they were ever unable to supply pencils to a customer in a timely manner at prevailing prices and in the quantities desired during January 1990-September 1993. Most U.S. producers and importers of the Chinese pencils reported no problems with product supply for the U.S. market. However, two U.S. pencil manufacturers and one importer did report some supply problems. \*\*\*. The only U.S. importer reporting supply problems, \*\*\*, reported that China was not a reliable source and its shipments were usually late.

U.S. producers reported that their primary raw material input used in the production of the subject pencils is the wood slats. The cost of the wood slats accounts for roughly \*\*\* percent of cost of goods sold for U.S.-produced pencils. Wood slats used by U.S. producers are made from either California incense cedar or Indonesian jelutong. According to the Incense Cedar Institute, the average selling prices for California incense cedar wood slats increased by 42.3 percent, from \$2.67 per slat gross to \$3.80 per slat gross, during 1990-93, whereas prices for the Indonesian jelutong wood slats increased by 12.7 percent from \$1.80 per slat gross to \$2.03 per slat gross. The increase in the prices for California incense cedar wood slats is due to the reduced harvest for environmental concerns, including the spotted owl. \*\*\* reported that harvests of California incense cedar are down by 75 percent since 1988-89.<sup>87</sup>

### Questionnaire Price Data

The Commission requested price and quantity information from U.S. producers and importers for their quarterly sales of four types of pencils during the period January 1990-September 1993. U.S. retailers that imported directly from China or Thailand were also requested to provide purchase price data on their imports of the four pencil products. The four products are described below:<sup>88</sup>

*Product 1:* Commodity (economy) pencils - school grade, yellow, No. 2, retail packaging (i.e., sold to retail outlets).

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<sup>87</sup> \*\*\*.

<sup>88</sup> These products were selected after discussions with U.S. producers and importers of pencils. U.S. producers reported that their competition with the Chinese and Thai pencils was primarily in the low-priced commodity pencil market, specifically, with the so-called economy pencil. Additional competition was believed to be in the pencil blank segment.

- Product 2:* Commodity (economy) pencils - school grade, yellow, No. 2, boxed (i.e., sold to wholesalers or office supply superstores).
- Product 3:* Pencil blanks - undecorated and untipped.
- Product 4:* Specialty pencils - decorated pencils with different designs, shapes, or characters.

Usable price data were received from 5 U.S. producers and 12 U.S. importers of pencils. These firms represented \*\*\* percent of U.S. producers' domestic shipments of pencils during 1992 and 39 percent of U.S. importers' total imports of Chinese pencils. Reported pricing for pencil products 1-4 accounted for approximately \*\*\* percent of U.S. producers' domestic shipments of pencils and approximately 36 percent of U.S. importers' total imports of Chinese pencils. Pentech also reported purchase price data for its imports of raw pencils from China. No U.S. importer of Thai pencils reported any imports of the above products during 1990-93.<sup>99</sup>

#### *U.S. price trends*

Weighted-average delivered prices for U.S.-produced pencil products 1-3, economy pencils sold in retail packaging and bulk, and pencil blanks, fluctuated upward through most of the period January-March 1990 to April-June 1993, before declining during July-September 1993 (figure 2, table 17). Over the entire 15-quarter period, prices were higher by nearly \*\*\* percent for products 1 and 2 and by \*\*\* percent for product 3.

Figure 2

Weighted-average delivered selling prices of U.S.-produced pencil products 1-4, by quarters, Jan. 1990-Sept. 1993

\* \* \* \* \*

Table 17

Weighted-average net delivered selling prices and quantities of U.S.-produced and imported Chinese pencils, by products and by quarters, Jan. 1990-Sept. 1993

\* \* \* \* \*

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<sup>99</sup> Responding U.S. importers of Thai pencils reported that they imported \*\*\*.

Weighted-average delivered prices for U.S.-produced pencil product 4, specialty pencils, fluctuated upward throughout the entire period. Overall, prices were higher by \*\*\* percent between the first quarter of 1990 and the third quarter of 1993. Of the three producers reporting sizable sales in this product category, \*\*\* prices for its specialty pencils (\*\*\* ) were higher than either \*\*\* specialty pencils. \*\*\* prices ranged between \$\*\*\* and \$\*\*\* per gross, whereas \*\*\* prices ranged between \$\*\*\* and \$\*\*\* per gross and \*\*\* prices ranged between \$\*\*\* and \$\*\*\* per gross.

### *Chinese price trends*

Weighted-average delivered sales prices of imported pencil products 1, 2, and 4 from China varied depending on the specific product (figure 3).<sup>90</sup> Sales prices for product 1 \*\*\* during January-March 1990 to April-June 1993, before \*\*\* during July-September 1993. Sales prices for product 2 \*\*\* during most of the 15 quarters for which prices were collected. Sales prices for product 4 \*\*\* during July-September 1992 to April-June 1993, before \*\*\* during July-September 1993.<sup>91</sup> Overall, prices were \*\*\*.

Figure 3

Weighted-average delivered selling prices of imported pencil products 1, 2, and 4 from China, by quarters, Jan. 1990-Sept. 1993

\* \* \* \* \*

Weighted-average purchase prices for U.S. retailers who directly imported Chinese pencil products 1, 2, and 4 also varied depending on the specific product (figure 4, table 18).<sup>92</sup> Purchase prices for product 1 \*\*\* during April-June 1990 to April-June 1993. Purchase prices for product 2 \*\*\* during April-June 1990 to July-September 1993. Purchase prices for product 4 \*\*\* throughout the entire period. Overall, prices were \*\*\*. As stated earlier, prices range widely for specialty pencils because of the varying product mix within this category. Specialty pencil prices will typically depend on the complexity of the specific design for the pencil or whether a costly topper is attached to the pencil. U.S. retailers have reported that they imported pencils with a variety of different-priced toppers, as well as specialty pencils without any toppers. Prices collected for this product category combined all types of specialty pencils.

Figure 4

Weighted-average purchase prices of products 1, 2, and 4 and raw pencils imported directly from China by U.S. retailers, by quarters, Jan. 1990-Sept. 1993

\* \* \* \* \*

<sup>90</sup> No pricing information was submitted for sales of imported product 3 (pencil blanks) from China.

<sup>91</sup> Data were reported for \*\*\*.

<sup>92</sup> Retailers did not report any imports of product 3, pencil blanks, from China.

Table 18

Weighted-average net purchase prices and quantities of products 1, 2, and 4 and raw pencils imported directly from China by U.S. retailers, by quarters, Jan. 1990-Sept. 1993

\* \* \* \* \*

Pentech also reported purchase price information for its imports of raw pencils from China for use in its production of specialty pencils. Purchase prices for this product \*\*\* during October-December 1990 to July-September 1993.

### *Thai price trends*

No sales or purchase price information were reported for any imported products 1-4 from Thailand.

### *Price comparisons<sup>93</sup>*

There were \*\*\* instances in which comparisons between sales prices of U.S. producers and imported pencils from China were possible (table 19). In \*\*\* of these instances, the imported product was priced between \*\*\* percent below the domestic product. In \*\*\* instances, the price of the imported product was between \*\*\* than the domestic product.

Table 19

Margins of under(over)selling from sales prices of importers of the Chinese product and purchase prices of retailers that import directly from China, by products and by quarters, Jan. 1990-Sept. 1993

\* \* \* \* \*

There were \*\*\* instances in which comparisons between U.S. producers' sales prices and U.S. retailers' purchase prices for imported pencils from China were possible. \*\*\*.

### **Exchange Rates**

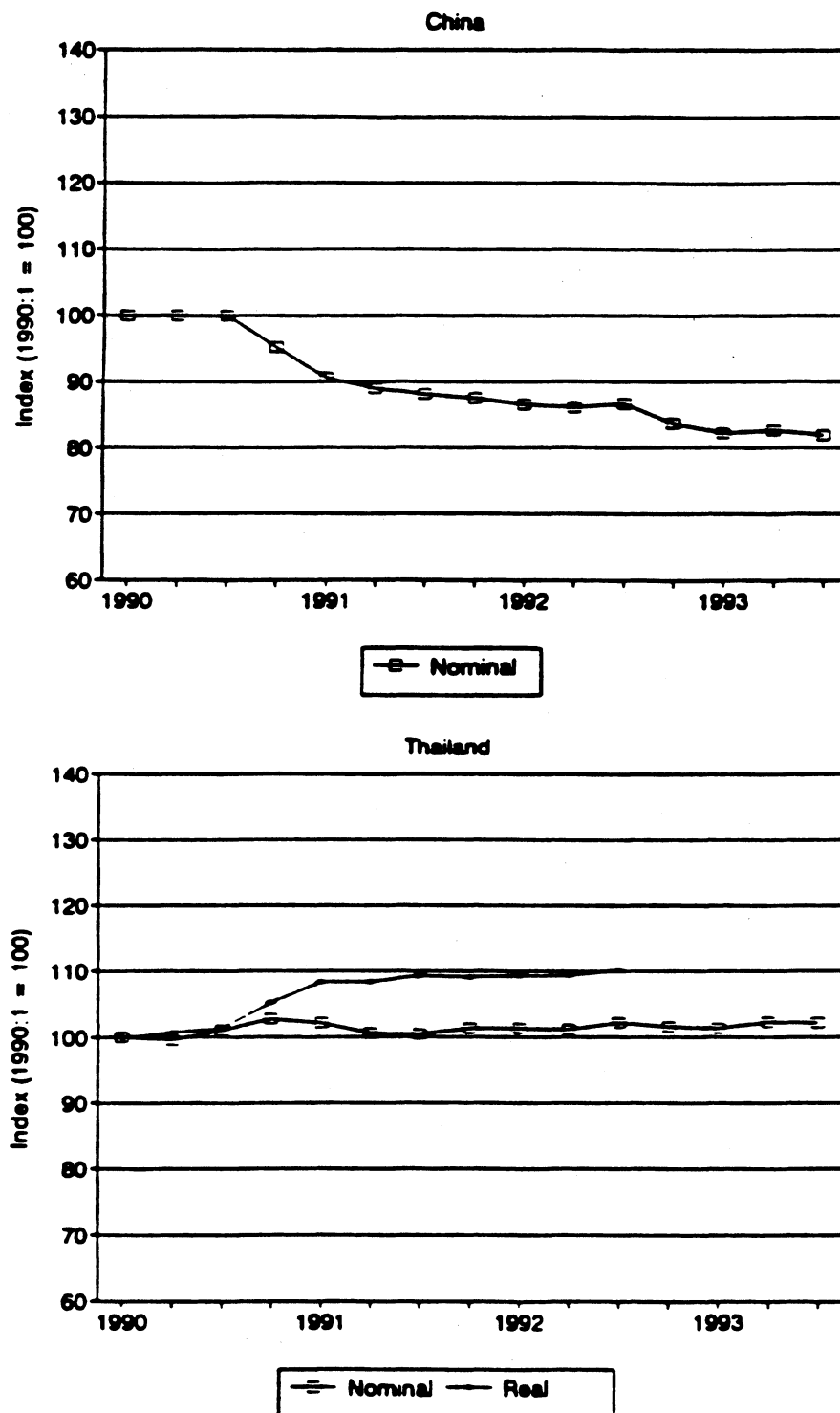
Quarterly data reported by the International Monetary Fund indicate that during January-March 1990 through July-September 1993, the nominal value of the Chinese yuan depreciated by 18.1 percent relative to the U.S. dollar, whereas the Thai baht fluctuated, slightly appreciating by 2.1 percent relative to the U.S. dollar (figure 5). Adjusted for movements in producer price indexes in the United States and Thailand, the real value of the Thai currency showed an overall appreciation of 10.1 percent relative to the dollar through the third quarter of 1992, the latest period for which data were available. The real value of the Chinese currency is not shown because producer price information for China is not known.

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<sup>93</sup> Price comparisons are presented between U.S. producers' sales prices and U.S. importers' sales prices as well as with U.S. retailers' purchase prices of direct imports. Price comparisons between U.S. producers' sales prices and retailers' purchase prices may not be directly comparable due to additional charges that may not be included in the retailers' purchase prices. Additionally, price comparisons are presented only for products 1 and 2 and not for product 4. The various types and prices of specialty pencils, some including expensive toppers, make any comparison within this category suspect.

**Figure 5**

**Exchange rates: Indexes of the nominal and real exchange rates between the U.S. dollar and the currencies of China and Thailand, by quarters, Jan. 1990-Sept. 1993**



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

## Lost Sales and Lost Revenues

Although \*\*\* U.S. producers reported to the Commission that they lost sales to imported pencils from China and Thailand, they were not able to provide information on specific allegations. \*\*\* producers did cite \*\*\* that they believed bought imported product in lieu of domestic product. However, \*\*\* was able to report a dollar value associated to its lost sales, \*\*\*. \*\*\* reported \*\*\* to whom it allegedly lost \$\*\*\* in sales of its economy pencil to the imported Chinese product. \*\*\* reported losing sales to two firms \*\*\*. \*\*\* cited \*\*\* in its lost sales allegations, but commented it \*\*\*. \*\*\* believed that \*\*\* U.S. producers had lost sales to \*\*\* because of the imported products. The Commission contacted all of the purchasers cited by the \*\*\*. There were no allegations of lost revenues due to the imported product.<sup>94</sup>

\*\*\*, a \*\*\* of low-end products with \*\*\*, was cited by \*\*\* for lost sales of \$\*\*\* involving economy pencils from China. \*\*\*. \*\*\* reported that in the last 12 months, it purchased approximately \*\*\* pencils totalling \$\*\*\*. He reported that nearly \*\*\* percent of its purchases were Chinese product and \*\*\* percent involved U.S.-produced pencils. \*\*\* stated that over \*\*\* percent of \*\*\* purchase of the imported pencils was for the \*\*\* that involved the economy type pencils. He reported that the price was significantly lower for the imported Chinese product and decided to purchase the imported product \*\*\*. \*\*\* purchased mostly from domestic producers. \*\*\* acknowledged that although the Chinese pencil was of lower quality than the U.S. pencil, it was not significant enough to offset the price difference between the Chinese and U.S. pencil.

\*\*\* was cited by \*\*\* for purchasing \*\*\* from Thailand. \*\*\* representative reported that this allegation \*\*\*. \*\*\* could not report any specific information concerning this allegation. \*\*\* reported that \*\*\* purchases approximately \*\*\* pencils per year for \*\*\*. \*\*\* had imported \*\*\* of Thai \*\*\* and had purchased between \*\*\* Chinese \*\*\* from another importer. These purchases of imported product, in total, were less than \*\*\* percent of its overall pencil purchases. The Chinese and Thai pencils cost approximately \$\*\*\* per gross compared with a U.S. price ranging between \$\*\*\* and \$\*\*\* per gross. \*\*\* reported that the quality of the Thai pencil was closer to the U.S.-produced pencil, whereas the quality of the Chinese product was not quite as good. He believed that the finish of the Chinese pencil was not good enough for \*\*\*. \*\*\* reported that he purchased the imported product to compete primarily against other \*\*\* that use imported product. \*\*\* commented that some purchasers do not care about the quality of the finished product because it is \*\*\*.

\*\*\* was cited by \*\*\* for lost sales of \$\*\*\* involving economy pencils from China. \*\*\* could not identify any specific pencil quantities \*\*\*. \*\*\* also cited \*\*\* for lost sales but could not identify any specific allegation. \*\*\* reported that \*\*\* purchased approximately \*\*\* wood cased pencils during the 12 months ending in September 1993. Of this amount, approximately \*\*\* pencils were of Chinese origin purchased from \*\*\*. \*\*\* purchased the Chinese product because it needed a low-price-point pencil product for purchasers that did not care about the quality of the pencil. \*\*\* had previously lost business to other \*\*\* that offered a lower-priced pencil to these types of purchasers. \*\*\* reported that \*\*\* was unable to convince its U.S. supplier, \*\*\*, to lower their current prices. \*\*\* commented that although the quality of the Chinese product was lower than the U.S. product, some purchasers were willing to make this trade-off for the lower price. \*\*\* also stated that \*\*\* continues to offer U.S.-produced pencils in its \*\*\*.

\*\*\* was cited by \*\*\* for purchasing \*\*\* from China. \*\*\* representative reported that this allegation \*\*\*. \*\*\* could not report any specific information concerning this allegation. \*\*\* reported that it purchases approximately \*\*\* pencil blanks per year \*\*\*. Approximately \*\*\* percent of its purchases are U.S.-produced pencils and \*\*\* percent are from importers of the Chinese product. \*\*\* reported that it purchased the imported product because some of its customers wanted

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<sup>94</sup> U.S. producers reported that they did not reduce prices or roll back announced price increases because of the imported product from China or Thailand.

an inexpensive pencil and were willing to buy a lower quality product since \*\*\*. \*\*\* commented that the Chinese pencil does not sharpen as well as the U.S. pencil and uses a cheaper wood, ferrule, and eraser. However, \*\*\* reported that approximately \*\*\* percent of its customers refuse to purchase an imported pencil either due to its lower quality or the fact that it is imported.

\*\*\* was cited by \*\*\* for lost sales of \$\*\*\* involving \*\*\* pencils from China. \*\*\* could not identify any specific pencil quantities \*\*\*. \*\*\* reported that it did not purchase any pencils from Thailand or from China. Rather it had purchased pencils from \*\*\*. Overall, \*\*\* purchased approximately \*\*\* gross of pencils during \*\*\*, with \*\*\* from \*\*\*. \*\*\* reported that he had been sent \*\*\* from China but that he thought the pencils \*\*\*. The price of the \*\*\* pencils was approximately \$\*\*\* per gross, while the U.S. pencils were \$\*\*\* per gross.

\*\*\* was cited by \*\*\* for lost sales of \$\*\*\* involving economy pencils from China. \*\*\* could not identify any specific pencil quantities or \*\*\*. \*\*\* reported that he had not purchased any imported product since \*\*\*, when he became pencil purchaser. All of his pencils had been purchased from \*\*\*. In total, \*\*\* purchases approximately \*\*\* pencils per year, typically, in \*\*\*.

\*\*\* was cited by \*\*\* for purchasing \*\*\* pencils from China. \*\*\* reported that \*\*\* had purchased \*\*\* pencils from \*\*\* because of late deliveries of imports, but had not purchased any product from \*\*\* during \*\*\*. \*\*\* concerning this allegation. \*\*\* reported that it is primarily an importer of pencils and other \*\*\* products and not typically a purchaser of U.S.-produced products. He reported that \*\*\* had purchased less than \*\*\* percent of its pencils from U.S. sources. These purchases occurred only to replace late deliveries of imported product. \*\*\* reported that \*\*\* is in the \*\*\* and sells only \*\*\* items.

\*\*\* was cited by \*\*\* for lost sales of \$\*\*\* involving economy pencils from China. \*\*\* could not identify any specific pencil quantities or \*\*\*. \*\*\* also cited \*\*\* for lost sales but could not identify any specific allegation. \*\*\* did not respond to telephone calls from the Commission's staff.



**APPENDIX A**  
***FEDERAL REGISTER* NOTICES**



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**INTERNATIONAL TRADE  
COMMISSION**

(Investigations Nos. 731-TA-669-670  
(Preliminary))

**Certain Casced Pencils From the  
People's Republic of China and  
Thailand**

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

**ACTION:** Institution and scheduling of  
preliminary antidumping investigations.

**SUMMARY:** The Commission hereby gives notice of the institution of preliminary antidumping investigations Nos. 731-TA-669-670 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China and Thailand of certain pencils with leads encased in a rigid sheath, provided for in subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by December 27, 1993.

For further information concerning the conduct of these investigations 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 B (19 CFR part 207).

**EFFECTIVE DATE:** November 10, 1993.

**FOR FURTHER INFORMATION CONTACT:** Valerie Newkirk (202-205-3190), Office of Investigations, 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 with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

**SUPPLEMENTARY INFORMATION:**

**Background**

These investigations are being instituted in response to a petition filed on November 10, 1993, by the Pencil Makers Association, Inc., Marlton, NJ.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than seven (7) 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.

**Conference**

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on December 1, 1993, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Valerie Newkirk (202-205-3190) not later than November 23, 1993, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

**Written Submissions**

As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before December 6, 1993, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must 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 investigations must be served on all other parties to the investigations (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.

**Authority:** These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.12 of the Commission's rules.

**By order of the Commission.**

**Issued:** November 12, 1993.

**Donna R. Keshnka,**

*Secretary.*

[FR Doc. 93-28352 Filed 11-16-93; 8:45 am]

BILLING CODE 7000-00-P

[A-570-627, A-648-608]

**Initiation of Antidumping Duty Investigations:** Certain Cased Pencils From the People's Republic of China and Thailand

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

**EFFECTIVE DATE:** December 8, 1993.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Thirumalai or Vincent Kane, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 144th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-4067 or 482-2815.

**INITIATION OF INVESTIGATION:**

**The Petition**

On November 9, 1993, we received a petition filed by the Pencil Makers Association Inc. ("petitioner"), the trade association representing the domestic pencil-manufacturing industry, on behalf of its pencil manufacturing members. However, the International Trade Commission ("ITC") did not receive the petition filed in proper form until November 10, 1993. Therefore, consistent with 19 CFR 353.12(c), we consider the petition to have been officially filed with the Department on that date.

In accordance with 19 CFR 353.12, petitioner alleges that imports of certain cased pencils ("pencils") from the People's Republic of China ("PRC") and Thailand are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that such imports are materially injuring, or threatening material injury to, a U.S. industry.

Petitioner states that it has standing to file the petition because the Pencil Makers Association Inc. is an interested party, as defined under sections 771(9)(C) and (E) of the Act and the petition is filed on behalf of its pencil manufacturing members. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, it should file a written

notification with the Assistant Secretary for Import Administration.

**Scope of Investigation**

The products covered by these investigations are certain cased pencils of any shape or dimension which are writing and/or drawing instruments that feature cores of graphite or other materials encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (e.g., with erasers, etc.) in any fashion, and either sharpened or unsharpened. The pencils subject to these investigations are classified under subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States ("HTSUS").

Specifically excluded from the scope of these investigations are mechanical pencils, cosmetic pencils, pen, non-cased crayons (wax), pencils, charcoal, or chalks.

Although the HTSUS subheading is provided for convenience and customs purposes, our written descriptions of the scope of these investigations is dispositive.

**United States Price and Foreign Market Value**

**The People's Republic of China**

Petitioner based United States Price ("USP") on 1993 price quotes made on a packed, i.e., Hong Kong basis from a Hong Kong trading company involved in a joint venture with a Chinese pencil manufacturer. Petitioner made no adjustment to the price.

Petitioner contends that the foreign market value ("FMV") of PRC-produced imports subject to this investigation must be determined in accordance with section 773(c) of the Act, which concerns non-market economy ("NME") countries. The Department has determined the PRC to be an NME, within the meaning of section 771(18)(A) of the Act. In previous cases (see e.g., *Final Determination of Sales at Less Than Fair Value: Certain Camshaft Ductile Iron Waterworks Fittings and Accessories Thereof from the PRC*, 58 FR 37908 (July 14, 1993)) ("CDMW Fittings"). In accordance with 771(18)(C) of the Act, that determination continues to apply for purposes of this initiation.

In the course of this investigation, parties will have the opportunity to address this NME determination and provide relevant information and argument on this issue. In addition, parties will have the opportunity in this investigation to submit comments on whether FMV should be based on prices or costs in the PRC consistent with

section 773(c)(1)(B) of the Act (see *Amendment to Final Determination of Sales at Less Than Fair Value And Order: Certain-Plated Lug Nuts from the People's Republic of China*, 57 FR 15052 (April 24, 1992)).

Because of the extent of central government control in an NME, the Department further considers that a single antidumping margin, should there be one, is appropriate for all exporters from the NME. Only if individual NME exporters are free of central government ownership and can demonstrate an absence of central governmental control with respect to the pricing of exports, both in law and in fact, will they be considered eligible for separate, company-specific deposit rates. (See *Final Determination of Sales at Less Than Fair Value: Helical Spring Lock Washers from the People's Republic of China*, 58 FR 48633 (September 20, 1993) for a discussion of the information the Department considers appropriate to warrant calculation of separate rates.)

In accordance with section 773(c) of the Act, FMV in NME cases is based on "NME producers' factors of production valued in a market economy country." Petitioner calculated FMV on the basis of the valuation of the factors of production based on information available about production processes in the PRC.

In valuing the factors of production, petitioner used India as the primary surrogate country. However, petitioner was unable to obtain values for all factors in India. For some of these factors, petitioner supplied values from other surrogate countries, i.e., Sri Lanka and Indonesia. For purposes of this initiation, we have, pursuant to section 773(c)(4) of the Act, accepted India, Sri Lanka, and Indonesia as appropriate surrogate countries because their economies are at a level of development comparable to the PRC's. (See Memorandum to David L. Blinder, Director—Division II, Office of Antidumping Investigations from David P. Mueller, Director, Office of Policy, dated August 1993, regarding non-market economy status and surrogate country selection on file in room B-069 of the Department of Commerce.)

In accordance with section 773(c)(1)(B) of the Act, petitioner's FMV consisted of the sum of values assigned to materials, labor, energy, and depreciation. To this, petitioner added general expenses, profit and packing. Petitioner made an error in the calculation of profit costs and we have adjusted petitioner's calculation to correct for this error. In addition, to

value the material inputs for cores, petitioner used two methodologies which involved: (1) Using only the costs of unprocessed graphite and kaolin clay; and (2) using the cost of a finished core. We found that the second methodology would double count certain expenses included in the cost of a finished core (e.g., energy to produce the core, labor hours, etc.). Therefore, we have not accepted petitioner's second methodology for valuing the material inputs for cores and, instead, relied only on the first methodology.

Petitioner adjusted certain production costs to reflect differences in inflation and currency exchange rates between the dates of the U.S. price quote and the dates of the reported data.

Pursuant to sections 773 (c)(1) and (e)(1) of the Act, petitioner added to the labor and material costs the statutory minima of 10 percent for general expenses and 8 percent for profit, as well as an amount for packing based on the experience of a U.S. producer.

#### *Thailand*

Petitioner based USP on a 1993 price quote made on an f.o.b. basis by a Thai wholesaler to an unrelated U.S. importer. Petitioner added to this f.o.b. price quote an amount to reflect the Thai value added tax (VAT). Petitioner did not adjust the quoted price to reflect foreign inland freight costs or commissions.

Petitioner based FMV on a 1993 price quote for sales in the Thai market from a Thai wholesaler. Petitioner added to this price an amount to reflect the Thai VAT. Petitioner has made no other adjustments to the price.

#### *Fair Value Comparisons*

For the PRC, based on its comparisons of USP and FMV, petitioner alleges dumping margins ranging from 72.31 percent to 90.64 percent. For Thailand, petitioner alleges dumping margins of 9.68 percent.

#### *Initiation of Investigations*

We have examined the petition on pencils and have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of pencils from the PRC and Thailand are being, or are likely to be, sold in the United States at less than fair value.

#### *ITC Notification*

Section 732(d) of the Act requires us to notify the ITC of these actions, and we have done so.

#### *Preliminary Determination by the ITC*

The ITC will determine by December 27, 1993, whether there is a reasonable indication that imports of pencils from the PRC and Thailand are materially injuring, or threaten material injury to, a U.S. industry. A negative ITC determination on either of these will result in the investigations being terminated; otherwise, each of these investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: November 30, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[PR Doc. 93-29888 Filed 12-7-93; 8:45 am]

CLASS CODE 310-00-0

**APPENDIX B**  
**CALENDAR OF THE PUBLIC CONFERENCE**





## CALENDAR OF THE PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission conference:

Subject: CERTAIN CASED PENCILS FROM THE PEOPLE'S  
REPUBLIC OF CHINA AND THAILAND

Investigations Nos: 731-TA-669-670 (Preliminary)

Date and Time: December 1, 1993 - 9:30 a.m.

Sessions were held in connection with the investigations in Courtroom C, Room 217 of the United States International Trade Commission, 500 E Street, SW, Washington, DC.

### In support of the Imposition of Antidumping Duties:

Neville, Peterson & Williams--Counsel  
Washington, DC  
On behalf of

The Pencil Makers Association, Inc.

Robert F. Waller, Jr., Executive Director, Pencil Makers Association  
Len Dahlberg, Senior Vice President, Dixon Ticonderoga Corp.  
Robert Spies, Senior Vice President, Empire Berol Corp.  
Erik Jorgensen, President and Chief Operating Officer, Faber-Castell Corp.

John M. Peterson )  
George Thompson )--OF COUNSEL  
Peter Allen )

### In opposition to the Imposition of Antidumping Duties:

Graham & James  
Washington, DC  
On behalf of

Pentech International, Inc.  
Shantra, Inc.

Norman Melnick, Chief Executive Officer, Pentech  
Richard S. Kalin, Esq., Law Office of Richard S. Kalin

Lawrence R. Walders )  
Jeffrey L. Snyder )--OF COUNSEL  
Matthew E. Marquis )  
James C. Allard )

**In opposition to the Imposition of Antidumping Duties--Continued**

**Willkie Farr & Gallagher  
Washington, DC  
On behalf of**

**The Government of Thailand**

**Kenneth R. Button, Vice President, Economic Consulting Services, Inc.**

**Kenneth J. Pierce )  
Daniel L. Porter )--OF COUNSEL  
Harold L. Cohen )**

**APPENDIX C**  
**SUMMARY TABLES**



Table C-1

Certain cased pencils: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

Table C-2

Certain cased pencils: Summary data concerning the U.S. market (excluding industry data for Pentech), 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

(Quantity=1,000 gross, value=1,000 dollars, unit values, unit labor costs,  
and unit COGS are per gross, period changes=percent, except where noted)

Item	Reported data					Period changes			
	1990	1991	1992	Jan.-Sept.-		1990-92	1990-91	1991-92	Jan.-Sept. 1992-93
				1992	1993				
U.S. consumption quantity:									
Amount	***	***	***	***	***	+24.2	+10.7	+12.3	+11.3
Producers' share: <sup>1</sup>									
Pentech	***	***	***	***	***	+1.5	0	+1.5	+2.9
All other firms	***	***	***	***	***	-9.2	-1.1	-8.1	-8.8
Total	***	***	***	***	***	-7.7	-1.1	-6.6	-5.9
Importers' share: <sup>1</sup>									
China	***	***	***	***	***	+9.1	+0.6	+8.5	+4.2
Hong Kong	***	***	***	***	***	-0.1	+0.1	-0.2	+0.1
Subtotal	***	***	***	***	***	+9.0	+0.7	+8.3	+4.3
Thailand	***	***	***	***	***	-0.7	+0.6	-1.3	-0.8
Subtotal	***	***	***	***	***	+8.3	+1.3	+7.0	+3.5
Other sources	***	***	***	***	***	-0.6	-0.2	-0.4	+2.4
Total	***	***	***	***	***	+7.7	+1.1	+6.6	+5.9
U.S. consumption value:									
Amount	***	***	***	***	***	+29.8	+9.5	+18.6	+12.6
Producers' share: <sup>1</sup>									
Pentech	***	***	***	***	***	+3.2	0	+3.2	+3.7
All other firms	***	***	***	***	***	-4.3	+3.1	-7.4	-2.0
Total	***	***	***	***	***	-1.1	+3.1	-4.2	+1.7
Importers' share: <sup>1</sup>									
China	***	***	***	***	***	+2.1	-1.8	+3.8	+1.0
Hong Kong	***	***	***	***	***	-0.2	-0.1	-0.1	-0.1
Subtotal	***	***	***	***	***	+1.8	-1.9	+3.8	+0.9
Thailand	***	***	***	***	***	-0.5	-0.2	-0.3	-0.2
Subtotal	***	***	***	***	***	+1.3	-2.1	+3.5	+0.7
Other sources	***	***	***	***	***	-0.2	-1.0	+0.7	-2.5
Total	***	***	***	***	***	+1.1	-3.1	+4.2	-1.7
U.S. importers' imports from-									
China:									
Imports quantity	1,009	1,230	3,241	2,135	3,149	+221.2	+21.9	+163.5	+47.5
Imports value	10,361	8,429	17,412	12,367	15,541	+68.1	-18.6	+106.6	+25.7
Unit value	\$10.27	\$6.85	\$5.37	\$5.79	\$4.94	-47.7	-33.3	-21.6	-14.8
Ending inventory qty	***	***	***	***	***	+411.1	+91.7	+166.7	+248.6
Hong Kong:									
Imports quantity	50	76	35	29	58	-30.0	+52.0	-53.9	+100.0
Imports value	770	601	546	439	380	-29.1	-21.9	-9.2	-13.4
Unit value	\$15.39	\$7.93	\$15.39	\$15.06	\$6.56	( <sup>2</sup> )	-48.4	+94.0	-56.4
Ending inventory qty	***	***	***	***	***	-	-	-	-

See footnotes at end of table.

Table C-2--Continued

Certain cased pencils: Summary data concerning the U.S. market (excluding industry data for Pentech), 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

(Quantity=1,000 gross, value=1,000 dollars, unit values, unit labor costs, and unit COGS are per gross, period changes=percent, except where noted)

Item	Reported data			Jan.-Sept.-		Period changes			
	1990	1991	1992	1992	1993	1990-92	1990-91	1991-92	Jan.-Sept. 1992-93
U.S. importers' imports									
from--									
China and Hong Kong:									
Imports quantity . . .	1,059	1,306	3,276	2,164	3,207	+209.3	+23.3	+150.8	+48.2
Imports value . . . .	11,131	9,029	17,957	12,806	15,921	+61.3	-18.9	+98.9	+24.3
Unit value . . . . .	\$10.51	\$6.91	\$5.48	\$5.92	\$4.96	-47.9	-34.2	-20.7	-16.1
Ending inventory qty	***	***	***	***	***	+411.1	+91.7	+166.7	+248.6
Thailand:									
Imports quantity . . .	290	432	204	186	59	-29.7	+49.0	-52.8	-68.3
Imports value . . . .	1,179	993	620	511	315	-47.4	-15.8	-37.6	-38.4
Unit value . . . . .	\$4.07	\$2.30	\$3.04	\$2.75	\$5.36	-25.4	-43.6	+32.3	+94.8
Ending inventory qty	***	***	***	***	***	***	***	***	***
Subject sources:									
Imports quantity . . .	1,348	1,738	3,481	2,350	3,266	+158.2	+28.9	+100.3	+39.0
Imports value . . . .	12,310	10,022	18,578	13,317	16,236	+50.9	-18.6	+85.4	+21.9
Unit value . . . . .	\$9.13	\$5.77	\$5.34	\$5.67	\$4.97	-41.5	-36.9	-7.4	-12.3
Ending inventory qty	***	***	***	***	***	***	***	***	***
Other sources:									
Imports quantity . . .	1,263	1,359	1,438	1,061	1,621	+13.9	+7.6	+5.8	+52.8
Imports value . . . .	22,030	22,558	28,146	21,316	19,894	+27.8	+2.4	+24.8	-6.7
Unit value . . . . .	\$17.44	\$16.59	\$19.58	\$20.09	\$12.27	+12.3	-4.9	+18.0	-38.9
Ending inventory qty	***	***	***	***	***	***	***	***	***
All sources:									
Imports quantity . . .	2,611	3,098	4,918	3,411	4,887	+88.4	+18.7	+58.7	+43.3
Imports value . . . .	34,339	32,580	46,724	34,633	36,130	+36.1	-5.1	+43.4	+4.3
Unit value . . . . .	\$13.15	\$10.52	\$9.50	\$10.15	\$7.39	-27.8	-20.0	-9.7	-27.2
U.S. producers'--3									
Average capacity qty .	21,160	21,660	22,500	17,107	17,807	+6.3	+2.4	+3.9	+4.1
Production qty . . . .	15,598	16,966	18,101	13,361	14,110	+16.0	+8.8	+6.7	+5.6
Capacity utilization <sup>1</sup> . .	73.7	78.3	80.4	83.2	84.2	+6.7	+4.6	+2.1	+1.0
U.S. shipments:									
Quantity . . . . .	14,919	16,300	16,531	13,011	12,852	+10.8	+9.3	+1.4	-1.2
Value . . . . .	114,149	129,946	139,946	108,400	118,750	+22.6	+13.8	+7.7	+9.5
Unit value . . . . .	\$7.65	\$7.97	\$8.47	\$8.33	\$9.24	+10.6	+4.2	+6.2	+10.9
Export shipments:									
Quantity . . . . .	1,027	1,327	1,513	1,017	953	+47.3	+29.2	+14.0	-6.3
Exports/shipments <sup>1</sup> . .	6.4	7.5	8.4	7.2	6.9	+1.9	+1.1	+0.9	-0.3
Value . . . . .	6,378	9,220	10,874	7,809	6,664	+70.5	+44.6	+17.9	-14.7
Unit value . . . . .	\$6.21	\$6.95	\$7.19	\$7.68	\$6.99	+15.7	+11.9	+3.4	-8.9
Ending inventory qty .	***	2,675	2,732	1,994	2,898	***	***	+2.1	+45.3
Inventory/shipments <sup>1</sup> .	20.9	15.2	15.1	10.7	15.7	-5.8	-5.7	( <sup>2</sup> )	+5.1
Production workers . .	1,430	1,352	1,374	1,471	1,380	-3.9	-5.5	+1.6	-6.2
Hours worked (1,000s)	2,421	2,339	2,641	1,779	1,844	+9.1	-3.4	+12.9	+3.7
Total comp. (\$1,000) .	25,477	25,412	29,621	21,617	22,075	+16.3	-0.3	+16.6	+2.1
Hourly total comp . .	\$10.52	\$10.86	\$11.22	\$12.15	\$11.97	+6.6	+3.2	+3.2	-1.5
Productivity (gross/hour)	6.4	7.3	6.9	8.1	8.3	+6.4	+12.6	-5.5	+1.7
Unit labor costs . . . .	\$1.63	\$1.50	\$1.64	\$1.55	\$1.50	+0.2	-8.3	+9.3	-3.2

See footnotes at end of table.

Table C-2--Continued

Certain cased pencils: Summary data concerning the U.S. market (excluding industry data for Pentech), 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

(Quantity=1,000 gross, value=1,000 dollars, unit values, unit labor costs, and unit COGS are per gross, period changes=percent, except where noted)									
Item	Reported data			Jan.-Sept.-		Period changes			
	1990	1991	1992	1992	1993	1990-92	1990-91	1991-92	Jan.-Sept. 1992-93
U.S. producers'-- <sup>3</sup>									
Net sales:									
Quantity . . . . .	16,345	17,611	18,063	13,994	14,372	+10.5	+7.7	+2.6	+2.7
Value . . . . .	129,985	138,218	149,395	114,216	125,704	+14.9	+6.3	+8.1	+10.1
Cost of goods sold									
(COGS) . . . . .	105,561	112,124	118,152	89,553	100,833	+11.9	+6.2	+5.4	+12.6
Gross profit (loss) . . .	24,424	26,094	31,243	24,663	24,871	+27.9	+6.8	+19.7	+0.8
SG&A expenses . . . .	23,743	26,934	28,569	22,535	27,170	+20.3	+13.4	+6.1	+20.6
Operating income (loss)	681	(840)	2,674	2,128	(2,299)	+292.7	-223.3	+418.3	-208.0
Capital expenditures . .	2,494	2,797	3,975	2,163	4,494	+59.4	+12.1	+42.1	+107.8
Unit COGS . . . . .	\$6.46	\$6.37	\$6.54	\$6.40	\$7.02	+1.3	-1.4	+2.7	+9.6
COGS/sales <sup>1</sup> . . . . .	81.2	81.1	79.1	78.4	80.2	-2.1	-0.1	-2.0	+1.8
Operating income									
(loss)/sales <sup>1</sup> . . . .	0.5	(0.6)	1.8	1.9	(1.8)	+1.3	-1.1	+2.4	-3.7

<sup>1</sup> 'Reported data' are in percent and 'period changes' are in percentage points.

<sup>2</sup> An increase of less than 0.05 percent.

<sup>3</sup> Data presented are for the U.S. industry excluding Pentech.

<sup>4</sup> A decrease of less than 0.05 percentage points.

Note.--Period changes are derived from the unrounded data. Period changes involving negative period data are positive if the amount of the negativity decreases and negative if the amount of the negativity increases. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

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





## **APPENDIX D**

**COMMENTS RECEIVED FROM U.S. PRODUCERS ON THE IMPACT  
OF IMPORTS OF CERTAIN CASED PENCILS FROM CHINA AND  
THAILAND ON THEIR GROWTH, INVESTMENT, ABILITY TO  
RAISE CAPITAL, AND EXISTING DEVELOPMENT EFFORTS**



The Commission requested U.S. producers to describe any actual or anticipated negative effects of certain cased pencils from the People's Republic of China and Thailand 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. Their 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 certain cased pencils from the People's Republic of China and Thailand?

\* \* \* \* \*

2. Does your firm anticipate any negative impact of imports of certain cased pencils from the People's Republic of China and Thailand?

\* \* \* \* \*

3. Has the scale of capital investments undertaken been influenced by the presence of imports of certain cased pencils from the People's Republic of China and Thailand?

\* \* \* \* \*

