UNITED STATES TARIFF COMMISSION
Washington, D.C.

[TEA-F-5]

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December 21, 1964

TARIFF COMMISSION REPORTS TO THE PRESIDENT ON PETITION FOR ADJUSTMENT ASSISTANCE BY THE NATIONAL TILE & MANUFACTURING CO.

The U.S. Tariff Commission today reported to the President the results of its investigation No. TEA-F-5, conducted under section 301(c)(1) of the Trade Expansion Act of 1962. The Commission's report to the President, exclusive of statistical tables and information received in confidence, is reproduced on the following pages. Copies of the statistical tables (Appendix B), other than those containing data received in confidence, are available upon request as long as the limited supply lasts. Address requests to the Secretary, U.S. Tariff Commission, 8th and E Streets, N.W., Washington, D.C. 20436.

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REPORT TO THE PRESIDENT

U.S. Tariff Commission,
December 21, 1964.

To the President:

In accordance with section 301(f)(1) of the Trade Expansion Act of 1962 (76 Stat. 885) the U.S. Tariff Commission reports herein the results of its investigation made, under section 301(c)(1) of that act, in response to a firm's petition for the determination of eligibility to apply for adjustment assistance. The petition was filed with the Commission on October 22, 1964, by the National Tile & Manufacturing Co. of Anderson, Indiana, a producer of certain ceramic floor and wall tiles.

The purpose of the Commission's investigation was to determine whether, as a result in major part of concessions granted under trade agreements, ceramic mosaic floor and wall tiles and glazed ceramic (other than mosaic) floor and wall tiles provided for in items 532.21 and 532.24 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the National Tile & Manufacturing Co.

The Commission instituted the investigation on October 23, 1964. Public notice of the receipt of the petition and of the institution of the investigation and of a public hearing to be held in connection therewith was given by publication of the notice in the Federal Register (29 F.R. 14807). The public hearing was held December 1 and 2, at which

all interested parties were afforded opportunity to be present, to produce evidence, and to be heard. A transcript of the hearing and formal briefs submitted by interested parties in connection with the investigation are attached. 1/

In addition to the information obtained at the hearing in this investigation, the Commission obtained data from its files, from other agencies of the U.S. Government, from briefs submitted by interested parties, and through field visits, interviews, and correspondence by members of the Commission's staff with officials of National Tile & Manufacturing Co., other ceramic floor and wall tile producers, important users of such tile, and with several of the major importers.

Finding of the Commission

On the basis of its investigation the Commission finds (Commissioners Fenn and Talbot dissenting) that ceramic floor and wall tiles provided for in TSUS items 532.21 and 532.24 are not, as a result in major part of concessions granted under trade agreements, being imported in such increased quantities as to cause, or threaten to cause, serious injury to the National Tile & Manufacturing Co. 2/

1/ Transcript and briefs were attached to the original report sent to the President.

2/ The negative finding of Commissioners Dorfman and Sutton is based on considerations different from those on which the negative finding of Commissioner Culliton is based. A statement of the views of Commissioners Dorfman and Sutton begins on page 5 and a statement of the views of Commissioner Culliton begins on page 13. The dissenting views of Commissioners Fenn and Talbot begin on page 18.

Summary of Information Obtained in the Investigation

The imported articles covered by the Commission's investigation are classified in the TSUS as follows:

Item	Articles	Rate of duty 1/
	Ceramic tiles:	
	Floor and wall tiles:	
532.21	Mosaic tiles----------	24.5% ad val.
	Other:	
532.24	Glazed----------	22.5% ad val.

Ceramic mosaic tiles are used primarily for floors, but some are used on interior and exterior walls and on counter tops, columns, and the like. For tariff purposes, a mosaic tile has a facial area of less than 6 square inches. "Other" tiles, glazed (item 532.24) are used almost exclusively on walls; for convenience, they will hereinafter be referred to as wall tiles to distinguish them from mosaic tiles.

The rates of duty applicable to ceramic mosaic and wall tiles immediately prior to enactment of the TSUS were 4-1/4 cents per square foot but not less than 21 percent or more than 30 percent ad valorem on tile valued not over 40 cents per square foot, and 25-1/2 percent ad valorem on tile valued over 40 cents per square foot. These rates were the result of reductions under trade agreements from statutory rates of 10 cents per square foot but not less than 50 percent or more than 70 percent ad valorem on tile valued not over 40 cents, and from

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1/ The rates shown apply to imports from all countries except the Republic of the Philippines and countries or areas which have been designated by the President or the Congress as being under Communist domination or control. See sec. 401 of the Tariff Classification Act of 1962 and secs. 231 and 257(e) of the Trade Expansion Act of 1962.

60 percent ad valorem on tile valued over 40 cents per square foot * * * . The major reduction was effective in June 1951, with lesser reductions in January 1948, and in June of 1956, 1957, and 1958. 1/

National Tile & Manufacturing Co. was incorporated in 1927, at which time it acquired the National Tile Co., whose predecessor was organized in 1889. The company makes primarily wall tile. It also makes a small amount of mosaic tile and of cast bathroom accessories (not covered by this investigation).

The petitioner operated profitably after resuming tile production in 1948 following a wartime shutdown, until 1960, although at a steadily declining profit after 1958. In each year since 1960 the company has operated at a loss. Production, sales, and employment have also declined. At present the plant is operating at somewhat less than half its capacity.

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1/ Reduced rates of duty on wall tile were negotiated with Mexico and were in effect from Jan. 30, 1943, to Dec. 31, 1950, but the present principal suppliers of tile were not in a position to take advantage of them because of World War II and its aftermath.

Views of Commissioners Dorfman and Sutton

Adjustment assistance was first provided for in the Trade Expansion Act of 1962 (TEA). Prior thereto the Congress provided for tariff relief for any industry that was being seriously injured, or threatened with serious injury, from increased imports resulting in whole or in part from the duty or other customs treatment reflecting a trade-agreement concession. The escape procedure provided that such increased imports should be considered as the cause of the serious injury when the increased imports "contributed substantially" toward causing such injury. However, when the Congress considered the provisions of section 301 of the bill that later became the Trade Expansion Act of 1962, it provided new criteria for relief. The Committee reports make clear that relief (whether tariff adjustment for an industry or adjustment assistance for firms or workers) was now to be given only under much more rigid conditions. The House-passed version of the bill did not include the former requirement that increased imports need merely "contribute substantially" toward causing injury. In commenting on the new criteria for relief, the House Committee on Ways and Means stated in effect that no industry, firm, or worker was to be afforded relief unless the serious injury (or the threat thereof) has "been caused by increased imports resulting from trade-agreement concessions." 1/ No reference was made to any other factors that might be the cause of injury to an industry, firm, or worker. The Senate Finance

1/ House Report No. 1818, 87th Cong., 2d Sess., p. 5 (see Appendix A).

Committee stated that the bill as it was passed by the House could be interpreted to mean that "increased imports as a result of concessions" must be the "sole" cause of the injury if relief is to be granted. 1/ The Committee observed that "this may not have been the intent of the bill" and amended it so that "the Tariff Commission need find only that the tariff concessions have been the major cause of such increased imports and that such imports have been the major cause of the injury."

In reaching our decision that ceramic mosaic and wall tiles are not being imported in such increased quantities as to cause or threaten serious injury to the National Tile & Manufacturing Co., we recognized that these articles "are being imported in increased quantities" but we did not determine whether the increased imports resulted "in major part" from the concessions granted under trade agreements. We were not obliged to make that determination and did not do so. Our finding, however, would be no different if we had considered that issue and had resolved it in the affirmative.

A firm may become eligible to apply for adjustment assistance only under narrowly prescribed conditions for an affirmative finding of serious injury by the Tariff Commission. Such a finding could pave the way for conferring benefits on a private firm at public expense. In the instant investigation, an affirmative determination would require, inter alia, a finding that the increased imports of ceramic mosaic and wall

1/ Senate Report No. 2059, 87th Cong., 2d Sess., p. 5 (see Appendix A).

tiles have been "the major factor" in causing, or threatening to cause, "serious injury" to the National Tile & Manufacturing Co. (hereinafter referred to as National).

The statute refers to "the" major factor, which in any given series of factors would not only be the one exerting the greatest influence but also the one that dominates the overall result. A factor that was merely the most important in a series would not necessarily exert more than minor influence. In support of our finding, we observe that the increased imports did not constitute the "major factor" within the meaning of the law. We do not feel called upon to establish that some other single factor was the "major factor," inasmuch as a combination of other factors exerted a significantly greater aggregate influence than did the increased imports.

The pertinent provision of the TEA refers also to "serious injury" (or the threat thereof); it does not refer merely to "injury." Any domestic producer of an article that receives intensified competition from imports as a result of trade-agreement concessions is presumably "injured" thereby but not necessarily "seriously injured." Further, the term injury as used in the TEA is not to be equated with inherent weakness or vulnerability of a petitioning firm. A firm that is having difficulty in competing with imports will be exposed to similar difficulty in competing with other domestic concerns that are successfully meeting the import competition in the markets common to all. We do not

subscribe to the fairly widespread beliefs (1) that the coincidence of increased imports and serious injury to a domestic producer (of like or directly competitive articles) establishes a causal relationship between the two, and (2) that in assessing the effect on a firm of increased imports all other factors affecting its economic health should be disregarded. 1/

The only substantial trade-agreement concessions on ceramic mosaic and wall tiles that are germane to this investigation became effective in June 1951. The concessions that became effective in January 1948 and in June of 1956, 1957, and 1958 were minor and even in the aggregate were small. Inasmuch as National Tile's output has always consisted preponderantly of wall tiles--around 90 percent and even higher in recent years--its import competition has been almost wholly in wall tiles. Such mosaic tiles as it manufactures are primarily on orders specifically calling for its own product or at least for a domestic product.

Japan has been by far the most important foreign source of ceramic wall tiles of the kinds competitive with those produced both by National and a large number of other domestic manufacturers. Notwithstanding that the principal trade-agreement concession on such tiles dates from mid-1951, the imports of wall tiles from Japan did not begin

1/ One of the homely analogies that is frequently employed likens the increased imports to "the straw that breaks the camel's back." It would appear, however, that if any camel's back was ever broken in consequence of its load being increased by a straw, the load underlaying the added straw would more properly qualify as the "major" cause of the "serious injury" than would the added straw.

to increase until after 1953 and they did not enter in important volume until 1959. They rose sharply thereafter, reaching 35 million square feet in 1963; imports in the first 8 months of 1964 were at an even higher rate.

While imports of wall tiles have been rising, domestic production of wall tiles also have been rising though not nearly so rapidly as imports in recent years. Some concerns have increased the volume of their sales but some like National have lost sales. National's inability to meet import competition stems from the same basic causes underlying its inability to compete successfully with its domestic competitors who either have been able to expand, or at least to maintain, their operations in the face of import competition.

The increase in the severity of import competition was not the only development that adversely affected National in the interval between the granting of the first significant trade-agreement concession on ceramic tiles and the filing of the petition with the Tariff Commission. Probably the gravest disability under which National has operated is that its plant has become progressibely outmoded, and that it has introduced modern equipment only sparingly in recent years. For example, * * *

National's failure to modernize its plant has operated to maintain unit labor costs at high levels in a period of rising labor costs. National's labor problems have been further aggravated in consequence of its proximity to a prosperous automobile industry. (General Motors has a nearby plant that employs over 1,000 persons.) National has had an exceptionally high labor turnover and it has had serious difficulties in negotiating contracts with its labor union (whose members consist principally of workers in retail and wholesale establishments and department stores). National still suffers from a labor strike that lasted for 6 months in 1962 and resulted in a heavy loss of customers to other suppliers.

National has also lagged behind other domestic manufacturers in introducing improved products, such as backmounting mosaic tile and joined groups of wall tile, products designed to facilitate installation. It lagged behind some of its competitors in establishing a network of regional warehouses to expedite deliveries. National's plant (located in Anderson, Ind.) is some considerable distance from such areas as New York, Philadelphia, Washington, and Miami; prices for tiles prevailing in some of those areas have tended to be somewhat lower than in other large regional markets closer to National's plant. 1/ Despite these considerations, National continued to rely heavily on

1/ However, prices in all major regional markets in the United States are closely linked and tend to move together, inasmuch as domestic producers commonly market their tiles over extensive territory and quote on a delivered price basis.

the more distant regional markets even when competition from both imported and domestic tiles was becoming increasingly severe in those areas.

National has itself recognized that it operated a plant that is sorely in need of modernization or replacement. The president of the concern, in testifying before the Tariff Commission, indicated that he was seeking adjustment assistance for his firm not only to secure certain tax benefits but more especially to obtain a substantial loan from the U.S. Government. The proceeds of the loan, he stated, would be devoted to the installation of an entirely new plant for making ceramic wall tiles. In so testifying the president appears to have tacitly recognized that increased imports of tiles did not constitute the "major factor" underlying National's difficulties. 1/

While increased imports no doubt caused some measure of injury to National (as they did to virtually all other domestic producers of ceramic tiles), we find no evidence that the increase in imports constituted the major cause of serious injury to the concern. National's difficulties, in our view, stem from a complex of factors, a number of

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1/ "I am looking for relief that perhaps may enable me to build a new factory based on my new process and therefore keep my plant and my employees operating, keep supplying tile in the market place competitive with Japanese tile at a reasonable profit. . . . /I seek/ not outright grants . . . . /but/ possibly loans from sources to build a new plant . . . /so/ that I can produce tile to sell in competition with imported tile and regain my customers, my sales volume and increased sales volume." Testimony of Mr. R.B. Alexander, president of National Tile & Manufacturing Co., before the Tariff Commission on Dec. 1, 1964. Transcript of hearing pp. 183-5.

which have been identified above, and there are no doubt others. The whole range of factors, however, need not be identified or individually evaluated--a task that would in any event not be feasible within the statutory period for completing the investigation. In our view, however, the aggregate of the factors that we have identified, rather than increased imports, constitute the major cause of the injury afflicting National.

Respectfully submitted.

Ben Dorfman, Chairman

Glenn W. Sutton, Commissioner

Views of Commissioner Culliton

In this case there was no question, among either the participants or the Commissioners, that tile, both floor and wall, are being imported in increased quantities. The evidence indicates, too, I believe, that the petitioner is suffering serious injury. The key issues in the case, therefore, as I see them, are (1) whether the articles are being imported in increased quantities, "as a result in major part of concessions granted under trade agreements" and (2), if so, whether "such increased imports have been the major factor in causing . . . . such injury."

Inasmuch as I find that there are clearly more than incidental causal relationships between the concessions and the increased imports on the one hand, and between the increased imports and the injury to the firm on the other, I feel that I must indicate the basis on which I appraise whether or not such causal relationships are major.

Any complex phenomena--like increased imports and the sales, employment, pricing, and profit picture of an industry or a firm--are "caused" by many forces, some independent, some interrelated and interacting, and some having feedback cause-and-effect relationships.

There are two norms by which any one force may be appraised as a "major" cause.

Norm 1. The Resolution of Forces. Using the analogy of the resolution of forces concept of physics one can attempt to assess the dominating force--the one exerting the most influence.

This has in it the problem of determining whether "major" means the one force which is greater than all others so that it dominates the results which are only modified by all others, or whether "major" means the one that is greater than any other.

In specific cases the extreme of either of the above could lead to absurdities say, for instance, when 98 causes each exert an influence of one and the 99th cause exerts an influence of two, or, on the other hand, when one cause exerts an influence of 49 and 51 other causes exert an influence of one each. I think the extremes must be avoided and the determination of a realistic middle ground is a matter of judgment, complicated to no small degree by the difficulties of measuring economic and business activities with the exactness used in the illustrations.

Norm 2. Immediate Cause of Major Change. If one visualizes a complex system moving in some sort of reasonable equilibrium, with no reason to suspect that there is within the system any likelihood of drastic change in that equilibrium (even while admitting that any such system is constantly dynamic) it can be seen that some new force which upsets the balance and drastically changes the operations of the system can be looked upon as a major cause of the change (and, therefore, of any "injury" resulting from the change).

I do not feel that one of these methods of appraising cause is right and that the other is wrong. I feel that each has its place and that the selection of the proper method is a function of the circumstances.

In our everyday experience (and also, I believe, in keeping with more analytical examination) when norm 2 is the appropriate one to use the causal relationship of the new force to the unexpected results is clear and obvious. As a matter of fact, studied analysis of the situation may tend to becloud the whole issue rather than clarify it.

As I mentioned above, the choice of the proper norm is a function of circumstances. In the instant case I believe one of the appropriate circumstances to be considered in the appraisal of causal relationships is the reason for trying to make the appraisal. That reason, as contained in the Trade Expansion Act, is to determine whether, because of specified cause-and-effect relationships, certain remedies may be applied.

The pattern in the evolution of the remedy features of the acts authorizing duty concessions by the United States also supports this way of determining what is major:

> In the first stage, there was authorization for duty reductions with no direct provisions for post facto review and change.
>
> In the second stage, there were escape-clause provisions which set up machinery for "correcting a mistake"--i.e., to modify a concession that cost too much.
>
> In the third stage, an escape provision was continued (but with greater restrictions) and a new mechanism added which instead of "correcting the mistake" would, in part, soothe the injured parties and in part enable them either to strengthen themselves to withstand the new forces or to run to a safer place.

The remedy which an affirmative finding in this case would authorize does not include a revision of the concession but is limited to assisting the firm in adjusting to an injurious situation. It seems reasonable to me, therefore, in appraising the effect of increased

imports on the firm to "take the victim as we find him" and neither to insist on overwhelming evidence that there were no other contributing causes of its difficulties nor to engage in belabored attempts to segregate and measure with apparent accuracy the relative effect of the continuing forces. I do not make any determination on this point in the instant case, however, because I find that the concessions were not the major cause of the increased imports.

As the Commission has pointed out on previous occasions 1/ the legal requirements for appraising the cause of increased imports are identical for industry, firm, and worker cases. This allows the Commission no latitude to modify its determination because of the peculiar effect of concessions on one firm or one group of workers. With respect to the cause of increased imports, I cannot find by either norm one (The Resolution of Forces) or norm two (The Immediate Cause of Major Change) that concessions are the major cause of the increased imports.

I am willing to admit that the first concession--at the time it was granted and for some delayed period thereafter--probably was the major cause of upsetting a precarious equilibrium and that it especially affected the timing of major changes in imports. I am convinced, however, that because of other persistent forces (such as cost differentials; improving technological, marketing, and managerial skills; and changing demand) such changes as have occurred would have

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1/ See especially the Cotton Sheeting Workers' Petition, TEA-W-4, TC Publication 100, July 19, 1963, pp. 3-6.

occurred (although, of course, not exactly the same) even without concessions. So, using Norm 2, I reject the conclusion that concessions are the major reason why either floor or wall tile is being imported in increased quantities on the grounds of timing and the evidence which indicates that once the change was brought about some 13 years ago the subsequent developments were normal and relatively predictable with a new kind of equilibrium which was not dominated by the first or subsequent (smaller) concessions.

Using Norm 1, I reject the major-cause conclusion because there are so many other, very normal, factors at work, some of which individually are more important than the concessions and all of which together far outweigh the concession (e.g., technological changes; increased use of tile because of several factors such as price, cost installed, good business conditions both generally and in the principal industries using tile, and fashion; and changes normally associated with dynamic business).

I find, therefore, that neither floor nor wall tile is being imported into the United States in increased quantities as a result in major part of concessions granted under trade agreements and therefore find in the negative on the petition.

Respectfully submitted.

James W. Culliton

James W. Culliton, Commissioner

Views of Commissioners Fenn and Talbot

In this investigation of a firm petitioning for adjustment assistance under the provisions of the Trade Expansion Act of 1962, we find that the three criteria set forth in that legislation have been met. Relevant imports have indeed increased; the increase is attributable in major part to the trade-agreement concessions; and increased imports were the major cause of serious injury to the National Tile & Manufacturing Co.

We are confining our discussion to glazed wall tile (other than mosaic) despite the fact that the petition upon which this investigation was based referred as well to ceramic mosaic tile (primarily used as floor tile). Although imports of mosaic tile have undoubtedly complicated the problems of National Tile by reducing its flexibility in fashioning an economic product mix, we are not considering imports of mosaic tile since this product represents only a small fraction of its sales.

Since the early 1950's there has been an almost constant increase in the imports of wall tile. In 1952 some 2.7 million square feet were imported; by 1963 the total had reached 54 million square feet. The first 8 months of 1964 show a further increase of 18 percent over the same period of 1963. Thus the first of the requirements of the Act has been met.

The determination of whether or not this substantial increase has been caused, in major part, by duty concessions is a more difficult and

finely-balanced one. The significant increases came in 1958, 1959, and the early 1960's. Imports rose from 9.2 million square feet in 1957, to 11.9 million in 1958, 22.0 million in 1959 and 54.3 million in 1963, or six times the 1957 figure. Since this surge took place some seven years after the major concession of 1951 when duties were cut in half, it can be argued that events other than trade concessions must have intervened. Further, the Commission has held that old concessions in other industries have become "conditions of trade" which cannot be considered to be "the major cause" of a marked increase in imports which manifested itself in later years.

We believe, however, that the conditions in this industry are different. In the first place, imports have responded every time there has been a duty cut. During the three years (1948-1950) preceding the 1951 reduction, imports of those wall tiles on which the duty was reduced totaled 1.5 million square feet; in the three years (1952-1954) following the reduction they rose to 7.7 million square feet. Similarly, the concessions granted over the three years 1956-58 were followed by the sharp rises in imports mentioned before. Thus it is clear that this product is extremely sensitive to tariff changes.

This evidence is not sufficient because the figures alone do not disclose an important fact: the imports in the early 1950's were primarily from the United Kingdom while the surge of imports several years later was from Japan. Thus there was a time lag in imports from Japan which, as we have pointed out, might cast doubt on the contention

that the concessions were the major cause of the increase in imports from Japan. In some situations, however, the delayed impact is not the result of delayed response which awaits other developments but rather of the time-consuming process of developing production and trade to take advantage of the tariff concessions. Such is the case here.

Japanese wall tile did not constitute a threatening factor in the American market until 1958 because of the peculiarities of the Japanese industry. Production started from a small base in the early part of the decade. Wall tile, especially of the type popular in the United States, was not widely used in Japan and the small industry in being could not readily be expanded to take full advantage of the new export opportunities especially in view of a shortage of raw materials during the Korean War, and a building boom in Japan. Most important of all, Japanese wall tile was generally unacceptable to American contractors: the colors were inconsistent and unappealing to tastes in this country, supply was uncertain, and quality was poor. Developing the techniques of manufacturing a high quality product, including perfecting the matching of colors took some time.

But the process was started. Imports of wall tile from Japan rose from 1.2 million square feet in 1949-53 to 11.8 million in 1954-58. After the difficulties indicated above had been overcome and the product perfected to the point where it was acceptable to United States purchasers, the efforts of this intervening period reached fruition with sales in the 1959-63 period reaching 115.0 million square feet and in 1964 moving far above the 1963 imports.

Thus it becomes clear that the duty cuts lay behind the management decisions, whether taken by importers or Japanese manufacturers or both, to sell wall tile in the United States. The fact that it took several years before that decision could be fully implemented because of the nature of the pre-existing Japanese industry does not alter the fundamental relationship between the duty concessions and the import increases.

Finally, it should be noted that the price differential between domestic and Japanese wall tile is only 5 to 10 cents per square foot. It is highly unlikely that wall tile could be imported in significant quantities if the statutory rates of duty were restored because users of the product in the United States are willing to pay 3 cents to 8 cents more per square foot for domestic tile in exchange for more convenient ordering and credit terms, better delivery and various technical services. The concession, therefore, appears to be the principle reason that the Japanese are able to undersell domestic wall tile in this market.

Finally there is the matter of injury to National Tile. There can be no debate over this question. In the period 1959-1963 production, sales and employment fell off more than 50 percent, and profits slumped from 6.9 percent of sales in 1959 to 3.4 percent in 1960 followed by three straight years of losses. Furthermore, because of their deteriorating financial picture they were unable to obtain funds for the installation of new equipment which would have substantially improved the efficiency of their operation.

National's trouble began in the years that imports from Japan began to mount. This correlation of timing is in itself reason to suspect imports as the major cause of the difficulty. In this case, the data shows that the relationship between rapidly increasing imports and the company's precipitate downhill slide is no coincidence. This company, which furnished tile for such structures as the Empire State Building, the Waldorf Astoria, and Pennsylvania Railroad Station, had long established itself in the mass markets of the large eastern coastal cities where negotiated prices were the rule. It sold primarily and successfully to contractors working on large projects. It was precisely these customers in these areas who were the first to turn to the lower priced Japanese wall tile in their effort to reduce their costs wherever possible.

But imports had a secondary effect, also. By driving down the price of domestic tile (National cut its prices by 20 percent during these years) they tightened the cost-price ratio and put a double squeeze on National which was desperately seeking to develop new markets to replace the ones it had lost and to raise money for new equipment.

It will be argued that National Tile was beset by a host of problems. This may be true; every company faces situations which are peculiar to its location, history, management and product. Evidence developed in the course of this short investigation (the statute sets a 60-day time limit) does not permit anything but the crudest kind of comparison of National's overall health with that of the other domestic tile firms.

But in any case the alleged susceptibility of National Tile is irrelevant in this determination. The absolutely inescapable fact, a fact which cannot be argued away by any belabored and speculative "analysis" of the National Tile Company, is that this firm was selling tile and making money before the imports came in. Its managers were able to surmount whatever difficulties they had and make a go of the business - until the flood of imports changed the landscape within which they were operating. There has been no other significant change in the competitive picture in wall tile, nor in the company itself. The strike occured in 1962, three full years after the erosion began, and could be viewed as at least as much a result of the growing illness as a cause of it.

We do not believe that it would be possible to find a more clear-cut example of imports as the major cause of injury. Obviously the company was particularly vulnerable to imports, more vulnerable than some other companies, for various reasons - there are commonly such firms in any industry. And these are precisely the ones, if any, that are likely to be hurt first and worst by imports. It is not up to the Commission to determine whether or not it was the "fault" of such a company that it was vulnerable, nor is it germane or feasible to dissect its corporate body at the time the imports hit to see whether it might have been better able to withstand the shock if it had been in healthier shape. If a company is operating profitably until the tide of imports washes in, and if there are no other specific, significant, timely changes in the

situation, one must inevitably reach the conclusion that the wave of imports is the major cause of its injury. For susceptibility to injury cannot be considered a cause of injury.

Respectfully submitted.

Dan H. Fenn, Jr., Vice Chairman

Joseph E. Talbot, Commissioner

APPENDIX A

HOUSE REPORT NO. 1818, 87th Cong., 2d Session:

No industry can be given tariff adjustment, nor may any firm or group of workers be given adjustment assistance, unless there is a finding that the conditions in such industry or firm or the unemployment conditions within the group of workers, have been caused by increased imports resulting from trade agreement concessions.

* * * * * * * * *

Your committee believes that it is important that adjustment assistance in all instances be given only where it has been concluded that the conditions requiring assistance were caused by increased imports resulting from tariff concessions made under trade agreements.

SENATE REPORT NO. 2059, 87th Cong., 2d Session:

9. Section 301 of the bill was amended to clarify and make more specific the application of the escape clause. The language of the bill as passed by the House (sec. 301(b)(1)) provided that the Tariff Commission --

> shall promptly make an investigation to determine whether, as a result of concessions granted under trade agreements, an article is being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the domestic industry.

The amended language provides that the Tariff Commission investigation shall be made to determine whether "as a result in major part of

concessions granted under trade agreements" the article is being imported in such quantities as to cause or threaten serious injury to the domestic industry.

* * * * * * * * *

The above changes were incorporated wherever applicable in section 301. The bill as it came to the committee might have made it difficult for industries which felt that they had been injured to prove their case under the escape clause. The language of the bill could have been interpreted to mean that the increased imports as a result of concessions were the sole cause of the injury. While this may not have been the intent of the bill, the amendment makes it clear that the Tariff Commission need find only that the tariff concessions have been the major cause of increased imports and that such imports have been the major cause of the injury.