MENTHOL FROM JAPAN AND THE PEOPLE'S REPUBLIC OF CHINA

Determinations of the Commission in Investigations Nos. 731-TA-27 and 28 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations

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United States International Trade Commission / Washington, D.C. 20436

UNITED STATES INTERNATIONAL TRADE COMMISSION

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

731-TA-27 and 28 (Preliminary)

MENTHOL FROM JAPAN AND THE PEOPLE'S REPUBLIC OF CHINA

NOTICE OF INSTITUTION OF PRELIMINARY ANTIDUMPING INVESTIGATIONS AND SCHEDULING OF CONFERENCE

AGENCY: United States International Trade Commission

ACTION: Institution of preliminary antidumping investigations 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 is materially retarded, by reason of imports from Japan and the People's Republic of China of menthol, whether natural or synthetic, provided for in items 408.60 1/ and 437.64 of the Tariff Schedules of the United States (TSUS), sold or likely to be sold at less than fair value.

EFFECTIVE DATE: June 16, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel Leahy, Senior Investigator (202-523-1369).

SUPPLEMENTARY INFORMATION:

Background. These investigations are being instituted following receipt of a petition on June 11, 1980, filed by Haarman & Reimer Corporation, Springfield, New Jersey, on behalf of the domestic industry producing synthetic menthol. The petition requested the imposition of additional duties in an amount equal to the amount by which the foreign market value exceeds the United States price of natural or synthetic menthol imported from Japan or from the People's Republic of China.

1/ Menthol currently provided for in item 408.60, if exported and entered into the United States on or after the effective date of Title II of the Trade Agreements Act of 1979 (93 stat. 194 et seq.) (expected to be July 1, 1980), will be provided for in new item 413.28 of the Tariff Schedules of the United States.

Authority. Section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) requires the Commission to make a determination of 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 alleged to be, or likely to be, sold in the United States at less than fair value. Such a determination must be made within 45 days after the date on which a petition is filed under section 732(b) or on which notice is received from the Department of Commerce of an investigation commenced under section 732(a). Accordingly, the Commission, on June 16, 1980, instituted preliminary antidumping investigations nos. 731-TA-27 and 28. These investigations will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 F.R. 76457) and particularly, subpart B thereof.

Written submissions. Any person may submit to the Commission on or before July 14, 1980, a written statement of information pertinent to the subject matter of these investigations. A signed original and nineteen copies of such statements must be submitted.

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

Conference. The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 10 a.m., e.d.t., on

July 10, 1980, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the senior investigator for the investigation, Mr. Daniel Leahy (202-523-1369). It is anticipated that parties in support of the petition for antidumping duties and parties opposed to such petition will each be collectively allocated one hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the senior investigator.

Inspection of petition. The petition filed in these cases is available for public inspection at the Office of the Secretary, U.S. International Trade Commission and at the New York City office of the U.S. International Trade Commission located at 6 World Trade Center.

By order of the Commission:

Kenneth R. Mason
Secretary

Issued: June 17, 1980

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

United States International Trade Commission
Washington, D.C.

Investigations Nos. 731-TA-27 and 28 (Preliminary)

MENTHOL FROM JAPAN AND THE PEOPLE'S REPUBLIC OF CHINA

Determination

On the basis of the record in investigation No. 731-TA-27 (Preliminary), the Commission determines (Commissioners Bedell and Moore dissenting) 1/ that there is no reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, or that the establishment of an industry is being materially retarded by reason of imports from Japan of menthol, whether natural or synthetic, provided for in items 437.64 and 413.28 2/ of the Tariff Schedules of the United States (TSUS), which are allegedly sold or likely to be sold at less than fair value.

On the basis of the record in investigation No. 731-TA-28 (Preliminary), the Commission determines (Commissioner Stern dissenting) 3/ that there is a reasonable indication that an industry in the United States is threatened with material injury 1/ by reason of imports from the People's Republic of China of menthol, whether natural or synthetic, provided for in TSUS items 437.64 and 413.28, 2/ which are allegedly sold or likely to be sold at less than fair value.

1/ Commissioners Bedell and Moore found reasonable indication of material injury or threat of material injury by reason of imports of menthol from Japan and the People's Republic of China.

2/ Item 408.60 for articles exported prior to July 1, 1980.

3/ Commissioner Stern finds that there not only is no indication of threat of material injury from alleged less-than-fair-value imports from the People's Republic of China of Menthol but also that there is no present injury from said imports.

Background

On July 11, 1980, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce on behalf of Haarmann & Reimer Corporation, alleging that natural or synthetic menthol imported from Japan or from the People's Republic of China is being, or is likely to be, sold in the United States at less than fair value (LTFV). Accordingly, on June 16, 1980, the Commission instituted preliminary antidumping investigations Nos. 731-TA-27 and 28 (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 of menthol, whether natural or synthetic, from Japan and the People's Republic of China, as provided for in TSUS items 437.64 and 413.28. The statute directs that the Commission make its determination within 45 days of receipt of the petition, or in this case by July 28, 1980. On June 24, 1980, the Department of Commerce issued a notice announcing that it had found the petition to be properly filed within the meaning of its rules and that it was instituting an investigation. Notice to such effect was published in the Federal Register Of July 2, 1980 (45 F.R. 44976). The product scope of the Commerce investigation is the same as that instituted by the Commission.

Notice of the institution of the Commission's investigations and of the public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and the Commission's office in New York City, and by publishing the notice in the Federal Register of June 19, 1980 (45 F.R. 41548). A public conference was held in Washington, D.C., on July 10, 1980.

In arriving at its determinations, the Commission has given due consideration to the information provided by the Department of Commerce, to all written submissions from interested parties, and to information adduced at the conference and obtained by the Commission's staff from questionnaires and other sources, all of which have been placed on the administrative record of these preliminary investigations.

Views of Chairman Bill Alberger and Vice Chairman
Michael J. Calhoun

Determination and Conclusions of Law

On the basis of the record in investigation No. 731-TA-27 (Preliminary), we determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of imports from Japan of menthol, whether synthetic or natural, allegedly sold or likely to be sold at less than fair value (LTFV).

On the basis of the record in investigation No. 731-TA-28 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from the People's Republic of China (China) of natural menthol allegedly sold or likely to be sold at less than fair value (LTFV).

Discussion

In these preliminary investigations, we consider the relevant domestic industry to be comprised of the four firms currently producing menthol in the United States. Section 771(4)(A) of the Tariff Act of 1930 (19 U.S.C. 1677(4)) provides, in part, guidance for determining what constitutes a domestic industry as follows:

> (A) In general.--The term 'industry' means 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.

Section 771(10) of the Tariff Act of 1930 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 under this title."

The imported product alleged to be sold at LTFV is l-menthol. Imports of this product from Japan are synthetically produced while imports from China are exclusively natural menthol derived from the peppermint plant. The Ad Hoc Committee of American Importers of Natural Menthol argued in their post-conference submission that natural and synthetic menthols are not "like or similar" in characteristics and uses, and thus there exists no U.S. industry within the meaning of section 771(4)(A). The evidence indicates that synthetic and natural l-menthol have the same chemical formula and molecular structure, although synthetic menthol undergoes a chemical processing which natural menthol does not undergo. Apparently, while a small segment of endusers prefer the natural product because of actual or perceived qualitative differences, synthetic and natural menthol are used interchangeably by the vast majority of purchasers. We, therefore, find that domestically produced synthetic menthol is "like" the product imported from both Japan and China (synthetic and natural menthol, respectively) within the meaning of section 771(10) of the Tariff Act of 1930.

Having determined the nature of the domestic industry, Section 771(4)(D) of the Tariff Act of 1930 provides further guidance to the Commission in weighing the impact of alleged LTFV sales on that industry:

> (D) Product Lines.--The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or the producers' profits. If the domestic production of the like product has no separate identity in terms of such criteria, then the effect of the subsidized or dumped imports shall be assessed by the examination of the production of the narrowest group or range or products, which includes a like product, for which the necessary information can be provided.

In accordance with section 771(4)(D), we have attempted where possible, to assess the impact of alleged LTFV imports on the production in the United States of l-menthol, that being potentially the narrowest "product line" comparable to the l-menthol being imported. L- menthol is the principal commercial form of menthol, and differs in characteristics and uses with the other commercial forms of menthol--d menthol, racemic menthol, 1/ and liquid menthol. Domestic producers, however, do not use separate facilities or specific workers in the production of l-menthol, since d-menthol, racemic menthol, and liquid menthol are all obtained as by products in the synthesis of l-menthol. Most U.S. producers do not keep profit and loss data which would enable us to clearly identify a separate product line for l-menthol. Therefore, the effects of alleged LTFV imports have been assessed on the production of all menthol where separate data on l-menthol is unavailable. U.S. producers' commercial shipments of l-menthol have also accounted for more than 70 percent of all U.S. producers' commercial shipments of menthol since 1978. For purposes of this preliminary investigation, therefore, we have assumed that the overall trends for the menthol industry would be indicative of the trends for l-menthol.

The recommended determination of the Commission's Director of Operations 2/ concluded that since imports from Japan and China are fungible, similar in chemical structure and uses, and compete in the same markets they should be cumulated for the purposes of assessing their impact on the domestic industry. We disagree. The facts revealed by these two investigations indicate that the impact of increasing menthol imports from China is in sharp contrast to the insignificant effect of the declining imports from Japan.

1/ There are some similarities in characteristics between racemic menthol and l-menthol, and hence, some overlap in their applications.

2/ Chairman Alberger includes the recommended determination of the Director of Operations for informational purposes at the end of our opinion at pages 12-14.

Based on the declining imports of menthol from Japan and the declining ratio of these imports to apparent U.S. open-market consumption, as well as statements made by officials from Takasago, USA, the exclusive importer of menthol from Japan and a wholly owned subsidiary of the foreign producer, 1/ we have concluded that the Japanese are withdrawing from the U.S. menthol market. Thus it seems inappropriate to cumulate imports of menthol from Japan with imports from China. Inventories of menthol from Japan also declined in the first quarter of 1980 relative to the corresponding period in 1979, and the pricing data available to the Commission indicate that prices paid for the Japanese product have been consistently higher than prices paid for the domestic product in 1978 and 1979. Considering all these factors, it is apparent that menthol imported from Japan is not contributing in any meaningful way to the material injury, or threat thereof, that might be caused by imports from other countries. We have, therefore, determined that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of alleged LTFV sales of menthol from Japan.

Although the Director of Operations recommended that imports of menthol from China be cumulated with those from Japan, he also stated that if imports from these two countries were not cumulated, he would nevertheless still recommend an affirmative determination of threat of material injury by reason of alleged LTFV imports from China. 2/ We agree with his analysis and conclusion on this issue. The economic factors that we have analyzed pursuant to section 771(7) of the Tariff Act of 1930, point to a

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1/ See transcript of Conference, page 92.
2/ Staff briefing at public Commission meeting, July 22, 1980.

steady improvement in the production of menthol in the United States. However, U.S. producers' inventories of menthol have increased to very high levels, prices for l-menthol have declined steadily since 1978, and the profitability of U.S. producers of l-menthol on their menthol operations has declined steadily since 1977. Based on the sharply increasing imports of menthol from China, the sharply increasing inventories of these imports, and the increasing margins of underselling that appear in the period July 1979 through March 1980, evidence of price depression, declining profitability of U.S. menthol producers' and their increasing inventories of menthol, we have concluded that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of alleged LTFV imports of menthol from China.

Findings of fact

The following findings of fact are relevant to our determination in these investigations. These findings contain our analysis of the statutory criteria required by section 771(7)(B) and (C) of the Tariff Act of 1930.

A. Volume of imports

1. The imported menthol alleged to be sold at LTFV is chemically and toxicologically the same as that produced in the United States, although there is a recognized difference between the natural and synthetic products. This difference resides in the odor, taste, and ability of the natural product to be certified as a natural ingredient. These differences, however, are only significant to a minor portion of the market (less than 10 percent). For the vast majority of end users of menthol, the synthetic and natural products appear to be interchangeable. (See Report at p. A-3)

2. Imports of menthol from Japan have declined steadily since 1978. They declined by more than 35 percent from 1978 to 1979, and by more than 15 percent in January-March 1980 over imports during the corresponding period in 1980. (See Report at p. A-28)

3. Imports of menthol from China increased dramatically from 29,000 pounds in 1977 to 649,000 pounds in 1979. (See Report at p. A-28)

4. Takasago, USA's end-of-period inventories of menthol increased by more than 50 percent from 1977 to 1979, but declined by more than 10 percent in January-March 1980 over those held for the corresponding period of 1979. (See Report at p. A-17)

5. U.S. importers' end-of-period inventories of menthol from China have increased dramatically from virtually nothing in 1977 and 1978 to over 600,000 pounds in January-March 1980. Importers' inventories as of March 31, 1980, amounted to over 10 percent of apparent U.S. open- market consumption in 1979. Thus, inventories of menthol from China represent a significant overhang of the U.S. market. (See Report at p. A-17)

B. The effect of imports on U.S. prices

6. U.S. producers' weighted average prices for l-menthol have generally declined since January 1978. They have declined from $7.30 per pound in January-March 1978 to $6.33 per pound in January-March 1980, or by 13 percent. (See Report at p. A-31)

7. The weighted average prices paid for l-menthol from Japan were consistently higher than prices paid for U.S. producers' l-menthol from 1978 thru 1979. Prices paid for imports from Japan dropped below U.S. producers' prices only in January-March 1980 and even then, the margin of underselling was less than 0.5 percent. (See Report at p. A-31)

8. The available data indicate that weighted average prices paid for menthol from China have declined at a faster rate than U.S. producers' weighted prices. Although these prices were generally higher than U.S. producers' weighted average prices throughout much of the period, they dropped below U.S. producers' prices in October-December 1979. The average margin of underselling in that quarter was three percent and increased to eight percent in January-March 1980. Prices of some importers of menthol from China were below the lowest U.S. prices from July 1979 through March, 1980. In a market where menthol is sometimes traded within 10 cents per pound, these are significant margins. Moreover, since these prices generally reflect the delivered prices in contracts negotiated 1 to 2 years previous to the date of delivery, it may be assumed that the downward trend is significant and indicative of the trend for prices to be paid for menthol from China in 1980 and 1981. (See Report at p. A-31)

C. Impact on the affected industry

9. After several years of sustained growth, U.S. producers' commercial shipments of menthol declined by 5 percent in January-March 1980 over shipments during the corresponding period of 1979. (See Report at p. A-8)

10. U.S. producers' inventories of menthol have increased to very high levels during the period under consideration. End-of-period inventories increased more than six-fold from 1977 to 1979 and nearly doubled in January-March 1980 relative to those in January-March 1979. As a ratio of net sales, U.S. producers' inventories of menthol more than doubled from 1977 to January-March 1980. (See Report at p. A-17)

11. Despite rapidly increasing sales, the profitability of domestic producers of l-menthol on their menthol operations has declined steadily since 1977. The ratio of net operating profits to net sales declined by more than 30 percent from 1977 to 1979. (See Report at p. A-23)

12. As a ratio of imports to apparent U.S. open-market consumption of menthol, imports from Japan have declined steadily since 1977. They declined from 10 percent in 1977 to 8 percent in January-March 1980, or by 24 percent. (See Report at p. A-28)

13. Imports from China have increased steadily and significantly as a ratio of apparent U.S. open-market consumption. The ratio increased from a nominal percentage in 1977 to over 30 percent in January-March 1980. (See Report at p. A-28)

14. The average number of production and related workers producing menthol declined slightly from 1978 to January-March 1980. (See Report at p. A-22)

15. Wages paid to all production and related workers producing menthol more than quadrupled from 1977 to 1979 and increased again in January-March 1980 over wages paid during the corresponding period in 1979. (See Report at p. A-22)

16. Overall U.S. capacity to produce menthol has increased steadily from 1977 to 1980 because Haarman & Reimer opened a new plant in 1978 which is still in the process of reaching optimal operating conditions. The capacity of other menthol producers has remained stable or declined. (See Report at p. A-14)

17. All information regarding U.S. producers' cash flow is considered "business confidential" and cannot be discussed publicly. Such information appears in the confidential version of the staff report at page A-36, and has been fully considered in our determination.

18. A $15 million investment was made by the petitioner Haarmann & Reimer Corporation in a new U.S. production facility located in Bushy Park, South Carolina. Production at this plant was commenced in the first quarter of 1978. The inability of petitioner to operate this plant at a reasonable level of profit may threaten or impair the ability to raise additional capital necessary for future investments in U.S. facilities by petitioner and/or other firms. (Petition, public version, pages 37-41)

SUPPORTING STATEMENT BY THE DIRECTOR OF OPERATIONS FOR AN AFFIRMATIVE PRELIMINARY DETERMINATION ON MENTHOL FROM JAPAN AND THE PEOPLE'S REPUBLIC OF CHINA (INVESTIGATIONS NOS. 731-TA-27 and 28 (PRELIMINARY))

I. Recommendation

On the basis of my review of the information developed during these investigations, I recommend that the Commission determine that 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 importation of menthol from Japan and the People's Republic of China (PRC) that is allegedly sold in the United States at less than fair value (LTFV). The question of material retardation of the establishment of an industry in the United States is not an issue in these investigations as there are four companies producing menthol in the United States.

II. The industry

The industry in the United States is composed of four U.S. firms producing menthol. Although menthol is produced by the industry in four commercially significant forms--l-menthol, d-menthol, racemic menthol, and liquid menthol, in 1979, l and racemic menthol represented over 90 percent of domestic production and over 98 percent of alleged LTFV imports. D-menthol is produced as a by-product of the petitioner's production process and internally consumed. Liquid menthol is dissimilar with all other forms of menthol in that it is a technical grade used in a limited number of industrial applications. Although the impact of LTFV imports appears to be on production of l and racemic menthol, all forms are produced in the same production facilities, utilizing the same equipment and the same employees. Most firms were unable to provide data in terms of labor and overhead costs or profitability on a product line basis. Therefore, the impact of alleged LTFV sales should be assessed on the domestic industry producing menthol.

III. Material injury

(1) U.S. imports of menthol from Japan and the PRC are all alleged to be at LTFV prices. Alleged LTFV imports have increased substantially from over 300,000 pounds in 1977 to about 850,000 pounds in 1979. Imports from Japan and the PRC are fungiable, having the same chemical structures, the same end uses, similar prices and competing in the same markets. For these reasons the impact of imports from Japan and the PRC have been cumulated.

(2) The petition alleges significant price undercutting by imports from Japan and the PRC as compared with the price of like domestic products. The alleged result of such price undercutting was the 44 percent reduction of petitioner's price for l menthol in slightly more than 3 years.

(3) Questionnaire data submitted to the Commission confirm a sharply downward trend in importers' and producers' prices. The prices of importers of Chinese and Japanese menthol began undercutting U.S. producers' prices for menthol delivered to U.S. customers beginning in the last quarter of 1979 and continuing into the first quarter of 1980.

(4) Despite rapidly increasing sales of menthol, profitability of U.S. producers' menthol operations declined sharply in 1979. Although net sales reported by the two largest U.S. producers increased by almost 15 percent from 1978 to 1979, the ratio of net operating profit to net sales declined by about 20 percent.

IV. Threat of material injury

(1) Imports of menthol from Japan and the PRC, alleged to be sold at LTFV prices, increased by over 165 percent from 1977 to 1979.

(2) The share of the U.S. market accounted for by imports from Japan and the PRC increased from 11.0 percent in 1977 to 22.0 percent in 1979.

(3) U.S. producer's commercial shipments of menthol declined by 5 percent in Jan.-Mar. 1980 as compared to such shipments in Jan.-Mar. 1979.

(4) U.S. producers' inventories of menthol increased steadily during 1977-79 to extremely high levels. Inventories were equivalent to 21 percent of U.S. producers' sales in 1977 and to 33 percent in 1979. Inventories on March 31, 1980 were 85 percent greater than they were on March 31, 1979.

(5) The quantity of menthol held in inventory by producers' increased by more than 600 percent between December 31, 1977 and March 31, 1980.

(6) Importers of menthol from Japan and the People's Republic of China reported a thirteen-fold increase in inventories from 1977 to 1979. Importers' inventories continued to increase in 1980 reaching a level on March 31, 1980 over 200 percent greater than inventories on March 31, 1979.

(7) As a ratio of inventories to imports, importer's inventories represented 13 percent of imports in 1977 and over 74 percent of imports in 1979.

(8) According to data presented by the petitioner, the trend in price undercutting by alleged LTFV imports, confirmed by questionnaire data submitted to the Commission, is likely to worsen as deliveries on contracts negotiated in late 1979 and early 1980 are affected in late 1980 and in 1981.

(9) The PRC has dramatically increased its production of menthol from 1.1 million pounds in 1978 to an estimated 4.4 million pounds in 1980. Menthol has been designated by the Chinese Government as a product to be promoted for export to generate quick revenue without large investments. The PRC currently exports about 20 percent of its menthol production to the United States.

(10) The annual menthol production capacity of Takasago Perfumery, Ltd. is reported to be 1.0 million pounds. About 15 percent of Takasago's production in 1979 was exported to the U.S. In addition to Takasago, seven other Japanese firms produce menthol with a combined production capacity of over 600,000 pounds. These companies do not currently export to the United States.

V. Conclusion

I recommend that the Commission determine that 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 importation of menthol from Japan and the People's Republic of China that is allegedly sold in the United States at less than fair value.

STATEMENT OF REASONS OF COMMISSIONERS GEORGE M. MOORE AND CATHERINE BEDELL

On the basis of the information available in investigations Nos. 731-TA-27 and 28 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the importation of menthol from Japan and the People's Republic of China that is allegedly being sold or is likely to be sold at less than fair value (LTFV).

The following findings and conclusions, which are based on the record in these investigations, support our determination.

The domestic industry

The term "industry" is defined in section 771(4)(A) of the Tariff Act of 1930 (19 U.S.C. 1677(4)(A)) as meaning "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." The term "like product" is further defined in section 771(10) of the Tariff Act as meaning "a product which is like, or the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."

In the present case, we find the industry to consist of the four U.S. firms producing menthol. There are four commercial forms of menthol--l-menthol, d-menthol, racemic menthol, and liquid menthol. Although the product alleged to be sold at LTFV is l-menthol, domestic producers do not use separate facilities or specific workers in the production of l-menthol The other three commercial forms of menthol, d-menthol, racemic menthol, and liquid menthol are obtained as byproducts in the synthesis of l-menthol, in

using the same equipment and labor as in the production of l-menthol. Most firms were unable to provide data in terms of labor, overhead costs, and profitability on a product-line basis. 1/ Therefore, the alleged LTFV sales have been assessed on the basis of the domestic industry producing all types of menthol.

The imported menthol allegedly sold at LTFV is chemically and toxicologically the same as that produced in the United States. Although there is a perceived difference in the odor and taste of the natural product compared with those of the synthetic product, and although the natural product can be certified as a natural ingredient, these differences are significant only to a minority of end users, which account for less than 10 percent of U.S. consumption of menthol. 2/ Thus, the vast majority of end users consider domestic menthol, as well as menthol from Japan and China, to be fungible articles, which have the same chemical structures, the same end uses, and similar prices and which compete in the same markets.

The question of a reasonable indication of material injury or threat thereof

Section 733(a) of the Tariff Act of 1930 directs that the Commission "shall make a determination, based upon the best information available to it at the time of the determination . . . ." Section 771(7)(A) defines the term "material injury" to mean "harm which is not inconsequential, immaterial, or unimportant." And section 771(7)(B) and (C) directs that the Commission, in making its determination, consider, among other factors, (1) the volume of imports of the merchandise which is the subject of the investigations, (2) the effect of imports of such merchandise on prices in the United States for like

1/ See Commission Report in Investigations Nos. 731-TA-27 and 28 (Preliminary) (hereafter "Report"), at p. A-21.

2/ Report, at p. A-3.

products, and (3) the impact of such merchandise on domestic producers of like products.

Volume of imports.--Imports of l-menthol, which are allegedly being sold at LTFV, increased from 224,000 pounds in 1977 to 854,000 pounds in 1979, or by 280 percent, while total imports of menthol from Japan and China more than doubled. 1/ As a share of apparent U.S. open-market consumption, imports from Japan and China increased steadily, from 11 percent in 1977 to over 30 percent in January-March 1980. 2/ Thus the volume and relative market share of alleged LTFV imports showed dramatic increases over the period under consideration.

The Japanese have the capacity to produce 1 million pounds of menthol annually from a variety of feedstocks including d-limonene, d-citronella, thymol, and cornmint oil (dementholized peppermint oil). 3/ The capability of the Chinese to produce menthol is virtually unlimited. Menthol has been designated by the Chinese government as a product to be promoted for exportation, and production has increased dramatically in the last 2 years. Estimated Chinese production of menthol is estimated to be 1.1 million pounds in 1978, 3.3 million pounds in 1979, and 4.4 million pounds in 1979. 4/ If Chinese production should reach the estimated 1980 level, it would be much greater than estimated open-market consumption in the United States. 5/

Effect of imports on prices.--The data collected by the Commission on delivered prices for l-menthol demonstrate that U.S. prices have declined steadily and significantly since 1978. U.S. producers' weighted average

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1/ Report, at p. A-28.
2/ Report, at p. A-28.
3/ Report, at p. A-12.
4/ Report, at p. A-11.
5/ Report, at p. A-20.

prices declined from $7.30 per pound in January 1978 to $6.33 per pound in January-March 1980, or by 13 percent. 1/ Although weighted average prices for l-menthol from Japan and China were generally higher, they declined at a faster rate than U.S. producers' prices. 2/ In October-December 1979, weighted average prices for menthol from China dropped 3 percent below U.S. producers' weighted average prices, and in January-March 1980 this margin of underselling increased to 8 percent. 3/

In a market where menthol is sometimes traded within 10 cents a pound, 4/ these margins are already significant. When they are viewed as indicative of a downward trend in contract prices for delivery in late 1980 or 1981, they have a clearly adverse effect on future prices as well. More than 90 percent of the menthol traded in the United States is bought and sold through contracts for future delivery. 5/ These contracts can be negotiated anywhere from 6 months to 3 years before the date of delivery. They contain firm commitments on price and quantity by the supplier, but usually contain an escape clause which allows the purchaser to break the contract if it can find a supplier offering menthol at a lower price. When spot-market prices for menthol fall, prices for menthol throughout the market decline, bringing about price competition for contracts under negotiation, and thus effectively depressing prices for future delivery.

Impact of alleged LTFV imports on the affected industry.--After several years of sustained growth, U.S. producers' commercial shipments of menthol declined by 5 percent in January-March 1980 compared with shipments during the corresponding period of 1979. 6/ Yet despite the generally increasing sales, U.S. producers' inventory levels have increased dramatically. The ratio of

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1/ Report, p. A-31.
2/ Report, p. A-31.
3/ Report, p. A-31.
4/ Report, p. A-32.
5/ Report, p. A-6.
6/ Report, p. A-8.

end-of-period inventories to sales of menthol increased from 21 percent in 1977 to 48 percent in 1979 and nearly doubled again in January-March 1980 relative to the ratio for January-March 1979. 1/ As of March 31, 1980, inventories of all menthol amounted to more than 200 percent of the menthol sold during January-March 1980. 2/

Moreover, U.S. importers' inventories of menthol from Japan and China increased more than thirteenfold from December 31, 1977, to December 31, 1979. 3/ Inventories continued their strong upward movement in 1980, more than tripling from March 31, 1979, to March 31, 1980. 4/ Inventories of menthol from Japan and China held as of March 31, 1980, amounted to more than 2.5 times the menthol imported from these countries during January-March 1980. 5/

Despite rapidly increasing sales of menthol, U.S. producers' profitability on their menthol operations declined steadily after 1977. 6/ The ratio of net operating profit to net sales declined by more than 30 percent, reflecting the declining trend in prices. 7/

Conclusion

On the basis of the information developed during these investigations, we have concluded that there is a reasonable indication that an industry in the

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1/ Report, at p. A-17.
2/ Report, at p. A-17.
3/ Report, at p. A-19.
4/ Report, at p. A-19.
5/ Report, at p. A-19.
6/ Report, at p. A-21.
7/ Report, at p. A-24.

United States is materially injured or is threatened with material injury by reason of alleged LTFV imports of menthol from Japan and China.

VIEWS OF COMMISSIONER PAULA STERN

I have determined that there is no reasonable indication of material injury or threat of such injury due to alleged less-than-fair-value (LTFV) imports of menthol from Japan or from the People's Republic of China (China). I would have reached the same conclusion had I found it appropriate to cumulate the effect of the imports from Japan and China.

The Imported Product

The Commission instituted these investigations with regard to all menthol, whether natural or synthetic, as provided for in items 437.64 and 413.68 of the Tariff Schedules of the United States. The imported product alleged to be sold at LTFV is l-menthol, which is the principal commercial form of menthol and differs in characteristics and uses with the other commercial forms of menthol -- d-menthol, racemic menthol, 1/ and liquid menthol. The domestic producers do not use separate facilities or workers in the production of l-menthol. Rather, d-menthol, racemic menthol, and liquid menthol are all obtained as by-products in the synthesis of l-menthol.

The product imported from China is a natural product obtained by distilling peppermint oil from peppermint plants followed by crystalization and separation of the menthol from the peppermint oil. The Japanese product is synthesized chemically, as is the menthol produced in the United States. While the imported l-menthol allegedly sold at LTFV is chemically and toxicologically the same as that produced in the United States, there remains a

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1/ There are some similarities in the characteristics between racemic menthol and 1-menthol, and hence, some overlap in their applications.

perceived difference in the odor and taste of the natural product as compared to the synthetic product. In addition, the natural product can be certified by food and flavor manufacturers as a natural ingredient. However, because the vast majority of purchasers now use synthetic and natural menthol interchangeably, 1/ I find that domestically-produced synthetic menthol is a "like product" for both the synthetically-produced and natural imports, within the meaning of section 771(10) of the Tariff Act of 1930.

The Domestic Industry

The domestic industry consists of the four U.S. producers of menthol 2/. The smallest U.S. menthol producer, Givauden Corporation, produces only liquid menthol, not a marketable substitute for l-menthol. The next largest U.S. producer, Union Camp Corporation, also exclusively produces liquid menthol, which it consumes internally. SCM Corporation (SCM), the second largest firm, produces l-menthol and racemic menthol, which are primarily sold on the open market. SCM took no position on this investigation. Givauden, Union Camp, and SCM all produce menthol on equipment used to produce other chemicals. In contrast, the largest producer and petitioner in this investigation, Haarmann & Reimer, which makes l-menthol and its by-products, utilizes a plant dedicated exclusively to the production of menthol. Since its entry in the first quarter of 1978, Haarmann & Reimer has steadily increased its importance in the domestic industry.

1/ Estimated U.S. consumption is as follows: tobacco 60 percent, pharmaceuticals 15 percent, oral hygiene products 12 percent, personal care products 6 percent, and miscellaneous 7 percent. See report, p. A-3.

2/ See section 771(4)(a) of the Tariff Act of 1930.

I have attempted where possible to assess the impact of alleged LTFV imports on the production in the United States of l-menthol. However, most U.S. producers do not keep product line data as to production process, labor, overhead, or profits that would allow me to confine my analysis to l-menthol. Therefore, the effects of alleged LTFV imports have been assessed on the production of all menthol where separate data is unavailable. Thus, Givauden and Union Camp were included as parts of the domestic industry in spite of the fact that they produce only liquid menthol.

U.S. producers' commercial shipments of l-menthol have accounted for more than 70 percent of all U.S. producers' commercial shipments of menthol since 1978. 1/ I have, therefore, necessarily made the assumption that the overall trends for the menthol industry would be indicative of the trends for the l-menthol industry.

The Question Of A Reasonable Indication Of Material Injury

Available data depict a rapidly growing and reasonably profitable industry. U.S. production of menthol has increased steadily and dramatically since 1977, by over 200 percent. 2/ U.S. capacity to produce menthol has also increased steadily, by over 150 percent from 1977 to 1979, and again by

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1/ See Report, p. A-10.

2/ Ibid., p. A-14.

more than five percent in January-March 1980 compared to the corresponding period in 1979. 1/ Utilization of this greatly increased capacity has also increased steadily to an exceptionally high level in January-March 1980. 2/ The average number of all employees in U.S. establishments producing menthol increased by more than 20 percent from 1977 to January-March 1980. 3/ Wages paid to and manhours worked by all production and related workers producing menthol also increased steadily and significantly since 1977. 4/

The aggregate figures for U.S. producers' profitability show a decline from 1977 to 1979. 5/ Having individually examined the profitability of each producer of l-menthol, I have concluded that the data indicate adequate profits for the two relevant U.S. producers. SCM's profits can be characterized as adequate, if not good.

As to Haarmann & Reimer's profitability, one must consider the fact that it is but one part of a large, multinational corporation, Bayer AG, and its profits are to a large extent influenced by the transfer prices applicable to its purchase of feedstocks from and its sale of menthol to its corporate affiliates in other countries. 6/ One must also take into

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1/ See Report, p. A-14.

2/ Ibid.

3/ Ibid., p. A-22.

4/ Ibid.

5/ Ibid., p. A-23.

6/ Ibid., p. A-24.

consideration the fact that this firm has only been in business since 1978 and that it was entering a new, unfamiliar, market. For example, it is questionable whether in making its decision, in 1975, to build production facilities to supply a substantial segment of the U.S. market it factored in China as a possible reentrant into this market. 2/ In addition, Haarmann & Reimer was marketing a new form of the product -- a synthetic menthol made from a petrochemical rather than natural menthol -- which was not readily accepted by consumers. Moreover, Haarmann & Reimer incurred all the costs inherent in the start-up process at its $15 million facility at Bushy Park, South Carolina. In light of these circumstances, Haarmann & Reimer's performance has been quite good.

U.S. producers' inventories of menthol have admittedly increased to high levels. However, the reasons for much of these increases are unrelated to the alleged LTFV imports. Haarmann & Reimer's production process requires the plant to operate at maximum potential capacity, twenty-four hours a day, seven days a week, three-hundred-sixty-five days a year in order to achieve reasonable production costs. 3/ Thus, if the company cannot find buyers for its annual production of menthol, near its capacity of 1.5 million pounds, inventories necessarily build up.

A closer look at U.S. producers' inventories reveals that the by-products, d-menthol, racemic, and liquid menthol, not l-menthol, constitute a substantial portion of total menthol inventories. 4/ Increasing inventories

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1/ See report, p. A-24.

2/ Ibid., p. A-17.

3/ See Post-Public Conference Brief of Petitioner, p. 14.

4/ See report, p. A-17.

of d-menthol, liquid, and racemic menthol resulting from the increased production of l-menthol cannot be associated with the alleged LTFV imports of l-menthol. Moreover, these byproduct inventories can be classified as raw materials since Haarmann & Reimer recycles them into the production process of l-menthol. Haarmann & Reimer's increasing ratio of inventories to production of all menthol 1/ appears more dramatic since it starts at zero. But in fact normal inventories for this firm cannot be known from its two year experience in the business.

I have been unable to find indications of injury to the domestic industry. I find the lack of a causal nexus between any possible injury or threat of injury and the alleged LTFV imports even more compelling toward a negative determination in this case.

Imports In The Menthol Commodity Market

Menthol is easy to store. It requires no special facilities or handling and deteriorates only minimally even after several years in storage. These characteristics, combined with the fact that the menthol market has traditionally been supplied with a natural product which is subject to the vagaries of nature, have apparently encouraged the development of a commodity market for menthol. 2/ The impact of imports must be considered in light of the nature of this market.

Today, more than 90 percent of menthol in the United States is sold through contracts for future delivery. 3/ These contracts may be negotiated

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1/ See report, p. A-3.

2/ Ibid., p. A-6.

3/ Ibid.

six months to three years prior to the date of delivery. They represent a firm commitment of price and quantity by the supplier, but require less of a commitment from the purchaser. The purchaser can, in fact, opt out of his contract if he finds a supplier offering menthol at a lower price. 1/ Thus, in the short run, the menthol market is price sensitive downward, i.e., if spot-market prices fall, contract prices will decline, whereas if spot-market prices rise, the contract prices will remain the same and hold overall market prices down until the effect of prices in new contracts become significant.

In 1978 the supply to the U.S. market increased dramatically. Demand was increasing moderately, although apparent consumption, perhaps due to brokers' inventories, saw a marked increase. 2/ Meanwhile, on the supply side, SCM had reentered as a supplier in 1975; Haarmann & Reimer entered with record production; imports from Brazil, the predominant supplier, increased; China reentered the market with a substantial quantity of menthol; and Japan continued as a supplier.

Imports of menthol from Japan have declined steadily as a ratio of apparent U.S. open market consumption, while imports from China have increased markedly as a ratio to apparent U.S. consumption. 3/ This ratio increase

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1/ See report, p. A-6.

2/ Ibid., p. A-18.

3/ Ibid., p. A-17.

for China appears large since we are witnessing China's reentry into the market from near zero. However, this increase is more than offset by the decline in the ratio of imports from all other countries. 1/ The ratio of total imports of menthol to apparent U.S. open-market consumption has declined steadily, by 11 percent from 1977 to January-March 1980. 2/ Thus, China is not increasing its market share at the expense of domestic producers, since domestic producers' share of the market is actually increasing.

Since 1978, the oversupply in the menthol market led to high inventories and decreasing prices. 3/ These require examination as portents of injury.

The pricing information obtained by the Commission shows that prices have declined steadily since 1978. However, when one considers the significant oversupply that commenced at that time, it is not surprising that prices for both imported and domestically produced menthol declined, especially in light of the fact that the menthol market is price sensitive downward. Moreover, the pricing information obtained by the Commission indicates that during most of the period under consideration, prices paid for imports of menthol from Japan and China were considerably higher than prices paid for the domestic product. 4/

1/ See report, p. A-17. The volume of Japanese imports has declined significantly during the period of investigation.

2/ Ibid., p. A-17.

3/ The sensitivity of prices to supply in this market was illustrated dramatically in 1973 and 1974 when prices for natural menthol rose from $3 to $4 per pound to over $22 per pound following two consecutive crop failures in Brazil. (See post-Conference submission on behalf of the Ad-Hoc Committee of American Importers of Natural Menthol, p. 10, Table 1.) This happened in a market where prices are sticky upward.

4/ See report, p. A-31.

In the last quarter of 1979 and the first quarter of 1980, the delivered price of Chinese imports fell below domestic producer-delivered prices. 1/ And in the first quarter of 1980 Japanese-delivered prices fell marginally below those of domestic producers. 2/ However, delivered price data for a commodity sold essentially by contract for future delivery do not offer a meaningful picture. Furthermore, even if the same relationship between the imported and domestic product held for contract prices, it could not be assigned much weight without first establishing comparability in the lengths of the contracts. Because the Chinese were willing to make a longer-term contract than at least one major domestic producer 3/, establishing comparability could be quite complicated. An interesting price-related aspect of this investigation is that SCM decided to reenter and Haarmann & Reimer decided to start up production during this period of high prices following crop failures in Brazil. 4/

Growth of importers' inventories of a commodity contracted for future delivery results from increased purchases by consumers availing themselves of the opportunity to buy low and sell high when prices rise. In fact, importers' inventories of Chinese imports have increased, but there is nothing to show the overall inventories have also increased. Inventories of Japanese imports have in fact declined in 1979-1980.

1/ See report, p. A-31.

2/ Ibid.

3/ Ibid., p. A-32.

4/ SCM had been driven out of the market in 1963 by plummeting prices due to a large supply of Brazilian menthol in the U.S. market.

Questionnaire data from one U.S. importer of menthol who inadvertently supplied total inventory data tends to support the conclusion that inventories of menthol imported from China, like total imports of menthol from China, while growing, are for the most part simply displacing inventories of menthol from other sources. Therefore, I am unable to find a threat of injury from these Chinese imports.

In attempting to verify Haarmann & Reimer's allegation of lost sales, the Commission's staff found no clear cut case of a sale lost to alleged LTFV imports for reason of price. 1/ The four firms contacted confirmed purchasing imports from Japan or China. However, each stated that these purchases did not represent a change in the company's supply patterns. One company also stated that Haarmann & Reimer was unwilling to offer them the long-term contract it desired, whereas China was willing to break the traditional pattern of offering a contract for one or two years by extending a three-year contract. 2/

It also appears that U.S. consumers of menthol are moving to diversify sources of supply and have some interest in seeing their long-term traditional supplier, China, returned to the market.

Conclusion

By 1975 the steady growth of the U.S. market, the new technological methods for the production of menthol, and the two consecutive crop failures in Brazil enticed U.S.-based producers into the production of menthol. Since

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1/ See report, p. A-32.

2/ Ibid.

that time their production of menthol, the success of Brazil's crops, and normalization of trade relations with China have created an oversupply in the commodity market for menthol. Nevertheless, U.S. industry has been able to withstand the competition in this situation. The economic indicators are positive and profits, when considered in relation to each individual producer, are good. Thus, I find no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports from the People's Republic of China and/or Japan.

INFORMATION OBTAINED IN THE INVESTIGATIONS

Introduction

On June 11, 1980, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce on behalf of Haarmann & Reimer Corp., alleging that natural or synthetic menthol imported from Japan or from the People's Republic of China (China) is being, or is likely to be, sold in the United States at less than fair value (LTFV). Accordingly, on June 16, 1980, the Commission instituted preliminary antidumping investigations Nos. 731-TA-27 and 28 (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 of menthol, whether natural or synthetic, from Japan and the People's Republic of China, as provided for in items 437.64 and 413.28 1/ of the Tariff Schedules of the United States (TSUS). These imports are allegedly being sold or likely to be sold at less than fair value. The statute directs that the Commission make its determination within 45 days of receipt of the petition, or in this case by July 28, 1980.

Notice of the institution of the Commission's investigations and of the public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and the Commission's office in New York City, and by publishing the notice in the Federal Register of June 19, 1980 (45 F.R. 41548). 2/ A public conference was held in Washington, D.C., on July 10, 1980, at which all interested parties were afforded the opportunity to present information and data for consideration by the Commission.

The Product

Description and uses

Menthol is one of the leading aromatic chemicals in the flavor and fragrance industry. Chemically, it can be defined as the monocyclic, saturated, secondary terpene alcohol which has the formula $C_{10}H_{19}OH$. Menthol can exist as any of eight optical isomers, 3/ each of which demonstrates different properties. However, there are only four forms of menthol which are commercially significant--l-menthol, d-menthol, racemic menthol, and liquid menthol.

1/ Prior to July 1, 1980, imports of menthol derived from benzenoid sources were dutiable under the provisions of TSUS item 408.60.

2/ A copy of the Commission's notice of investigation and conference is presented in app. A. The Department of Commerce's notice of initiation of its antidumping investigations is presented in app. B.

3/ Isomers are distinct forms of the same molecule which differ only in the spatial orientation of the constituent atoms to one another.

The most common and the most important commercial form of menthol is the levorotary isomer--l-menthol. 1/ This optically active isomer is the major constituent of peppermint oil and the only form of menthol found in nature. It can also be synthesized. The unique characteristic of l-menthol is its organoleptic activity. It produces a "cooling" sensation on the skin and has the characteristic odor and taste of peppermint. Because of its unique properties, there is no substitute for l-menthol. Pure l-menthol appears as fine, white crystals which are shipped in tins, fiber drums, and corrugated boxes. It is used in the manufacture of tobacco products (chiefly cigarettes), oral hygiene products, pharmaceuticals, and other personal-care products. It is also used industrially as a denaturant and chemical intermediate. It should also be noted that the allegations of LTFV sales in this case, concern only l-menthol.

In contrast, the mirror image of l-menthol, d-menthol (the dextrorotary isomer) can only be produced synthetically. It does not have the same organoleptic properties as l-menthol and consequently, has only a limited number of uses. It is principally used as a feedstock in the synthesis of l-menthol and occasionally as a diluent in perfume formulas.

Racemic menthol (dl-menthol) is a mixture of equal amounts of the dextrorotary and levorotary isomers of menthol and is optically inactive. It also can only be produced synthetically. Racemic menthol appears as a clear, colorless liquid at higher temperatures and as a white, crystalline solid at room temperature. As the definition would imply, racemic menthol has some of the characteristic properties of l-menthol, but to a much more limited degree (i.e., the "cooling" sensation and flavor of racemic menthol are not as strong as those of l-menthol). Therefore, racemic menthol is used on a much more limited basis. Its primary application is in analgesic balms. It is also used in the manufacture of some shaving creams and toothpastes.

Racemic menthol and l-menthol, whether natural or synthetic, meet U.S.P. and FCC specifications, 2/ meaning that it is certified to be safe for use in foods, beverages, and pharmaceuticals, whereas the fourth commercial form of menthol, liquid menthol, does not. Liquid menthol is considered a technical grade of menthol. It is a solution containing a mixture of isomeric menthols of up to 95 percent concentration. Liquid menthol is used in only a limited number of industrial applications as a masking agent and as a precursor for other chemicals. Liquid menthol is produced primarily as a byproduct in the synthesis of l-menthol and other chemicals.

The production of menthol differs markedly according to the type of menthol produced and the raw materials used. Natural menthol (l-menthol) is obtained primarily from peppermint. The process begins with the harvesting of the peppermint plants, which are then subjected to a steam distillation. The

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1/ Chemists use the optical rotation of polarized light by a solution of a particular compound to identify and distinguish mirror image chemical isomers such as d- and l-menthol. Levorotary means that the molecular structure of the isomer rotates polarized light to the left whereas, dextrorotary means that the light is rotated to the right.

2/ United States Pharmacopoeia and Food Chemicals Codex.

steam carries off the peppermint oil which is then collected and cooled over long periods of time (about a week) to produce large crystals of l-menthol. These crystals are removed from the solution by filtration. The process is fairly simple and requires only rudimentary equipment.

Synthetic menthol can be produced from either stereospecific 1/ or non-stereospecific feedstocks. The most common stereospecific feedstocks are d-limonene, d-citronellal found in citronella oil, thymol found in thyme oil, and beta-pinene obtained from turpentine oils. Because they already have the basic isomeric structure desired, these feedstocks can be converted directly into l-menthol without requiring resolution of an isomeric mixture.

The primary nonstereospecific feedstock used to synthesize l-menthol is m-cresol, a phenol which can be obtained from tall oil, coal tar, or petroleum. The advantage of using a nonstereospecific feedstock is that it is generally more readily available than the stereospecific feedstocks obtained from nature. However, synthesizing from nonstereospecific feedstocks automatically produces racemic menthol which requires sophisticated technology and equipment to resolve into its components, d- and l-menthol. In fact, Haarmann & Reimer, the first company to synthesize l-menthol from a non-stereospecific feedstock, estimates that * * * percent of the $15 million capital investment in their U.S. plant is represented by the equipment used to separate and purify d- and l- menthol from the racemic mixture produced by the intial synthesis. Haarmann & Reimer obtains all its feedstocks from its parent company, Haarmann & Reimer, GmbH, in West Germany.

Although synthetic and natural l-menthol are essentially the same product (being approximately 99.9 percent chemically equivalent), there remains a perceived difference in the quality of the two. This quality difference is difficult to pinpoint because the difference resides in trace elements or impurities found in the different types of menthol and the tests are extremely subjective. Some customers simply feel that the natural product has a different, more desirable flavor and aroma than the synthetic product. U.S. importers of Chinese menthol claim that natural menthol is a different product, dissimilar in characteristics and uses, than synthetic menthol. However, according to statements by the petitioner and Takasago, USA, the exclusive importer of the Japanese product, synthetic and natural menthol are completely interchangeable, except perhaps, when used as a flavoring. 2/ This use accounts for at most 10 percent of U.S. consumption. In the staff's efforts to clarify this question, nine major end users of menthol were contacted. Six of these stated that for their purposes, synthetic and natural menthol were interchangeable. Two firms stated that the two products were not totally interchangeable. One firm stated that synthetic menthol could not be used in their present formulations. However, in the foods and flavors industry, natural menthol is considered a different product than synthetic menthol because it can be certified as a natural ingredient.

1/ Stereospecific means having a specific spatial orientation of atoms. In this case, stereospecific means having the specific orientation required to produce l-menthol upon reaction.

2/ See post-conference brief on behalf of the petitioner, Haarmann & Reimer, Corp., pp. 2-5; Takasago, USA, Inc.'s response to the petition, pp. 2-3.

U.S. tariff treatment

Menthol is dutiable either under the provisions of item 437.64 or item 413.28 of the TSUS depending upon the type of material from which it is derived. Natural menthol and synthetic menthol derived from nonbenzenoid sources, such as cornmint oil (de-mentholized peppermint oil), citronella oil, or d-limonene, are classified under item 437.64. The column 1 (most-favored-nation) rate of duty for this item is 17 cents per pound. This rate became effective on January 1, 1972, in the final stage of reductions granted in the Kennedy round of trade negotiations. The column 2 (statutory) rate of duty is 50 cents per pound. No concessions on imports classified under this item were granted in the recent Tokyo round of the Multilateral Trade Negotiations (MTN).

Since July 1, 1980, synthetic menthol derived from benzenoid chemicals or products, such as m-cresol, is dutiable under the provisions of item 413.28. The column 1 rate of duty for this item is 26.8 percent ad valorem and will be reduced to 23.8 percent on January 1, 1981. The rate will then be reduced progressively each year on January 1, until it reaches 11.9 percent ad valorem in 1987. These annual duty reductions were the result of concessions granted in the MTN. They also reflect the changes in the customs valuation code negotiated in the MTN. The column 2 rate of duty is 7 cents per pound plus 58 percent ad valorem. The rate of duty for least developed developing countries (LDDC) is 11.9 percent ad valorem.

Prior to July 1980, synthetic menthol derived from benzenoid chemicals or products was dutiable under the provisions of item 408.60. From January 1, 1972, to June 30, 1980, the column 1 rate of duty for this item was 3.5 cents per pound plus 22.5 percent ad valorem. This rate represented the final stage of reductions granted in the Kennedy round of trade negotiations. The column 2 rate of duty during this period was 7 cents per pound plus 45 percent ad valorem.

Nature and Extent of Alleged Sales at Less Than Fair Value

Virtually all U.S. imports of menthol from Japan and China are accounted for by exports of Takasago Perfumery Co., Ltd. and the China National Native Produce and Animal By-products Import and Export Corp. (CNEC), respectively. The petition alleges that sales of l-menthol at less than fair value began when China began exporting large amounts of its menthol late in 1977. The Japanese allegedly dropped their prices sharply in 1978 in order to undersell the Chinese. According to the petition, these alleged LTFV sales have not only continued from 1977 to the present, but, as evidenced by contracts for Japanese and Chinese menthol already negotiated with several major end users, they will also continue into 1981.

The petition presents data that allege dumping margins for 1978 and 1979 ranging from 5 percent to 47 percent for the Japanese product and 5 percent to 89 percent for the Chinese product, depending on the method used to calculate the margins. A brief summary of the alleged margins of underselling is given

in table 1. Because the economy of China is state-controlled, the petitioner submits that the prices at which natural menthol is sold for consumption in the home market of Brazil or Japan be used as a proper basis for determining the dumping margins on exports from the PRC, since they are the only other countries which produce comparable quantities of menthol.

On June 24, 1980, the Department of Commerce issued a notice announcing that it had found the petition to be properly filed within the meaning of its

Table 1.—Menthol: Alleged margins of dumping by countries and basis of price comparisons, 1978 and 1979 1/

(In percent)

Item and price comparison	1978	1979
Menthol from Japan:		
Comparison of home-market and export to U.S.A. factory net-back prices	39.6	31.6
Comparison of home-market prices, factory net-back basis, with U.S. prices, factory net-back basis	46.7	40.1
Comparison of cost of production in Japan with:		
Factory net-back export to U.S. prices	2/	5.4
U.S. prices	2/	10.2
Menthol from China:		
Chinese export prices to U.S. compared with:		
Japanese home-market prices	70.8	60.8
Brazilian home-market prices	11.2	8.9
Chinese home-market prices	7.5	6.8
U.S. prices compared with:		
Japanese home-market prices	77.9	89.2
Brazilian home-market prices	9.4	19.3
Chinese home-market prices	5.0	16.2

1/ See petition pp. 5-22.
2/ Not available.

rules and that it was instituting an investigation. Notice to such effect was published in the Federal Register of July 2, 1980 (45 F.R. 44976). The scope of Commerce's investigation is the same as that instituted by the Commission.

U.S. Market and Channels of Distribution

Although menthol has been known for centuries, its present-day importance is the result of changing consumer demands in the 1950's. Before World War II, menthol was primarily used in the production of pharmaceuticals. However, the general, progressive increase in the U.S. standard of living following the war generated a consumer market for goods containing menthol, such as cigarettes,

oral hygiene products (e.g., toothpastes and mouthwashes), and other personal-care products (e.g., perfumes, shaving creams, and cosmetics). The derived demand for menthol is relatively price inelastic (e.g., generally, people will not brush their teeth more if toothpaste becomes less expensive) and independent of the business cycle (e.g., most people will continue to smoke, brush their teeth daily, and shave regularly whether there is a recession or not).

The United States is the largest single market for menthol, and it is estimated that U.S. consumption accounts for roughly 40 percent of the world's consumption of menthol. U.S. consumption of menthol can be broken down by the following end-use categories:

End use	Estimated percent of U.S. consumption
Tobacco	60
Pharmaceuticals	15
Oral hygiene products	12
Personal-care products	6
Miscellaneous	7

Miscellaneous uses include confectionery, beverages, and industrial applications. According to industry sources, the U.S. market for menthol is expected to undergo only slow growth (3 to 5 percent annually) in the coming years. Some 20 customers account for about 90 percent of domestic sales of menthol.

To a substantial degree, the channels of distribution for menthol have been shaped by the supply of menthol. Prior to 1939, Japan was the major supplier of natural menthol, the only form of menthol then available. China was also an important source. However, with the onset of World War II, the menthol supply from the Far East was disrupted, and Brazil became the major producer. Brazil's position was further consolidated in the 1950's as Japan and China underwent political and industrial transformations which sharply curtailed their production of menthol. Synthetically produced menthol began to appear on the market in the 1950's. However, despite the improved methods for producing synthetic menthol and the improved product quality, natural menthol still accounts for the majority of U.S. consumption.

Because of the traditional reliance on the natural product, the menthol market is essentially a commodity market. Prices have varied dramatically according to the supply situation. An estimated 90 percent of domestic sales of menthol are made through contracts, which enable the end user to secure an adequate supply of menthol at a reasonable price. These contracts are similar to futures contracts in that they are sales agreements to receive a certain quantity of menthol 1 or 2 years in the future. The contract contains a firm commitment on price by the supplier, however, it usually permits the purchaser to be released from the contract if he finds a supplier offering menthol at a lower price. The contracts are usually negotiated annually and may specify the dates and quantities of deliveries.

It is estimated that U.S. producers sell over 95 percent of their menthol directly to end users. Virtually all of these sales are made under contracts. The remaining menthol is sold to end users on the spot market. Less than 5 percent of U.S. producers' domestic shipments of menthol are made to dealers or distributors. On the other hand, most of the imported menthol is brought in by brokers or dealers. Brokers generally arrange for delivery of the imported product to end users or dealers for a 2 percent sales commission, whereas dealers generally receive a 2 percent price discount, accept delivery of the imported material, and then negotiate sales.

Because menthol is essentially a fungible product and because the number of major end users is small, the need for marketing, sales, and service personnel is very limited. Advertising is minimal, and technical service is required only to obtain product approval for menthol from new sources.

The Domestic Industry

U.S. producers

There are four producers of menthol in the United States. Three of these producers are public-owned corporations--Givauden Corp., Union Camp Corp., and SCM Corp. The fourth producer, Haarmann & Reimer Corp., is a wholly owned subsidiary of Rhinechem Corp., which is in turn owned by Bayer, AG., of the Federal Republic of Germany (FDR). These four firms vary significantly according to the size of their menthol operations and the types of menthol they produce.

The smallest U.S. menthol producer, Givauden, is a manufacturer of fragrances and flavors (table 2). This firm produces only liquid menthol, most of which it then sells on the open market. A small amount of the liquid menthol * * * is used internally.

The next largest U.S. producer, Union Camp, also produces only liquid menthol. However, Union Camp, which is a widely diversified corporation, does not sell its product on the open market, but rather produces menthol only for its own internal consumption.

SCM, the second largest producer, is also a widely diversified corporation and produces only l-menthol and racemic menthol. The bulk of SCM's production is sold on the open market, with internal consumption generally accounting for less than * * * percent of the menthol produced.

SCM began to market menthol in 1961. However, according to company officials, the firm was driven out of the market in 1963 because prices for l-menthol had fallen from around $8 per pound to less than $3 per pound as Brazilian menthol flooded the U.S. market. SCM reentered the menthol market in 1975 with a new plant and a new process for producing menthol. During the period under consideration, the production of l-menthol has become increasingly important to SCM. In 1977, SCM's production of l-menthol accounted for about * * * percent of its total menthol production, but in January-March 1980, that figure increased to * * * percent.

Table 2.--Menthol: U.S. production and sales, by firms, 1977-79, January-March 1979, and January-March 1980

Firm	1977	1978	1979	January-March-- 1979	1980
Production: 1/					
Haarmann & Reimer					
1,000 pounds	***	***	***	***	***
SCM----------do----	***	***	***	***	***
Givauden----------do----	***	***	***	***	***
Union Camp----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
Sales: 2/					
Quantity:					
Haarmann & Reimer					
1,000 pounds	***	***	***	***	***
SCM----------do----	***	***	***	***	***
Givauden----------do----	***	***	***	***	***
Union Camp----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
Value:					
Haarmann & Reimer					
1,000 dollars	***	***	***	***	***
SCM----------do----	***	***	***	***	***
Givauden----------do----	***	***	***	***	***
Union Camp----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***

1/ Liquid menthol reported on a dry weight basis.
2/ Includes export sales.

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

Givauden, Union Camp, and SCM have one thing in common as producers of menthol--the equipment used to produce their menthol is fairly versatile. They can and do use it to produce other chemicals. In contrast, the business interests of Haarmann & Reimer, the largest U.S. menthol producer, are represented by a $15 million plant dedicated exclusively to the production of menthol. The plant was designed to produce l-menthol, but racemic and liquid menthol are obtained as by products in the process. Virtually all of Haarmann & Reimer's production is sold on the open market. * * *.

Haarmann & Reimer began producing menthol during January-March of 1978. Since its entry, Haarmann & Reimer has steadily * * * its relative importance in the domestic industry (table 3). In its first year of operation, Haarmann & Reimer accounted for * * * percent of U.S. production of menthol and during January-March 1980, that figure * * * percent. In contrast, SCM's share of U.S. menthol production has * * * from * * * percent in 1978 to * * * percent in 1980. * * *.

The production of l-menthol has accounted for over * * * percent of Haarmann & Reimer's total menthol production, and the company's importance as a producer of l-menthol has * * * (table 4). In 1978, Haarmann & Reimer accounted for * * * percent of U.S. production of l-menthol and during January-March 1980, that figure * * * to * * * percent. Concurrently, SCM's production has * * * as a ratio of U.S. production of l-menthol. It * * * from * * * percent in 1978 to * * * percent in January-March 1980.

Table 3.--Menthol: Percentage distribution of U.S. production and sales, by firms, 1977-79, January-March 1979, and January-March 1980

Firm	1977	1978	1979	January-March--	
				1979	1980
Production:					
Haarmann & Reimer	***	***	***	***	***
SCM	***	***	***	***	***
Givauden	***	***	***	***	***
Union Camp	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
Sales:					
Quantity:					
Haarmann & Reimer	***	***	***	***	***
SCM	***	***	***	***	***
Givauden	***	***	***	***	***
Union Camp	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
Value:					
Haarmann & Reimer	***	***	***	***	***
SCM	***	***	***	***	***
Givauden	***	***	***	***	***
Union Camp	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0

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

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

Table 4.--l-Menthol: U.S. production and sales, by firms, 1977-79, January-March 1979, and January-March 1980

Firm	1977	1978	1979	January-March-- 1979	January-March-- 1980
Production:					
Haarmann & Reimer					
1,000 pounds	***	***	***	***	***
SCM---do	***	***	***	***	***
Total---do	***	***	***	***	***
Sales: 1/					
Quantity:					
Haarmann & Reimer					
1,000 pounds	***	***	***	***	***
SCM---do	***	***	***	***	***
Total---do	***	***	***	***	***
Value:					
Haarmann & Reimer					
1,000 dollars	***	***	***	***	***
SCM---do	***	***	***	***	***
Total---do	***	***	***	***	***
Production:					
Haarmann & Reimer---percent	***	***	***	***	***
SCM---do	***	***	***	***	***
Total---do	100.0	100.0	100.0	100.0	100.0
Sales:					
Quantity:					
Haarmann & Reimer--percent	***	***	***	***	***
SCM---do	***	***	***	***	***
Total---do	100.0	100.0	100.0	100.0	100.0
Value:					
Haarmann & Reimer--percent	***	***	***	***	***
SCM---do	***	***	***	***	***
Total---do	100.0	100.0	100.0	100.0	100.0

1/ Includes export sales.

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

U.S. importers

U.S. importers of menthol are primarily chemical dealers for the flavor and fragrance industry. Many of them have been buying and selling menthol for decades. Takasago, USA, is the exclusive importer of the Japanese product and a wholly owned subsidiary of Takasago Perfumery, Ltd., the principal Japanese producer of menthol. Takasago, USA, functions as a dealer for the parent company's exports to the United States. The Chinese product is imported principally by five independent menthol dealers--J. Manheimer, Inc., Polarome Manufacturing Co., Inc., Irving R. Boody & Co., Inc., MacAndrews & Forbes Co., and George Uhe Co., Inc. These companies have imported more than 75 percent of the menthol from China during the period under consideration (table 5). J. Manheimer was the first to import menthol from China, but * * *.

Foreign Producers

Natural menthol is produced in a number of countries, but the major exporting countries are Brazil, Paraguay, and China. From the 1940's until 1979 Brazil was the world's largest producer of natural menthol. However, Brazil's production has been declining steadily in recent years because of the diminishing amount of available land suitable for the production of peppermint. For this reason, many of the Brazilian peppermint farmers have moved into neighboring Paraguay.

The Chinese have cultivated peppermint for centuries. However, since 1976, China has developed a new economic policy which places some importance on the production of peppermint as a source of menthol. Menthol has been designated as a product to be promoted for export, because it is well suited for generating quick revenue (especially Western currency) without requiring large investments. Thus, in the last 2 to 3 years, the cultivation of peppermint has been greatly expanded, and the production of menthol has increased dramatically. Estimated Chinese production of menthol is shown, as follows (1,000 pounds): 1/

1978	1979	1980
1,100	3,300	4,400

China, which became the world's largest producer of natural menthol in 1979, obtained most-favored-nation status on January 1, 1980. Its capacity to produce menthol is virtually unlimited. Unlike the Brazilians, the Chinese reportedly use scientific agricultural techniques to produce their peppermint. Production can, therefore, be increased as long as it suits the economic policies of the central government. Exportation of Chinese menthol is handled by a state-trading organization, the CNEC. Approximately 20 percent of the menthol produced in China in 1979 was exported to the United States.

1/ * * *.

Table 5.--Menthol from the People's Republic of China: Imports by selected firms, 1977-79, January-March 1979, and January-March 1980

Firm	1977	1978	1979	January-March--	
				1979	1980
Irving R. Boody---1,000 pounds	***	***	***	***	***
J. Manheimer----------do----	***	***	***	***	***
Polarome----------do----	***	***	***	***	***
MacAndrews & Forbes-------do----	***	***	***	***	***
George Uhe----------do----	***	***	***	***	***
Other----------do----	***	***	***	***	***
Total----------do----	***	389	1,109	299	281
Irving R. Boody-------percent	***	***	***	***	***
J. Manheimer----------do----	***	***	***	***	***
Polarome----------do----	***	***	***	***	***
MacAndrews & Forbes-------do----	***	***	***	***	***
George Uhe----------do----	***	***	***	***	***
Other----------do----	***	***	***	***	***
Total----------do----	100.0	100.0	100.0	100.0	100.0

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

The only foreign producers of synthetic menthol that export significant amounts of the product are Takasago Perfumery, Ltd., in Japan and Haarmann & Reimer, GmbH. in the Federal Republic of Germany (Haarmann & Reimer, GmbH. is considered the parent company of the petitioner, Haarmann & Reimer Corp., and is also owned by Bayer AG.).

Takasago is the largest Japanese producer of menthol, and its principal business interests are the compounding of perfumes and the production of synthetic aromatic chemicals, food flavors, and pharmaceutical ingredients. Takasago primarily uses d-limonene as a feedstock, but it can also use thymol, citronella oil, and cornmint oil (de-mentholized peppermint oil). Takasago has the capacity to produce one million pounds of synthetic menthol a year (700,000 pounds of l-menthol and 300,000 pounds of racemic menthol). 1/ Nearly 70 percent of Takasago's production is exported to the United States. 2/ Takasago, USA, Inc., is a wholly owned subsidiary of Takasago Perfumery, Ltd., and the exclusive importer of Takasago menthol in the United States.

1/ See Post-Public Conference Brief of Petitioner, p. 17.
2/ * * *.

The menthol industry in Japan is protected by a quota on imported menthol and a tariff rate of 40 percent ad valorem. Menthol prices in Japan are, therefore, significantly higher than prices in the world market.

The Question of Injury or Likelihood Thereof

U.S. production, capacity, and capacity utilization

U.S. production of menthol has increased significantly since the entry of Haarmann & Reimer in 1978 (table 6). Production increased from * * * pounds in 1977 to * * * million pounds in 1979, or by *** percent. U.S. production increased by another ***percent in January-March 1980, as compared with production in the corresponding period in 1979.

U.S. production of l-menthol has followed a similar pattern, but * * * (table 4). U.S. production of l-menthol * * * from * * * pounds in 1977 to * * * million pounds in 1979, or by * * * percent. U.S. production * * * by another * * * percent in January-March 1980, compared with production in the corresponding period in 1979.

U.S. capacity to produce menthol has also increased steadily since 1977. It increased from * * * million pounds in 1977 to *** million pounds in 1979, or by * * * percent. U.S. capacity increased again in January-March 1980, by *** percent more than that reported for the corresponding period in 1979. However, Haarmann & Reimer * * *. SCM's capacity has * * *.

Despite the steadily increasing capacity of the U.S. industry, capacity utilization of U.S. menthol producers has, nonetheless, increased steadily during the period under consideration. Capacity utilization increased from * * * percent in 1977 to * * * percent in 1979. Utilization in January-March 1980 was * * * percent, a slight increase over the * * * percent utilization rate in January-March 1979.

U.S. producers' commercial shipments

U.S. producers' commercial shipments of menthol (including exports) increased significantly from 1977 to 1979, but declined slightly in January-March 1980 (table 2). U.S. producers' shipments increased from * * * pounds in 1977 to * * * million pounds in 1979, or by*** percent. However, shipments declined by** percent in January-March 1980 from shipments during the corresponding period of 1979.

The value of these shipments followed a similar pattern, but increased at a slower rate from 1977 to 1979 and then declined by less in 1980 than did the quantity. From 1977 to 1979, the value of U.S. producers' menthol shipments increased from * * * million to * * * million, or by * * * percent. However, the value of U.S. producers' shipments declined by *** percent in January-March 1980 from the value of shipments during the corresponding period in 1979.

Table 6.--Menthol: U.S. production, capacity, and capacity utilization, by firms, 1977-79, January-March 1979, and January-March 1980

Item and firm	1977	1978	1979	January-March--	
				1979	1980
Production:					
Haarmann & Reimer					
1,000 pounds—	***	***	***	***	***
SCM----------do----	***	***	***	***	***
Givauden----------do----	***	***	***	***	***
Union Camp----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
Capacity: 1/					
Haarmann & Reimer					
1,000 pounds—	***	***	***	***	***
SCM----------do----	***	***	***	***	***
Givauden----------do----	***	***	***	***	***
Union Camp----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
Capacity utilization:					
Haarmann & Reimer----percent—	***	***	***	***	***
SCM----------do----	***	***	***	***	***
Givauden----------do----	***	***	***	***	***
Union Camp----------do----	***	***	***	***	***
Average----------do----	***	***	***	***	***

1/ Capacity is defined as the normal sustained production that can be achieved on an annual basis, making allowance for anticipated maintenance and downtime. Capacity is based on 24 hours-a-day operation, 7 days a week, and on the product mix in 1979.

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

U.S. producers' commercial shipments of l-menthol delineate a slightly different trend in that they have * * * (table 4). U.S. producers' shipments of l-menthol * * * from * * * pounds in 1977 to * * * million pounds in 1979, or by * * * percent. Shipments of l-menthol * * * slightly in January-March 1980 compare with those of the corresponding period in 1979. The value of U.S. producers' commercial shipments of l-menthol has also * * *, but at a markedly * * * rate from 1977 to 1979 and at a * * * rate for January-March of 1980 than the quantity of shipments. The value of U.S. producers' shipments of l-menthol * * * from * * * million in 1977 to * * * million in 1977, or by * * * percent. The value of these shipments * * * by * * * percent in January-March 1980.

Haarmann & Reimer's exports of menthol have accounted for * * * (table 7).

Table 7.--Menthol: Haarmann & Reimer's export sales, l-menthol and all menthol, 1977-79 January-March 1979, and January-March 1980

Item	1977	1978	1979	January-March--	
				1979	1980
	l-Menthol				
Quantity:					
Units----------1,000 pounds--	***	***	***	***	***
Ratio of H & R's export shipments to its commercial shipments----------percent--	***	***	***	***	***
Ratio of H & R's export shipments to U.S. producers' commercial shipments percent--	***	***	***	***	***
Value:					
Units----------1,000 dollars--	***	***	***	***	***
Ratio of H & R's export shipments to its commercial shipments----------percent--	***	***	***	***	***
Ratio of H & R's export shipments to U.S. producers' commercial shipments percent--	***	***	***	***	***
	All menthol				
Quantity:					
Units----------1,000 pounds--	***	***	***	***	***
Ratio of H & R's export shipments to its commercial shipments----------percent--	***	***	***	***	***
Ratio of H & R's export shipments to U.S. producers' commercial shipments percent--	***	***	***	***	***
Value:					
Units----------1,000 dollars--	***	***	***	***	***
Ratio of H & R's export shipments to its commercial shipments----------percent--	***	***	***	***	***
Ratio of H & R's export shipments to U.S. producers' commercial shipments percent--	***	***	***	***	***

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

As a ratio of its total commercial shipments, Haarmann & Reimer's exports of menthol have * * *.

The value of Haarmann & Reimer's exports of menthol has * * *. Haarmann & Reimer's exports all of its menthol to affiliated firms. 1/ U.S. importers of Chinese menthol have alleged that Haarmann & Reimer's plant was originally intended to be used in major part for producing menthol for exportation. 2/

Exports of l-menthol have accounted for the vast majority of exports, consistently accounting for more than * * * percent of total menthol exports. Exports by Haarmann & Reimer of l-menthol * * *. Exports of l-menthol have been large both for Haarmann & Reimer and the industry as a whole. Exports of l-menthol have * * *.

The value of Haarmann & Reimer's exports of l-menthol has * * *.

Inventories

U.S. producers' inventories of all types of menthol increased steadily to very high levels during the period under consideration (table 8). However, there are a number of factors that should be considered when examining these unusually high inventory levels as indices of injury.

Inventories of all menthol increased steadily from * * * pounds as of December 31, 1977, accounting for * * * percent of U.S. producers' sales of menthol in 1977 to * * * pounds as of December 31, 1979, representing * * * percent of U.S. producers' sales. These figures indicate that the end-of-period inventories from 1977 to 1979, increased by 540 percent in terms of quantity and by 122 percent as a ratio of U.S. producers' shipments of menthol in the preceding period. Inventories increased again substantially, in January-March 1980 relative to inventories held as of March 31, 1979. Inventories increased from * * * pounds as of March 31, 1979, to * * * million pounds as of March 31, 1980, or by * * * percent. As a ratio of U.S. producers' sales during the preceding period, inventories increased from *** percent in January-March 1979 to * * * percent in the corresponding period of 1980.

Inventories of l-menthol have generally been the largest in terms of quantity, but the smallest when viewed as a ratio of sales by types. U.S. producers' inventories of l-menthol * * * from * * * pounds as of December 31, 1977, to * * * pounds as of December 31, 1979, and again from * * * pounds as of March 31, 1979, to * * * pounds as of March 31, 1980. As a ratio of U.S. producers' shipments of l-menthol during the preceeding period, inventories of l-menthol * * * from * * * percent in 1977 to * * * percent in 1979 and again from * * * percent in January-March 1979 to * * * percent in the corresponding period of 1980. It should be noted, however, that these * * * are exaggerated by the fact that SCM, which has a much smaller capacity than Haarmann & Reimer and, therefore, had smaller inventories, was the only producer of l-menthol in 1977. Moreover, Haarmann & Reimer has allowed inventories to accumulate,

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1/ See transcript of conference, p. 55.
2/ Ibid., p. 68.

Table 8.--Menthol: U.S. producers' inventories, by types and firms, as of Dec. 31, 1977-79 and Mar. 31, 1979 and Mar. 31, 1980

Type and firm	As of Dec. 31--			As of March 31--	
	1977	1978	1979	1979	1980
Inventories:					
Of l-menthol:					
Haarmann & Reimer 1,000 pounds	***	***	***	***	***
SCM--do	***	***	***	***	***
Total--do	***	***	***	***	***
Of racemic menthol:					
Haarmann & Reimer--do	***	***	***	***	***
SCM--do	***	***	***	***	***
Total--do	***	***	***	***	***
Of liquid menthol: 1/					
Haarmann & Reimer--do	***	***	***	***	***
SCM--do	***	***	***	***	***
Givauden--do	***	***	***	***	***
Union camp--do	***	***	***	***	***
Total--do	***	***	***	***	***
Of all menthol:					
Haarmann & Reimer--do	***	***	***	***	***
SCM--do	***	***	***	***	***
Givauden--do	***	***	***	***	***
Union camp--do	***	***	***	***	***
Total--do	***	***	***	***	***
Ratio of inventories to sales:					
Of l-menthol:					
Haarmann & Reimer--percent	***	***	***	***	***
SCM--do	***	***	***	***	***
Total--do	***	***	***	***	***
Of racemic menthol:					
Haarmann & Reimer--do	***	***	***	***	***
SCM--do	***	***	***	***	***
Total--do	***	***	***	***	***
Of liquid menthol: 2/					
Haarmann & Reimer--do	***	***	***	***	***
SCM--do	***	***	***	***	***
Givauden--do	***	***	***	***	***
Union camp--do	***	***	***	***	***
Total--do	***	***	***	***	***
Of all menthol:					
Haarmann & Reimer--do	***	***	***	***	***
SCM--do	***	***	***	***	***
Givauden--do	***	***	***	***	***
Union camp--do	***	***	***	***	***
Total--do	***	***	***	***	***

1/ Quantities reported on a dry weight basis.

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

incurring higher inventory costs in order to maximize capacity utilization. Menthol is also easy to store. It requires no special facilities or handling and does not represent a safety hazard. Deterioration of the product is also minimal even after several years in storage. These factors tend to mitigate the adverse impact of inventories of menthol. However, it may be assumed that the cost of maintaining these * * * inventories in light of high interest rates that have prevailed in recent months represents a substantial burden to U.S. producers.

Inventories of racemic menthol have * * *. They * * * from * * * pounds as of December 31, 1977, to * * * pounds as of December 31, 1979, and again from * * * pounds as of March 31, 1979, to * * * as of March 31, 1980. As a ratio of U.S. producers' shipments of racemic menthol during the previous period, end-of-period inventories * * * from * * * percent in 1977 to * * * percent in 1979, and again from * * * percent in January-March 1979 to * * * percent in January-March 1980. Again, it should be noted that these * * * are exaggerated because SCM was the only producer of racemic menthol in 1977. However, in addition, it should be realized that racemic menthol is obtained as a by product in the synthesis of l-menthol and that * * * inventories of racemic menthol may, to some extent, reflect the * * * production of l-menthol.

Because liquid menthol is primarily obtained as a by product in the synthesis of l-menthol and other chemicals and because it has only a limited number of uses, the quantity of liquid menthol held in inventory has been consistently greater than the sales volume during 1977-79 and January-March 1980. However, inventories have also increased steadily since 1977. They increased from * * * pounds as of December 31, 1977, to * * * pounds as of March 31, 1980.

In 1978, menthol dealers began to import significant quantities of Chinese menthol. Inventories of Chinese menthol began to increase significantly in 1979 (table 9). Usable data were obtained from only three of these dealers, however, these data indicate that inventories increased from virtually nothing as of December 31, 1978, to * * * pounds as of March 31, 1980. This last figure is more than three times the amount of menthol that was imported from China during January-March 1980.

Takasago's inventories of Japanese menthol have * * *.

Apparent U.S. consumption

Although industry sources have stated that demand for menthol has been fairly stable, growing by only 3 to 5 percent during the period under consideration, apparent U.S. consumption including captive consumption of menthol has been volatile (table 10). It should, however, be noted that these figures are based on U.S. production and imports for consumption and, therefore, reflect the growing inventories of U.S. producers or importers of menthol.

Apparent open-market consumption of menthol, which is based on U.S. producers' actual sales and, therefore, does not include their inventories,

Table 9.--Menthol: U.S. importer's inventories, by countries and firms, as of December 31, 1977-79, and Mar. 31, 1979 and Mar. 31, 1980

Country and firm	As of Dec. 31--			As of Mar. 31--	
	1977	1978	1979	1979	1980
	Quantity				
China:					
MacAndrews & Forbes 1,000 pounds	***	***	***	***	***
J. Manheimer---------do----	***	***	***	***	***
Irving R. Boody---------do----	***	***	***	***	***
Total---------do----	***	***	***	***	***
Japan, Takasago---------do----	***	***	***	***	***
Total---------do----	***	***	***	***	***
	Ratio of inventories to imports from respective countries				
China:					
MacAndrews & Forbes--percent	***	***	***	***	***
J. Manheimer---------do----	***	***	***	***	***
Irving R. Boody---------do----	***	***	***	***	***
Total---------do----	***	***	***	***	***
Japan, Takasago---------do----	***	***	***	***	***
Total---------do----	***	***	***	***	***

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

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

increased at a slower rate than apparent overall consumption from 1977 to 1979 and dropped sharply in January-March 1980 (table 11). Apparent open-market consumption increased from * * * million pounds in 1977 to * * * million pounds in 1979, or by 34 percent and then declined by 13 percent in January-March 1980 relative to open-market consumption during the corresponding period of 1979. Apparent open-market consumption accounted for 97 percent of total U.S. consumption, in 1977. However, it should be noted that open-market consumption is overstated because it has not been adjusted to negate the growing inventories of U.S. importers.

During the period under consideration, apparent open-market consumption of l-menthol, accounted for an average of * * * percent of total U.S. open-market consumption of menthol, but followed a slightly different pattern than that set by total open-market consumption (table 12). Apparent U.S. consumption of l-menthol * * * from * * * million pounds in 1977 to * * * million pounds in 1979, or by * * * percent. Consumption of l-menthol then * * * by

Table 10.—Menthol: U.S. production, imports for consumption, exports of domestic merchandise, and apparent consumption, 1977-79, January-March 1979, and January-March 1980

(In thousands of pounds)

Period	Production	Imports	Exports	Apparent consumption 1/
1977	***	***	***	***
1978	***	***	***	***
1979	***	***	***	***
January-March—				
1979	***	***	***	***
1980	***	***	***	***

1/ Based on U.S. production of all menthol. It is not adjusted to reflect inventory levels.

Source: U.S. production and exports, compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; imports for consumption, compiled from official statistics of the U.S. Department of Commerce.

Table 11.—Menthol: U.S. producers' open-market shipments, imports for consumption, exports of domestic merchandise, and apparent open-market consumption, 1977-79, January-March 1979, and January-March 1980

(In thousands of pounds)

Period	Producers' open-market shipments	Imports	Exports	Apparent open-market consumption 1/
1977	***	***	***	***
1978	***	***	***	***
1979	***	***	***	***
January-March—				
1979	***	***	***	***
1980	***	***	***	***

1/ Based on U.S. producers' sales. It is not adjusted to reflect inventory levels.

Source: U.S. producers' open-market shipments and exports, compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; imports for consumption, compiled from official statistics of the U.S. Department of Commerce.

Table 12.—l-Menthol: U.S. producers' open-market shipments, imports for consumption, exports of domestic merchandise, and apparent consumption of l-menthol, 1977-79, January-March 1979, and January-March 1980

(In thousands of pounds)

Period	Producers' open-market shipments	Imports	Exports	Apparent open-market consumption 1/
1977	***	***	***	***
1978	***	***	***	***
1979	***	***	***	***
January-March—				
1979	***	***	***	***
1980	***	***	***	***

1/ Based on U.S. production of l-menthol. It is not adjusted to reflect inventory levels.

Source: U.S. producer's open-market shipments and exports, compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; imports, compiled from official statistics of the U.S. Department

* * * percent in January-March 1980 relative to consumption during January-March 1979. Once again, it should be noted that these figures have not been adjusted for inventories of U.S. importers.

U.S. employment and wages

Data on employment and wages in the U.S. menthol industry were available only for SCM Corp. and Haarmann & Reimer. However, these two firms have accounted for virtually all commercial shipments of menthol (more than 98 percent) during the period under consideration. Their combined data generally delineate positive trends.

The average number of all employees in U.S. establishments producing menthol * * * from * * * in 1977 to * * * in January-March 1980, or by * * * percent (table 13). However, the * * * in the aggregate figures are the result of * * *. The average number of SCM's employees has * * *.

A different trend is presented by the average number of production and related workers producing menthol. That number * * * in 1978 as Haarmann & Reimer's plant came on stream, but has * * * since then. The average number of production and related workers producing menthol * * * from * * * in 1978 to * * * in January-March 1980, or by * * * percent. * * *.

Wages paid to all production and related workers producing menthol have * * * during the period under consideration. Wages * * * in 1977 to * * * in 1979. Wages then * * * by * * * percent in January-March 1980 relative to wages paid during the corresponding period in 1979.

Man-hours worked by all production and related workers have * * * since 1977. They * * * from * * * in 1977 to * * * in 1979. Man-hours worked by all production and related workers * * * again in January-March 1980, but by * * * percent relative to the man-hours worked during the corresponding period in 1979.

Financial performance of U.S. producers

Profit-and-loss data on U.S. menthol operations were available only for SCM and Haarmann & Reimer. However, it can be assumed that these two producers fairly represent the domestic industry, since their sales have accounted for more than 98 percent of all U.S. producers' commercial shipments of menthol during the period under consideration (Haarmann & Reimer did not begin producing menthol until 1978). The combined data for these two producers indicate that despite rapidly increasing sales of menthol, profitability on their menthol operations has * * * since 1977.

U.S. producers' net sales of menthol * * * from * * * million in 1977 to * * * million in 1979, or by * * * percent (table 14). However, the trends for the two firms, taken individually, * * *.

The cost of goods sold of U.S. producers * * * than net sales, rising from * * * million in 1977 to * * * million in 1979, or increasing by * * *

Table 13.--Average number of employees in U.S. establishments producing menthol, total and all production and related workers producing menthol, and wages paid to and man-hours worked by all production and related workers producing menthol, by firms, 1977-79, January-March 1979, and January-March 1980

Firm	1977	1978	1979	January-March--	
				1979	1980
Average number of all employees:					
Haarmann & Reimer	***	***	***	***	***
SCM	***	***	***	***	***
Total	***	***	***	***	***
All production and related workers producing menthol:					
Haarmann & Reimer	***	***	***	***	***
SCM	***	***	***	***	***
Total	***	***	***	***	***
Wages paid to all production and related workers:					
Haarmann & Reimer 1,000 dollars	***	***	***	***	***
SCM----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
Man-hours worked by all production and related workers:					
Haarmann & Reimer 1,000 hours	***	***	***	***	***
SCM----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***

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

percent. As a ratio of net sales, the cost of goods sold * * * from * * * percent in 1977 to * * * percent in 1979. The ratio of SCM's cost of goods sold to net sales has * * *. On the other hand, the ratio of Haarmann & Reimer's cost of goods sold to net sales was * * *.

The gross profit for these two menthol producers * * * from * * * million in 1977 to * * * million in 1979, or by * * * percent. * * *.

General, selling, and administrative expenses * * *. * * *.

The net operating profit of these two producers on their menthol operations * * * in 1978 due to the appearance of Haarmann & Reimer's * * *. * * *.

Table 14.--Profit-and-loss experience of selected U.S. producers of menthol on their menthol operations, by firms, 1977-79

Year and firm	Net sales	Cost of goods sold	Gross profit	General, selling, and administrative expenses	Net operating profit	Ratio of net operating profit to net sales	Ratio of cost of goods sold to net sales
	1,000 dollars	1,000 dollars	1,000 dollars	1,000 dollars	1,000 dollars	Percent	Percent
1977:							
Haarmann & Reimer 1/	***	***	***	***	***	***	***
SCM	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***
1978:							
Haarmann & Reimer	***	***	***	***	***	***	***
SCM	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***
1979:							
Haarmann & Reimer	***	***	***	***	***	***	***
SCM	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***

1/ Haarmann & Reimer began producing menthol in 1978.

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

The ratio of net operating profit to net sales of menthol * * * from * * * percent in 1977 to * * * percent in 1979, or by * * * percent. * * *. The ratio of SCM's net operating profit to its net sales * * * from * * * percent in 1977 to * * * percent in 1978, and then * * * to * * * percent in 1979. The ratio of Haarmann & Reimer's net operating profit to net sales * * * from * * * percent in 1978 to * * * percent in 1979. It should be noted that Haarmann & Reimer is but one part of a large multinational chemical corporation and that this firm's profit are to a large extent impacted by the transfer prices applicable to its purchases of feedstocks from and its sales of menthol to its corporate affiliates in other countries. * * *.

For the purposes of this report, cash flow from operations is defined as net operating profit plus depreciation and amortization. Haarmann & Reimer's plant started its menthol operation in 1978. Hence, the cash flow from operations on menthol in 1977 represents only that of one firm, SCM (table 15). The cash flow from operations of these two firms * * * from * * * in 1977 to * * * million in 1979. The cash flow from operations of Haarmann & Reimer * * * by almost * * * percent from * * * in 1978 to * * * in 1979. SCM's cash flow from operations on menthol * * * from * * * in 1977 to * * * in 1979, or by * * * percent.

Table 15.—U.S. producers' cash flow from operations on menthol, by firms, 1977-79

(In thousands of dollars)

Firm	1977	1978	1979
Haarmann & Reimer 1/	***	***	***
SCM	***	***	***
Total	***	***	***

1/ Haarmann & Reimer began producing menthol in 1978.

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

The Question of the Causal Relationship Between Alleged LTFV Imports from Japan or the People's Republic of China and the Alleged Injury

U.S. imports and market penetration of alleged LTFV imports

U.S. imports of menthol increased sharply in 1978, remained fairly stable in 1979, but declined substantially in January-March 1980 (table 6). Imports increased from * * * million pounds in 1977 to * * * million pounds in 1978, or by 24 percent. In 1979, imports increased slightly to * * * million pounds and then dropped by 15 percent in January-March 1980 relative to imports during the corresponding period in 1979. This decline may be due to the increasing inventories of menthol among U.S. producers and importers.

Since 1977, Brazil has been the principal source of U.S. imports of menthol. Yet as a share of total U.S. imports, imports from Brazil have declined significantly. Imports of menthol from Brazil increased from 1.4 million pounds in 1977 to 1.6 million pounds in 1979, or by 12 percent and increased by another four percent in January-March 1980 compared with imports during the corresponding period in 1979. As a share of total imports, imports from Brazil declined from * * * percent in 1977 to * * * percent in January-March 1980.

Since 1977, imports of Chinese menthol have increased dramatically. They increased from 29,000 pounds in 1977 to 649,000 pounds in 1979. However, imports from China dropped off sharply, declining by 19 percent in January-March 1980 over imports during the corresponding period in 1979. As a share of total imports of menthol, however, imports from China have increased significantly. Menthol from China accounted for only * * * percent of total U.S. imports in 1977. It accounted for * * * percent of total imports in January-March 1980.

Imports from Japan of all types of menthol increased from * * * in 1977 to * * * pounds in 1978, or by * * * percent, but then declined to * * * pounds in 1979, or by * * * percent and declined by another * * * percent in January-March 1980 relative to imports during the corresponding period in 1979. As a share of total U.S. imports, imports of menthol from Japan declined from * * * percent in 1977 to * * * percent in 1979, but increased to * * * percent in January-March 1980.

During the period under consideration, imports of l-menthol have represented the great majority of all menthol imports, accounting for between * * * percent of the total. Yet, imports of l-menthol have followed a slightly different pattern than that of all imports. Imports of l-menthol increased from * * * million pounds in 1977 to * * * million pounds in 1978, or by * * * percent, but declined slightly in 1979, and dropped by * * * percent in January-March 1980 compared with imports during the corresponding period in 1979. Brazil and China export only natural l-menthol. However, Japan exports l-menthol, racemic menthol, and liquid menthol. Imports of l-menthol from Japan increased from 195,000 pounds in 1977 to 351,000 pounds in 1978, or by 80 percent, but declined to 205,000 pounds in 1979, or by 42 percent, and then declined again, by another 14 percent in January-March 1980

Table 16.—Menthol: U.S. imports for consumption, by types and countries, 1977-79, January-March 1979, and January-March 1980

Item	1977	1978	1979	January-March-- 1979	January-March-- 1980	1977	1978	1979	January-March-- 1979	January-March-- 1980
	Quantity					Percentage distribution of quantity				
	1,000 pounds					Percent				
Natural:										
Brazil	1,434	1,490	1,607	227	236	***	***	***	***	***
Paraguay	233	106	73	6	33	***	***	***	***	***
China	29	467	649	259	210	***	***	***	***	***
Japan 1/	195	351	205	70	60	***	***	***	***	***
All other	271	275	167	84	6	***	***	***	***	***
Total	2,162	2,689	2,701	646	545	***	***	***	***	***
Synthetic:										
l-Menthol, West Germany	***	***	***	***	***	***	***	***	***	***
Total l-menthol	***	***	***	***	***	***	***	***	***	***
d-Menthol, from West Germany	***	***	***	***	***	***	***	***	***	***
Racemic menthol:										
Japan	***	***	***	***	***	***	***	***	***	***
West Germany	***	***	***	***	***	***	***	***	***	***
Liquid Menthol:										
Japan	***	***	***	***	***	***	***	***	***	***
Australia	***	***	***	***	***	***	***	***	***	***
Total menthol	***	***	***	***	***	100.0	100.0	100.0	100.0	100.0
	Value 2/					Average unit value				
	1,000 dollars					Per pound				
Natural:										
Brazil	15,373	12,622	6,540	1,484	1,488	$10.72	$8.47	$4.07	$6.54	$6.31
Paraguay	1,626	697	418	31	170	6.98	6.58	5.73	5.17	5.15
China	193	2,900	3,743	1,587	1,172	6.66	6.21	5.77	6.13	5.58
Japan	1,301	2,414	1,247	421	334	6.67	6.88	6.08	6.01	5.57
All other	2,205	1,788	1,067	596	21	8.14	6.50	6.59	7.10	3.50
Total	20,505	20,421	13,015	4,119	3,185	9.48	7.59	4.82	6.38	5.84
Synthetic:										
l-Menthol, West Germany	***	***	***	***	***	***	***	***	***	***
Total l-menthol	***	***	***	***	***	9.43	7.58	4.82	6.38	5.84
d-Menthol, from West Germany	***	***	***	***	***	***	***	***	***	***
Racemic menthol:										
Japan	***	***	***	***	***	***	***	***	***	***
West Germany	***	***	***	***	***	***	***	***	***	***
Liquid menthol										
Japan	***	***	***	***	***	***	***	***	***	***
Australia	***	***	***	***	***	***	***	***	***	***
Total menthol	***	***	***	***	***	***	***	***	***	***

1/ The Japanese product, although it is produced via chemical processes is considered a natural product for the purposes of U.S. tariff treatment and hence Commerce's statistical reports because it is derived from a natural raw material rather than a benzenoid chemical.

2/ Customs import value.

Source: Imports of natural menthol, compiled from official statistics of the U.S. Department of Commerce; imports of synthetic menthol, compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and the Benzenoid Import Report.

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

relative to imports during the corresponding period in 1979. Imports of l-menthol from Japan represented * * * percent of total menthol imports in 1977 and * * * percent in January-March 1980.

It is relevant in this case to examine the value of imports of l-menthol in terms of their average unit value, since unlike the quantity of imports, the average unit value of U.S. imports of l-menthol has declined significantly since 1977. The average unit value declined from $9.43 per pound in 1977 to $5.84 in January-March 1980, or by 38 percent. It is noteworthy that the average unit value of imports from Brazil, while also declining, have generally been higher than that for all imports of l-menthol. In contrast, the average unit value on imports from China has generally been lower than the average for total imports. The average unit value of imports from Japan has also generally been lower than the average for total imports. It is interesting to note that the average unit value of synthetic l-menthol imported from Haarmann & Reimer, GmbH, in West Germany in 1977 and 1978 was * * * the average unit value of all imports of l-menthol.

Imports have traditionally been the principal source of menthol for the U.S. market. However, U.S. imports of menthol have declined as a ratio of apparent U.S. open-market consumption during the period under consideration (table 17). The ratio declined from 78 percent in 1977 to 70 percent in January-March 1980, or by 11 percent. Imports of menthol from China increased steadily and significantly as a share of U.S. open-market consumption. The ratio increased from * * * percent in 1977 to * * * percent in January-March 1980. Whereas, the ratio of imports from Japan to apparent open-market consumption of menthol declined from 10 percent in 1977 to 8 percent in January-March 1980, or by 24 percent. Aggregate imports from China and Japan, the two countries alleged to be selling menthol at LTFV, increased from ** percent of U.S. open-market consumption in 1977 to ** percent in 1978, but declined from ** percent in January-March 1979 to ** percent in January-March 1980.

The U.S. market has been even more dependent on imports of l-menthol than imports of all menthol, but the ratio of imports of l-menthol to apparent U.S. open-market consumption of l-menthol has also declined over the period under consideration (table 18). The ratio declined from * * * percent in 1977 to * * * percent in January-March 1980, or by 12 percent. In contrast, the ratio of imports of menthol from China to U.S. open-market consumption of l-menthol increased sharply, from * * * percent in 1977 to * * * percent in January-March 1980. Concurrently, the ratio of imports from Japan to apparent open-market consumption of l-menthol, remained fairly stable increasing from * * * percent in 1977 to * * * percent in January-March 1980.

Prices

In their petition, Haarman & Reimer present pricing information which indicates that l-menthol imported from Japan and China was under-selling the domestic product by substantial margins in 1978 and 1979.

Table 17.—Menthol: U.S. imports for consumption by countries and by types, 1977-79, January-March 1979, and January-March 1980

Item	1977	1978	1979	January-March-- 1979	1980
	Quantity				
Japan:					
Natural 1/------1,000 pounds—	195	351	205	70	60
Synthetic----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
China, natural----------do----	29	467	649	259	210
Japan and China:					
Natural----------do----	224	818	854	329	270
Synthetic----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
All other:					
Natural----------do----	1,938	1,871	1,847	317	275
Synthetic----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
All countries:					
Natural----------do----	2,162	2,689	2,701	646	545
Synthetic----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
	Ratio of imports to apparent U.S. open-market consumption				
Japan:					
Natural----------percent—	***	***	***	***	***
Synthetic----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
China, natural----------do----	***	***	***	***	***
Japan and China:					
Natural----------do----	***	***	***	***	***
Synthetic----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
All other:					
Natural----------do----	***	***	***	***	***
Synthetic----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
All countries:					
Natural----------do----	***	***	***	***	***
Synthetic----------do----	***	***	***	***	***
Total----------do----	78.4	75.2	72.6	72.0	69.9

1/ The Japanese product, although it is produced via chemical processes, is considered a natural product for the purposes of U.S. tariff treatment and hence Commerce's statistical reports because it is derived from a natural raw material rather than a benzenoid chemical.

2/ Less than .05 percent.

Source: Imports of natural menthol, compiled from official statistics of the U.S. Department of Commerce. Imports of synthetic menthol, compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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

Table 18.--1-Menthol: U.S. imports for consumption by countries and by types, 1977-79, January-March 1979, and January-March 1980

Item	1977	1978	1979	January-March-- 1979	January-March-- 1980
	Quantity				
Japan:					
Natural 1/------1,000 pounds--	195	351	205	70	60
Synthetic----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
China, natural----------do----	29	467	649	259	210
Japan and China:					
Natural----------do----	224	818	854	329	270
Synthetic----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
All other:					
Natural----------do----	1,938	1,871	1,847	317	275
Synthetic----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
All countries:					
Natural----------do----	2,162	2,689	2,701	646	545
Synthetic----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
	Ratio of imports to apparent U.S. open-market consumption				
Japan:					
Natural----------percent--	***	***	***	***	***
Synthetic----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
China, natural----------do----	***	***	***	***	***
Japan and China:					
Natural----------do----	***	***	***	***	***
Synthetic----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
All other:					
Natural----------do----	***	***	***	***	***
Synthetic----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***
All countries:					
Natural----------do----	***	***	***	***	***
Synthetic----------do----	***	***	***	***	***
Total----------do----	***	***	***	***	***

1/ The Japanese product, although it is produced via chemical processes, is considered a natural product for the purposes of U.S. tariff treatment and hence Commerce's statistical reports because it is derived from a natural raw material rather than a benzenoid chemical.

Source: Imports of natural menthol, compiled from official statistics of the U.S. Department of Commerce. Imports of synthetic l-menthol, compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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

Source	Price per pound 1/ 1978	1979
United States	$5.60-$6.70	$5.60-$6.50
Japan	5.50	5.50
China	5.25	2/

This pricing information is, however, based on bids made in contracts for future delivery any where from 1 to 3 years in the future.

Pricing data were collected by the Commission only for sales of l-menthol, since this is the product which the petitioner alleges is being sold at LTFV. Data were collected on the lowest net unit prices of the two U.S. producers of l-menthol, Takasago, USA, the exclusive importer of menthol from Japan, and the major importers of menthol from China to their principal customers that are end users of the product. The data were collected on a quarterly basis from January 1977 to March 1980 (table 19) and presumably reflect prices at the date of delivery which were established in contracts negotiated 1 to 2 years previous to the period of delivery. These data indicate that while U.S. prices for menthol have declined steadily since 1978, U.S. producers' prices have generally been lower than prices paid for imports from Japan and China. The weighted average prices received by U.S. producers' for l-menthol increased from $7.05 per pound to $7.07 per pound in 1978, but then declined steadily to $6.33 per pound in January-March 1980, or by 10 percent.

Takasago's prices, however, * * * from * * * per pound in 1977 to * * * per pound in 1978, before * * * to * * * per pound in January-March 1980, or by * * * percent. Although they were slightly lower * * * than the weighted average prices of U.S. producers' in 1977, prices paid for Japanese menthol were generally * * * higher than U.S. producers' prices in 1978 and 1979. Prices for the Japanese product slipped slightly below U.S. producers' prices only in January-March 1980. During this period, the margin of underselling was * * * percent.

Pricing data on U.S. sales of Chinese menthol were unavailable for 1977. However, the weighted average price for menthol from China was $7.48 per pound in 1978 and declined steadily to $5.79 per pound in January-March 1980, or by 22 percent. Weighted average prices for menthol from China were also generally higher than U.S. producers prices until October-December in 1979. In October-December 1979, the weighted average price for menthol from China was $6.33 while that of U.S. producers' was $6.52. This represents a 3 percent margin of underselling for the Chinese product. In January-March 1980, the weighted average price for menthol from China was $5.79 per pound while U.S. producers' weighted average price was $6.33. Thus, in this quarter, the margins of underselling increased to 8 percent.

1/ See petition, p. 28.
2/ Not available.

Table 19.—l-Menthol: Lowest net unit prices of U.S. producers and importers to respective principal customers that are menthol dealers, by quarters, January 1977-March 1980

Period	U.S. producers			U.S. importers						
	Haarmann & Reimer	SCM	Weighted average 1/	Takasago	Irving R. Boody	MacAndrews & Forbes	J. Manheimer	Polarome	George Uhe	Weighted average 1/
1977:										
January-March	***	***	$6.96	***	***	***	***	***	***	-
April-June	***	***	7.01	***	***	***	***	***	***	-
July-September	***	***	7.11	***	***	***	***	***	***	-
October-December	***	***	7.11	***	***	***	***	***	***	-
1978:										
January-March	***	***	7.30	***	***	***	***	***	***	$7.45
April-June	***	***	7.10	***	***	***	***	***	***	7.57
July-September	***	***	7.43	***	***	***	***	***	***	7.76
October-December	***	***	6.68	***	***	***	***	***	***	7.20
1979:										
January-March	***	***	6.44	***	***	***	***	***	***	7.31
April-June	***	***	6.64	***	***	***	***	***	***	7.06
July-September	***	***	6.53	***	***	***	***	***	***	6.98
October-December	***	***	6.52	***	***	***	***	***	***	6.33
1980:										
January-March	***	***	6.33	***	***	***	***	***	***	5.79

1/ Weighted on the basis of quantities sold.

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

It must be stressed that the prices reflected in contracts do not necessarily reflect prevailing market prices at the time of delivery, but rather, indicate what market prices during the period in which the contract was negotiated might have been. The declining delivered prices confirmed by questionnaire responses would have a definite impact of contrasts being negotiated during late 1979 and ending 1980 period.

Lost sales

The petitioner, Haarmann & Reimer Corp., was the only U.S. producer of menthol to present allegations of lost sales to the Commission. Haarmann & Reimer alleged that it had lost sales of * * * pounds of l-menthol valued at * * * million to imports of l-menthol from Japan and * * * pounds of l-menthol valued at * * * million to imports from China. These alleged lost sales were lost at four firms during 1978 and 1979.

When contacted by the Commission's staff, the first firm confirmed that it had purchased * * * pounds of menthol from Japan in 1978 and * * * pounds in 1979. Haarmann & Reimer had allegedly lost sales of * * *. When questioned about purchasing practices, the firm's representative stated that the firm continually purchased from both domestic and foreign sources, that all menthol, regardless of the source, is comparable in quality and price, and that their main concern in making purchases is to maintain alternate sources for the product.

The second firm confirmed that it had purchased about * * * pounds of l-menthol from Japan annually during the last 2 to 3 years. Haarmann & Reimer alleged lost sales of * * *. When questioned about the reasoning behind the firm's purchases, the firm's representative stated that, while it had purchased from domestic sources, price was their primary consideration, and all imports were cheaper than the domestic product.

Haarmann & Reimer allegedly lost sales of * * *. This firm stated that it had purchased * * * pounds of menthol from China in 1977, * * * pounds in 1978, and * * * pounds in 1979. When questioned about the reasoning behind these purchases, the firm's representative stated that the firm was looking for an alternate source of menthol, because Brazil was apparently losing interest in the market, that price was an important consideration in that menthol was sometimes traded within 10 cents per pounds, but that they were primarily interested in securing a long-term contract for menthol. According to this official, Haarmann & Reimer was unwilling to make a long term commitment in 1978.

Haarmann & Reimer alleged that it had lost sales of * * *. This firm chose to respond to the Commission in a letter stating that it had purchased from both domestic and foreign sources for its annual requirements of * * * to * * * pounds, but that the ratio of foreign (Brazil, Japan, China) to domestic menthol purchases had varied little in the last 3 years. The letter states further that purchasing decisions are based on a total value equation that includes factors such as price, quality, and delivery. According to company officials the firm purchases what it considers to be the best value at the time.

APPENDIX A

NOTICE OF COMMISSION'S INVESTIGATION AND CONFERENCE

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

731-TA-27 and 28 (Preliminary)

MENTHOL FROM JAPAN AND THE PEOPLE'S REPUBLIC OF CHINA

NOTICE OF INSTITUTION OF PRELIMINARY ANTIDUMPING INVESTIGATIONS AND SCHEDULING OF CONFERENCE

AGENCY: United States International Trade Commission

ACTION: Institution of preliminary antidumping investigations 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 is materially retarded, by reason of imports from Japan and the People's Republic of China of menthol, whether natural or synthetic, provided for in items 408.60 1/ and 437.64 of the Tariff Schedules of the United States (TSUS), sold or likely to be sold at less than fair value.

EFFECTIVE DATE: June 16, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel Leahy, Senior Investigator (202-523-1369).

SUPPLEMENTARY INFORMATION:

Background. These investigations are being instituted following receipt of a petition on June 11, 1980, filed by Haarman & Reimer Corporation, Springfield, New Jersey, on behalf of the domestic industry producing synthetic menthol. The petition requested the imposition of additional duties in an amount equal to the amount by which the foreign market value exceeds the United States price of natural or synthetic menthol imported from Japan or from the People's Republic of China.

1/ Menthol currently provided for in item 408.60, if exported and entered into the United States on or after the effective date of Title II of the Trade Agreements Act of 1979 (93 stat. 194 et seq.) (expected to be July 1, 1980), will be provided for in new item 413.28 of the Tariff Schedules of the United States.

Authority. Section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) requires the Commission to make a determination of 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 alleged to be, or likely to be, sold in the United States at less than fair value. Such a determination must be made within 45 days after the date on which a petition is filed under section 732(b) or on which notice is received from the Department of Commerce of an investigation commenced under section 732(a). Accordingly, the Commission, on June 16, 1980, instituted preliminary antidumping investigations nos. 731-TA-27 and 28. These investigations will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 F.R. 76457) and particularly, subpart B thereof.

Written submissions. Any person may submit to the Commission on or before July 14, 1980, a written statement of information pertinent to the subject matter of these investigations. A signed original and nineteen copies of such statements must be submitted.

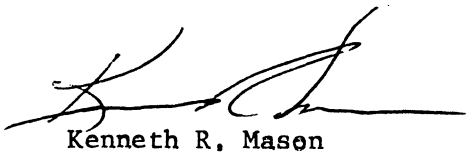
Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's Rules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

Conference. The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 10 a.m., e.d.t., on

July 10, 1980, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the senior investigator for the investigation, Mr. Daniel Leahy (202-523-1369). It is anticipated that parties in support of the petition for antidumping duties and parties opposed to such petition will each be collectively allocated one hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the senior investigator.

Inspection of petition. The petition filed in these cases is available for public inspection at the Office of the Secretary, U.S. International Trade Commission and at the New York City office of the U.S. International Trade Commission located at 6 World Trade Center.

By order of the Commission:



Kenneth R. Mason
Secretary

Issued: June 17, 1980

APPENDIX B

DEPARTMENT OF COMMERCE'S NOTICE OF INITIATION OF ANTIDUMPING INVESTIGATION

A period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extensive questions or comments may be submitted in writing at any time before or after the meeting.

Copies of minutes of the meeting will be available 30 days after the meeting by contacting Deborah Lamb, Committee Control Officer, Office of East-West Policy and Planning, International Trade Administration, Room 4816, U.S. Department of Commerce, Washington, D.C. 20230, telephone, (202) 377-5896.

Dated: June 26, 1980.

Robert H. Nath,

Deputy Assistant Secretary for East-West Trade.

[FR Doc. 80-19802 Filed 7-1-80; 8:45 am]

BILLING CODE 3510-25-M

Natural or Synthetic Menthol From Japan and the People's Republic of China; Initiation of Antidumping Investigation

June 24, 1980.

AGENCY: U.S. Department of Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: This notice advises the public that on the basis of a petition filed in proper form the Department of Commerce is initiating an antidumping investigation to determine whether natural or synthetic menthol from Japan and the People's Republic of China is being, or is likely to be, sold at less than fair value. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are either less than the prices of such or similar merchandise sold for consumption in the manufacturer's or exporter's home market or to countries other than the United States, or less than the constructed value. Prices of such or similar merchandise sold at less than fair value from state-controlled economy countries are determined with reference to prices and costs of similar merchandise from non state-controlled economy countries. The Department of Commerce is notifying the International Trade Commission of this action so that, in accordance with the Tariff Act of 1930, as amended, and no later than July 28, 1980, the Commission may determine whether there is a reasonable indication of material injury by reason of imports of this merchandise.

EFFECTIVE DATE: July 2, 1980.

FOR FURTHER INFORMATION CONTACT:

For the People's Republic of China: Mary Clapp, Supervisory Import Administration Specialist, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230 (202-377-5496).

For Japan: Paul Nichols, Supervisory Import Administration Specialists, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230 (202-377-1768).

SUPPLEMENTARY INFORMATON: On June 11, 1980, the Department of Commerce ("Department") received a petition that complies with the requirements of §§ 353.36 and 353.37 of the Department Regulations (19 CFR 353.36 and 353.37). Filed by the Haarmann and Reimer Corporation, Springfield, New Jersey, on behalf of the U.S. industry producing synthetic menthol, the petition alleges that natural or synthetic menthol from Japan and the People's Republic of China is being, or is likely to be, sold at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (93 Stat. 162, 19 U.S.C. 1673) ("the Act") and that the U.S. industry is likely to be materially injured.

Synthetic menthol is classified under item number 408.60 of the Tariff Schedules of the United States (TSUS). If exported and entered into the United States on or after the effective date of Title II of the Trade Agreements Act of 1979 (93 Stat. 194, *et seq.*), which is expected to be July 1, 1980, menthol currently provided for in item number 408.60, TSUS, will be provided for in new item number, 413.28, TSUS. Natural menthol will continue to be classified under item number 437.64, TSUS. Natural or synthetic menthol is used in cigarettes, confections, dentrifices, analgesic balms, mouth washes, flavors, and perfume.

Regarding menthol exported from Japan the petition includes sufficient evidence supporting both the allegations of material injury and of sales at less than fair value on the basis of comparisons between prices in the home market and in the U.S. market. It also contains evidence of sales below the cost of production.

The petition also includes sufficient evidence supporting both the allegations of material injury and of sales at less than fair value with reference to prices and costs of similar merchandise from non-state-controlled economy countries as regards the People's Republic of China.

The petition indicates increased volumes of aggregate imports and demonstrates either actual or potential decline in output, sales, market share, profits, productivity, and return on investments on the part of the U.S. industry.

In accordance with section 732(c) of the Act (93 Stat. 162, 19 U.S.C. 1673a(c)), I hereby determine that the Department will initiate an investigation to determine whether imports of natural or synthetic menthol from Japan and the People's Republic of China are being, or are likely to be, sold at less than fair value.

Pursuant to section 732(d) of the Act (93 Stat. 163, 19 U.S.C. 1673a(d)) the Department is notifying the U.S. International Trade Commission (ITC) and providing it with a copy of the information on which I based this determination to initiate an investigation. The International Trade Administration will make available to the ITC all nonprivileged and nonconfidential information. It will also make available all privileged and confidential information in its files, provided the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Pursuant to section 733(a) of the Act (93 Stat. 163, 19 U.S.C. 1673(a)), the ITC will determine no later than July 28, 1980, whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of imports of natural or synthetic menthol from Japan and the People's Republic of China. If that determination is negative, this investigation will be deemed terminated, and the International Trade Administration will publish no further notice. Otherwise, the investigation will proceed to its conclusion.

Section 733(b) of the Act (93 Stat. 163, 19 U.S.C. 1673b(b)) requires that, normally no later than 160 days after the date on which the petition was filed, the International Trade Administration make a preliminary determination whether there is a reasonable basis to believe or suspect that merchandise which is the subject of this investigation is being, or likely to be, sold at less than fair value. Therefore, unless the investigation is terminated or extended, the International Trade Administration will make a preliminary determination not later than November 18, 1980.

This notice is published pursuant to section 732 of the Act (93 Stat. 162, 19 U.S.C. 1673a) and § 353.37(b) of the

Department Regulations, (19 353.37(b), 45 FR 8199).

June 27, 1980.

B. W. Patridge,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 80-19891 Filed 7-1-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Sea Grant Review Panel Meeting

July 22-23, 1980—Tentative Agenda

July 22, 1980 Department of Commerce Building, Room 3708

8:15 am.—A. Welcoming Remarks
8:45 a.m.—B. The current posture and nature of problems facing the National Sea Grant College Program
10:30 a.m.—C. Discussion of National Program and International Cooperation Assistance Program
11:00 a.m.—D. Discussion of fellowships
1:00 p.m.—E. Election of Chairman and Vice-Chairman
1:30 p.m.—F. Program in transitional growth status. A discussion of recent site visits and grant actions: Michigan, Virginia, South Carolina, Minnesota, New Jersey, Ohio State
3:30 p.m.—G. Sea Grant College Candidates. Applicants for Sea Grant College Designation will be discussed.
4:00 p.m.—H. Closed Session Regarding Items F and G
5:00 p.m.—I. Recess

July 23, 1980 Sherry Towers Hotel, 2117 E Street, NW, Washington, D.C.

8:30 a.m.—J. Issues to be discussed with Sea Grant Directors: Two-year Proposal Cycle, Mid-cycle Program Evaluation, Development of Evaluation Criteria, Decreasing Size of Research Budgets, Decreasing Size of Individual Projects, Pressures to Commit Discretionary Funds, Long Range Planning for Sea Grant, Sea Grant Research Credo, Affirmative Action Activities
4:30 p.m.—K. Adjourn

All agenda items except H will be open to the public attendance. Approximately 30 seats will be available to the public on a first-come, first-served basis. If time permits before the scheduled adjourment, the Chairman will solicit oral comments by the attendees. Written statements may be submitted at any time before or after the meeting.

Minutes of the meeting will be available 30 days thereafter on written request addressed to the National Sea Grant College Program, 6010 Executive Boulevard, Rockville, Maryland 20852.

For further information, contact Mr. Arthur G. Alexiou, Executive Secretary of the Sea Grant Review Panel, at the above address. Telephone: (301) 443-8894.

The Assistant Secretary of Commerce for Administration has approved the closure of these meetings for Item H. A copy of the Determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce (202) 377-4217.

Dated: June 18, 1980.

Samuel A. Lawrence,

Assistant Administrator for Management and Budget National Oceanic and Atmospheric Administration.

Notice of Determination for Partial Closure of an Advisory Committee Meeting

The Sea Grant Review Panel, established in 1976 by Section 209 of the National Sea Grant Improvement Act (Pub. L. 94-461, 33 U.S.C. 1128), advises the Secretary of Commerce, the Administrator of the National Oceanic and Atmospheric Administration, and the Director of the National Sea Grant College Program with respect to:

(1) Applications or proposals for, and performance under, grants and contracts awarded under Sections 205 and 206 of the above Act;

(2) The Sea Grant Fellowship Program;

(3) The designation and operation of Sea Grant Colleges and Sea Grant Regional Consortia, and the operation of Sea Grant programs;

(4) The formulation and application of the planning guidelines and priorities under Section 204(a) and (c)(1) of the above Act; and

(5) Such other matters as the Secretary refers to the Panel for review and advice.

The Panel currently has 15 members appointed by the Secretary of Commerce, with a balanced representation of interests, including those qualified in disciplines and fields included in marine sciences as well as other activities related to ocean and coastal resources.

The Panel's activities are conducted in accordance with the provisions of the aforesaid Act and the Federal Advisory Committee Act (5 U.S.C. App.).

The Sea Grant Review Panel is scheduled to hold its next meeting on July 22, 1980, in Conference Room 3706, Department of Commerce, Washington, D.C., with working sessions scheduled at the Sherry Towers Hotel on July 23. During Agenda Item F on July 22, the Panel will review, evaluate, and make recommendations with respect to specific grant proposals and applications submitted to the Office of Sea Grant for financial assistance for institutional and coherent area programs. During Agenda Item G on July 22, the Panel will review, evaluate, and make recommendations concerning grant proposals and applications of candidates for designation as Sea Grant Colleges.

At the end of the discussion of all institutions included under Agenda Items F and G (July 22), the Panel will, under Agenda Item H, consider individuals employed by institutions that have submitted grant proposals or employed by institutions that are candidates for Sea Grant College status. Discussion of these individuals will be concerned with their professional competence as either administrators or principal investigators. These discussions may include such areas as adequacy of previous work performed, interactions of the individuals with elements of the Sea Grant College Program, and overall competence of the candidate institution's staff. Some of these discussions may lead to disclosures of information regarding individuals that would not otherwise be available to the public. As such, these disclosures would constitute a clearly unwarranted invasion of personal privacy. The administration has determined that open discussion of such information is not in the public interest because the public's right to have access in the public forum is outweighed by the invasion of the personal privacy of the individual under discussion.

In view of the considerations enumerated above, I hereby determine, pursuant to Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) as amended, that Agenda Item H, a one-hour portion at the end of the discussion of all institutions under Agenda Items F and G of the forthcoming Sea Grant Review Panel Meeting on July 22, shall be exempt from the open meeting provisions of the Federal Advisory Committee Act, because such portion of the Panel discussions is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy under 5 U.S.C. 552b(c)(6). I also determine that public interest does not require otherwise. All other agenda items on July 22 and 23 will be open to the public.

Dated: June 24, 1980.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

Dated: June 20, 1980.

Alfred Meisner,

Assistant General Counsel for Administration.

[FR Doc. 80-19908 Filed 7-1-80; 8:45 am]

BILLING CODE 3510-12-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Officials of the Government of the Federative Republic of Brazil Authorized To Issue Export Visas for Cotton Textiles and Cotton Textile Products

June 27, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing the list of officials authorized by the Government of the Federative Republic of Brazil to issue visas for cotton textiles and cotton textiles products exported to the United States.

SUMMARY: The Government of the Federative Republic of Brazil has