

STRONTIUM NITRATE FROM ITALY

**Determination of the Commission
in Investigation No. 731-TA-33 (Final)
Under the Tariff Act of 1930, Together
With the Information Obtained
in the Investigation**

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Information which would disclose confidential operations of individual concerns may not be published and, therefore, has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigation No. 731-TA-33 (Final)

STRONTIUM NITRATE FROM ITALY

Determination

On the basis of the record 1/ developed in investigation No. 731-TA-33 (Final), the Commission unanimously determines, pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(1)), that an industry in the United States is materially injured by reason of imports from Italy of strontium nitrate, provided for in item 421.74 of the Tariff Schedules of the United States, which the Department of Commerce has determined to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective February 13, 1981, following a preliminary determination by the Department of Commerce that strontium nitrate from Italy is being, or is likely to be, sold in the United States at LTFV.

Notice of the institution of the Commission's investigation and of the public hearing 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 by publishing the notice in the Federal Register on March 11, 1981 (46 F.R. 16159). The hearing was held in Washington, D.C., on May 18, 1981, and all persons who requested the opportunity were permitted to appear in person or by counsel.

1/ The record is defined in sec. 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

VIEWS OF THE COMMISSION

On the basis of the record in investigation No. 731-TA-33 (Final), we determine that an industry in the United States is materially injured by reason of imports from Italy of strontium nitrate, 1/ which the Department of Commerce has determined to be sold at less than fair value (LTFV).

The domestic industry

In general, the domestic industry is defined as consisting of all domestic producers of a like product or those producers whose total output of the like product constitutes a major portion of domestic production of that product. 2/ A like product is a product which is like, or in the absence of like, most similar in characteristics and uses with the article under investigation. 3/

The imported article under investigation is strontium nitrate from Italy, a powdered chemical used primarily in the manufacture of pyrotechnic devices, such as flares and fireworks, although small amounts are used in chromate coatings and as a chemical reagent. 4/ There are no commercial substitutes for strontium nitrate.

The imported and domestically produced strontium nitrate have essentially the same chemical formula and are completely fungible. 5/ They have the same

1/ Classifiable under item 421.74 of the Tariff Schedules of the United States (TSUS).

2/ Sec. 771(4)(A) of the Tariff Act of 1930.

3/ Sec. 771(10).

4/ Report at A-3 and A-8.

5/ Id. at A-3.

uses and characteristics. We, therefore, conclude that domestically produced strontium nitrate is like the imported product and find the domestic industry is composed of the one producer of strontium nitrate in the United States, FMC Corp. (FMC), the petitioner.

Material Injury

Section 771(7)(B) directs that, in making its material injury determination, the Commission shall consider, among other factors, (1) the volume of imports of the merchandise which is the subject of the investigation, (2) the effect of imports of such merchandise on prices in the United States for like products, and (3) the impact of imports of such merchandise on domestic producers of like products. FMC produces other products in addition to strontium nitrate. Since available data permit the assessment of injury on the basis of strontium nitrate separately and the allocations to FMC's strontium nitrate production appear to be reasonable and accurate, we have assessed injury in relation to production of the like product in accordance with section 771(4)(D) of the statute.

Volume of imports

Societa Bario e Derivati S.p.A. (SABED), a wholly owned subsidiary of Kali-Chemie AG in West Germany, is believed to be the only Italian producer that exports significant amounts of strontium nitrate to the United States. The principal importer of strontium nitrate from Italy is Olin Corp. (Olin), which is the largest user of strontium nitrate in the United States. Since 1978, all strontium nitrate used in Olin's Peru, Ind., plant, which accounts for more than 50 percent of the firm's consumption of this chemical, has been imported from Italy.

Imports of strontium nitrate from Italy have increased significantly in both absolute and relative terms since 1977. Imports increased from zero in 1977 to 514,000 pounds in 1978 and jumped five-fold in 1979 to more than 3 million pounds. In 1980, imports fell to 0.8 million pounds. However, during just the first 3 months of 1981, imports increased to 1.1 million pounds, more than the total amount imported in all of 1980. 6/

The market penetration ratio of the imports dramatically increased until 1980, when it dropped. 7/ Indications from the first 3 months of 1981 are that the full year 1980 figure may soon be exceeded.

Effect of LTFV imports on prices.

For the entire period under review the strontium nitrate imported from Italy consistently undersold FMC's strontium nitrate in sales to Olin on a delivered basis, usually by substantial margins. 8/ We also note that in 1979, when imports were at their highest level, the margins of underselling were greatest. When the U.S. ex-dock price is compared with the FMC f.o.b. factory price, SABED also undersold FMC by substantial margins in most cases. On this basis, SABED undersold FMC in 1979, but did not do so in 1980. In 1981, however, SABED again undersold FMC on an ex-dock versus f.o.b. factory basis by a substantial margin. The Commission takes the position, however, that delivered prices, not ex-dock versus f.o.b. factory prices, should be

6/ Id. at A-9.

7/ Market penetration ratios are not cited because of confidentiality. See Report at A-19.

8/ Margins of underselling are not cited because of confidentiality. See Report at A-22 - A-24.

compared in order to determine the margins of underselling because these are the prices which are important to the end user. 9/

In 1978, Olin shifted purchases for its Peru, Ind., plant entirely from FMC to SABED. As noted in our preliminary decision, we are convinced that price did and does factor importantly into Olin's decision to supply the Indiana plant from Italy, although Olin's decision may have been motivated in part by an interest in obtaining a second source of supply. 10/

Impact of imports on the domestic industry

Largely as a result of the Olin orders lost to SABED, the condition of the domestic industry has deteriorated since 1978. Domestic sales increased from 1977 to 1978, but then dropped in 1979. In 1980, domestic sales fell to a level substantially below FMC's sales in 1977 through 1979. 11/ Profits declined steadily from 1977 to 1980. FMC's 1979 loss on its strontium nitrate operations further deteriorated in 1980. 12/ FMC's production and capacity utilization also have dropped since 1978. 13/ Inventories more than quintupled from year-end 1977 to 1980. 14/ In 1980, the FMC plant was closed and the workforce laid off for a period of time. Man-hours worked have steadily declined since 1978, falling over 20 percent between 1978 and 1980. Wages have also fallen. 15/ These data illustrate the effect of FMC's inability to recapture its major customer.

9/ See Commission opinion on Precipitated Barium Carbonate from the Federal Republic of Germany, investigation 731-TA-31 (Final), ITC Pub. No. 1154 at 8.

10/ See Olin's pre-hearing brief at 8-10 and the attached statement of Jerry L. Chiolerio, a plant manager for Olin.

11/ Report at A-13.

12/ Id. at A-16 - A-18.

13/ Id. at A-11 and A-12.

14/ Id. at A-14.

15/ Id. at A-13 - A-16.

The most important indications of material injury by reason of LTFV imports are increased import penetration, substantial margins of underselling, the loss of a major customer to LTFV imports, and the declining profitability of the domestic industry. We attribute the material injury evident in this investigation to the shift by Olin to purchases of strontium nitrate from Italy at prices well below those offered by FMC, although we recognize that the recession and high costs have also impacted FMC's strontium nitrate production.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On September 9, 1980, a petition was properly filed with the U.S. International Trade Commission and the U.S. Department of Commerce on behalf of FMC Corp. (FMC), Chicago, Ill., alleging that strontium nitrate imported from Italy is being, or is likely to be, sold in the United States at less than fair value (LTFV). 1/ Accordingly, on September 12, 1980, the Commission instituted preliminary antidumping investigation No. 731-TA-33 (Preliminary) pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Italy of strontium nitrate (provided for under item 421.74 of the Tariff Schedules of the United States (TSUS)) allegedly being sold, or likely to be sold, at LTFV.

On the basis of the record developed during its preliminary investigation, the Commission unanimously determined on October 24, 1980, that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, 2/ by reason of imports of strontium nitrate from Italy allegedly sold at LTFV. 3/ As a result of the Commission's affirmative preliminary determination, the Department of Commerce (the administering authority), as directed by section 733(b)(1) of the Tariff

1/ Simultaneous with FMC's filing of the petition concerning strontium nitrate from Italy, two other petitions were filed with the Commission and the Department of Commerce for the initiation of antidumping investigations. One was filed on behalf of FMC, Chemical Products Corp. (CPC), and the Sherwin-Williams Co. alleging that precipitated barium carbonate imported from the Federal Republic of Germany (West Germany) is being, or is likely to be, sold in the United States at LTFV. The third petition was filed on behalf of FMC and CPC alleging that precipitated strontium carbonate imported from West Germany is being, or is likely to be, sold in the United States at LTFV. According to the three petitions, strontium nitrate, barium carbonate, and strontium carbonate are the principal members of a family of industrial chemicals produced from barite and celestite ore. FMC produces all three chemicals at the same plant in Modesto, Calif., and is the only known U.S. producer of strontium nitrate. The allegations in these three petitions involve only one foreign manufacturer of each chemical--Kali-Chemie AG (Kali), the only West German producer of barium and strontium carbonate known to the petitioners, and the Societa Bario e Derivati S.p.A., a wholly owned subsidiary of Kali and the only Italian producer of strontium nitrate known to the petitioners which exports this chemical to the United States.

2/ Chairman Alberger found only that there is a reasonable indication that an industry in the United States is materially injured.

3/ Material retardation of the establishment of an industry was determined not to be an issue in this investigation. A copy of the Commission's preliminary determination is presented in app. A.

Act of 1930, continued its investigation into the question of LTFV sales. 1/

On February 17, 1981, the Commission received advice from Commerce of its preliminary determination that there is a reasonable basis to believe or suspect that strontium nitrate from Italy is being, or is likely to be, sold in the United States at LTFV. 2/ Accordingly, the Commission instituted investigation No. 731-TA-33 (Final) under section 735(b) of the Tariff Act of 1930 to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise concerned. Notice of the institution of the Commission's investigation and of a public hearing 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 by publishing the notice in the Federal Register of March 11, 1981. The public hearing was held in Washington, D.C., on May 18, 1981. 3/

On May 4, 1981, the Commission received notification from the Department of Commerce of its final determination that strontium nitrate from Italy is being sold in the United States at less than fair value. 4/ As directed by section 735(b) of the Tariff Act, the Commission is required to make its final determination before the 45th day after the day on which the administering authority makes its affirmative final determination. The Commission's briefing and vote in this investigation were held on June 4, 1981.

1/ In investigation No. 731-TA-31 (Preliminary), the Commission determined 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 imports of precipitated barium carbonate from West Germany, provided for in TSUS item 472.06, which are allegedly being sold in the United States at LTFV. In investigation No. 731-TA-32 (Preliminary), the Commission 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 imports of strontium carbonate from West Germany, provided for in TSUS item 421.72, which are allegedly being sold in the United States at LTFV. As a result of the Commission's determinations, the Department of Commerce continued its investigation into the question of LTFV sales of barium carbonate, while its investigation into the question of LTFV sales of strontium carbonate was terminated.

2/ A copy of Commerce's letter to the Commission and its preliminary determination, as published in the Federal Register of Feb. 18, 1981 (46 F.R. 12769), are presented in app. B.

3/ A copy of the Commission's notice of investigation and hearing and a list of witnesses appearing at the hearing are presented in app. C. The Commission also held its public hearing in connection with investigation No. 731-TA-31 (Final), Precipitated Barium Carbonate from the Federal Republic of Germany, on May 18, 1981.

4/ A copy of Commerce's letter to the Commission and its final determination, as published in the Federal Register of May 7, 1981 (46 F.R. 25496), are presented in app. D.

The Product

Description and uses

Strontium nitrate is a fine, yellowish-white to white powder, which is soluble in water. The material is moderately toxic and acts as a strong oxidizing agent. Strontium nitrate produces a bright red color when burned and is used primarily in the manufacture of pyrotechnic devices such as railway and highway signal flares, signal stars, fusees, tracer bullets, and fireworks. Strontium nitrate composes about 50 percent of the weight of materials used in a typical flare compound.

There are two grades of strontium nitrate sold commercially. Technical grade probably accounts for more than 95 percent of the sales of strontium nitrate in the United States; it is sold in palletized 100-pound bags. The other grade is a very high purity material known as reagent grade, which is sold in small quantities for use in laboratories. Comparable grades of imported and U.S.-produced strontium nitrate are virtually identical and completely fungible.

In the United States, strontium nitrate is derived commercially from strontium carbonate. The production process begins with celestite ore, the natural form of strontium sulfate. In the first step of the process, the ore is crushed, ground, and mixed with coke; the coke is added to the ore as a source of energy and carbon. The mixture is then fed into a kiln where the ore is reduced at high temperatures to strontium sulfide. The carbon combines with the oxygen of the sulfate group and escapes as carbon dioxide. The strontium sulfide is taken from the kiln, purified, and dissolved in water. The sulfide solution is then reacted with either sodium carbonate (soda ash) or carbon dioxide to produce strontium carbonate. In both reactions, the carbonate is precipitated from the solution as a solid which is then dried and screened. 1/ The strontium carbonate is subsequently digested in nitric acid to produce strontium nitrate, which is then dried and put into bags.

The manufacturing process used by the Italian producer exporting to the United States is similar to the domestic process, except that in the foreign operation * * *. 2/

1/ FMC, the petitioner in this investigation, is the only U.S. producer of strontium nitrate, and is one of only two domestic firms that produce precipitated strontium carbonate. FMC both sells precipitated strontium carbonate as such and uses it captively to produce strontium nitrate. FMC uses soda ash to produce strontium carbonate; the other domestic producer uses carbon dioxide.

2/ Mr. Cassidy, who testified on behalf of FMC at the Commission's hearing, stated that he was not aware of any significant differences in the production process employed by his firm and that used by the Italian producer. His testimony was that all strontium nitrate was produced from strontium carbonate (transcript of the hearing, pp. 59-66). The above information pertaining to the Italian producer's production process was obtained by the staff from officials of Kali-Chemie Corp., a U.S. subsidiary of Kali-Chemie AG.

U.S. tariff treatment

Strontium nitrate is dutiable under the provisions of item 421.74 of the Tariff Schedules of the United States. The column 1 rate of duty is 5.6 percent ad valorem. 1/ This rate became effective on January 1, 1981, and represents the second stage of tariff concessions granted in the recent Tokyo round of the Multilateral Trade Negotiations. 2/ The rate will be reduced progressively each year on January 1 until it reaches 4.2 percent ad valorem in 1987. The column 2 rate of duty is 25 percent ad valorem. 3/ The rate of duty for least developed developing countries (LDDC) is 4.2 percent ad valorem. 4/ Strontium nitrate is also designated as an eligible article for purposes of the Generalized System of Preferences (GSP), as described in General Headnote 3(c) of the TSUS. 5/

Nature and Extent of Sales at Less Than Fair Value

The Department of Commerce's investigation into the question of sales at less than fair value covered the period January 1, 1980, through September 30, 1980. Inasmuch as Societa Bario e Derivati S.p.A. (SABED) produced virtually all of the strontium nitrate exported from Italy to the United States during the period under consideration, Commerce limited its investigation to sales made by that firm. Commerce made its fair value calculations by comparing the purchase price of strontium nitrate to an unrelated customer in the United

1/ The rates of duty in rate of duty column numbered 1 are most-favored-nation (MFN) rates, and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates do not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

2/ From Jan. 1, 1972, to Jan. 1, 1980, the column 1 rate of duty was 6 percent ad valorem. Effective Jan. 1, 1980, the rate was reduced to 5.8 percent ad valorem.

3/ The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

4/ The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

5/ The GSP under title V of the Trade Act of 1974, provides duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985, unless modified by the President or terminated.

States with the constructed value of the merchandise. 1/ Purchase price was computed on the basis of a packed price, f.o.b. Massa, Italy. Constructed value was used as the basis for establishing the foreign market value, due to insignificant sales of the merchandise by SABED in either the home market or export markets other than the United States. 2/ By comparing the U.S. purchase price with the constructed value, LTFV margins were found on 38 percent of the merchandise sold to U.S. purchasers during the period examined. The margins ranged to 6.6 percent; the weighted average margin on all sales was 2.6 percent. 3/

The suspension of liquidation of all entries, or withdrawals from warehouse, for consumption of strontium nitrate from Italy--which began on the effective date of The Department of Commerce's preliminary determination of LTFV sales--will continue. Effective with the publication of Commerce's final determination in the Federal Register of May 7, 1981, the posting of a cash deposit, bond, or other security in the amount of 2.6 percent of the f.o.b. ex-factory value of strontium nitrate from Italy was required.

U.S. Producers

FMC Corp., the petitioner in this investigation, has since mid-1975 been the only domestic producer of strontium nitrate. FMC is a large, multi-national corporation which manufactures a wide variety of machinery and chemicals. The Industrial Chemicals Group, which accounted for about one-fourth of FMC's total sales of \$3.5 billion in 1980, is characterized by a

1/ The "unrelated U.S. customer" referred to in Commerce's final determination is the Olin Corp. (Olin). The terms of the "blanket order" mentioned in Commerce's final determination involved the purchase of * * * metric tons of strontium nitrate at a price of * * * per ton, f.o.b. Massa, Italy.
* * *

2/ Statutory profit (8 percent) was used by Commerce in calculating the constructed value.

3/ Commerce computes percentage LTFV margins as the dollar margin--home-market price (or constructed value) minus purchase price--divided by the purchase price. In its preliminary determination (which resulted in a LTFV margin of 5.8 percent on all sales made by SABED to U.S. customers during January-September 1980), Commerce used the foreign exchange rate for the first quarter of 1980 to convert the constructed value from lire to dollars. In its final determination, however, Commerce converted the constructed value from lire to dollars for each shipment made during the period of investigation, using the quarterly rate of exchange applicable on the date that each order to ship was confirmed. SABED made three shipments of strontium nitrate to the United States during the period of Commerce's investigation. One shipment, amounting to 38 percent of SABED's exports to the United States during January-September 1980, was made in the first quarter; that sale (to Olin) was determined to have been made at LTFV. A second shipment, amounting to * * * of SABED's exports during the period examined, was made in the second quarter; that sale (also to Olin) was determined to have been made at fair value. A third small shipment made in the third quarter was also determined to have been sold at fair value; that sale * * *.A-5

high level of capital investment, high volume bulk processing, and a capability of meeting industrywide product specifications.

The FMC plant in which strontium nitrate is produced is located in Modesto, Calif. The facility dates back to the early 1920's when it was used to produce hydrogen peroxide. The production of barium hydrates and oxides began in 1940 and continued until 1973. The commercial production of strontium nitrate began in 1971. FMC's facilities in Modesto consist of the main production line through which barium carbonate and strontium carbonate pass alternately (that is, on a batch or "campaign" basis), and the "north" plant which houses the equipment used to produce barium and strontium nitrate, sodium sulfide, and sodium polysulfide. FMC also produces its own natural soda ash and barite. 1/

Until 1971, when FMC entered the market, E. I. duPont de Nemours & Co. (DuPont) was the sole domestic supplier of strontium nitrate to the U.S. market. However, DuPont ceased production in mid-1975, reportedly because the cost of complying with environmental regulations made the continued production of strontium nitrate prohibitive. 2/ Beginning in the early 1970's, Kaiser Chemical Co. produced strontium nitrate at its strontium carbonate plant in Nova Scotia, Canada, but the Kaiser plant ceased operations in 1976. 3/

The Chemical Products Corp. has shown some interest in producing strontium nitrate. The firm has drawn up plans and recently acquired the necessary permits from the Environmental Protection Agency to expand its facilities in Cartersville, Ga. However, CPC has stated that it is unwilling to make such an investment because of the impact of Kali's predatory practices on the strontium nitrate market. 4/

1/ Barite ore is used in producing barium carbonate; FMC imports celestite ore, which is used in producing strontium carbonate, from Mexico. FMC uses soda ash in producing both barium and strontium carbonate. In turn, about * * * percent of the firm's output of strontium carbonate in recent years was consumed captively in producing strontium nitrate. According to testimony presented during the public conference held in connection with the Commission's preliminary investigation (prepared statement of Jerry L. Chiolero, Olin Corp., submitted for the record, p. 4), FMC ceased producing strontium nitrate at the end of 1973, but resumed production in January 1975. The interruption of production allegedly occurred because FMC (which produces all three chemicals only at its Modesto facility) wished to utilize its capacity at that plant in "the more profitable production of barium and strontium carbonate."

2/ Statement of Mr. Jerry L. Chiolero, Olin Corp., p. 5, submitted for the record at the Oct. 3, 1980, conference. DuPont produced strontium nitrate at a plant in Grasselli, N.J.

3/ As shown in table 1 on p. A-10, Canada supplied virtually all U.S. imports of strontium nitrate from 1971 through 1976.

4/ See transcript of the conference, p. 84. The principal products produced by CPC include precipitated barium and strontium carbonate.

Italian Producers

There are four producers and two wholesalers of strontium nitrate in Italy. Societa Bario e Derivati S.p.A., a wholly owned subsidiary of Kali-Chemie AG in West Germany, is believed to be the only Italian producer that exports significant amounts of strontium nitrate. SABED has accounted for all known U.S. imports of this chemical from Italy since mid-1978, and was the only Italian firm investigated by the Department of Commerce in making its determination of LTFV sales. SABED, which began producing strontium nitrate in 1978, also produces barium carbonate and has produced strontium carbonate.

The Italian home market for strontium nitrate is very small. According to representatives of Kali, SABED's home-market sales account for less than * * * percent of SABED's total strontium nitrate sales. SABED began producing strontium nitrate specifically for one customer in the United States (the Olin Corp.) and is believed to sell about * * * percent of its production to that firm.

Channels of Distribution

The great bulk of FMC's sales of strontium nitrate in the United States are made directly to end users. The end uses and the markets are well established, and the producer knows who the customers are and how much they are likely to purchase. 1/ There are usually published price lists available to the customers, and price increases are normally announced about a month in advance. There are also annual contracts between FMC and its major customers. However, these contracts typically are loose agreements whose purpose is to guarantee the purchaser a certain volume of material should supplies become tight. The contracts neither commit the producer to supply the material at a given price nor commit the purchaser to purchase the entire volume for which contracted. Prices for all sales of strontium nitrate by FMC are quoted f.o.b. its Modesto plant.

Italy has been the only significant foreign supplier of strontium nitrate to the United States since 1978. The vast bulk of importations of this chemical from Italy since mid-1978 have been made by the Olin Corp. Olin, which is believed to be the largest purchaser of strontium nitrate in the United States, 2/ has two plants that use the chemical in manufacturing highway, railway, and marine safety flares. Prior to mid-1978, FMC was the sole supplier of strontium nitrate to both plants. Olin reported at the con-

1/ FMC reported that at least * * * percent of its sales of strontium nitrate in the United States are made directly to end users; about * * * firms purchase the product directly from FMC for their own consumption. FMC's remaining sales are made to distributors, which purchase strontium nitrate in bulk quantities (typically a railcar containing 100,000 pounds or more) and then resell it in smaller quantities to end users.

2/ Purchases of strontium nitrate by Olin from both FMC and SABED during 1977-80 accounted for about * * * percent of apparent annual U.S. consumption of this chemical.

ference held in connection with the Commission's preliminary investigation that for some time it had been seeking a second source of strontium nitrate because of supply problems experienced with FMC. 1/ Olin was approached by representatives of SABED, which was willing to assume the role of second supplier. Laboratory samples were submitted and approved, and contracts were negotiated in 1978. Olin began importing strontium nitrate from Italy that same year. It now purchases all its requirements for its Peru, Ind., plant from the Italian producer, whereas its plant in Morgan Hill, Calif., is still supplied entirely by FMC. Olin purchases strontium nitrate directly from the Italian producer, SABED, on an f.o.b. Italian port of exportation basis; Olin pays all costs (e.g., ocean freight, insurance, import duties, and inland U.S. freight) incurred in delivering the product to its Peru facility.

Kali-Chemie AG, the West German parent firm of SABED, also owns a U.S. subsidiary, Kali-Chemie Corp. The latter handles all marketing, consulting, and negotiating of sales agreements in the United States for Kali-Chemie AG and its affiliates. Kali-Chemie Corp. only occasionally imports strontium nitrate from Italy for resale in the United States. The firm consists of fewer than 10 employees and an office in New York City; it neither owns nor leases any warehouses or other facilities except its New York office.

U.S. Market and Apparent Consumption

There is very little published information on strontium nitrate; however, the primary market for the product has not changed significantly in recent years. Strontium nitrate is used primarily in the manufacture of pyrotechnic devices, with small amounts being used in chromate coatings or as a chemical reagent. According to some industry sources, the market for pyrotechnic devices has been relatively stable for the last 5 years, but could increase by as much as 10 to 20 percent over the next few years because of recently issued regulations requiring flares to be carried on small, privately owned pleasure boats. 2/

There are no commercial substitutes for strontium nitrate in its primary use. However, demand for pyrotechnic devices is reported by industry sources to be price elastic and dependent on the business cycle. Thus, the derived demand for strontium nitrate is also dependent on the business cycle. Stimulated by an increase in industrial production in the United States, apparent U.S. consumption of strontium nitrate increased from * * * pounds in 1977 to * * * pounds in 1979, or by * * * percent. In conjunction with the drop in domestic manufacturing activity throughout most of 1980, however, apparent consumption of strontium nitrate in that year fell to * * * pounds, or * * * percent less than consumption in 1979. The following tabulation shows apparent U.S. consumption of strontium nitrate during 1977-80, and compares it with the Federal Reserve Board's index of industrial production for all

1/ Statement of Jerry L. Chiolerio, Olin Corp., p. 9, submitted for the record at the Oct. 3, 1980, conference.

2/ Testimony of Mr. Chiolerio at the conference held in connection with the Commission's preliminary investigation, transcript, p. 164.

manufacturing:

	<u>Consumption of strontium nitrate (1,000 pounds)</u>	<u>Manufacturing industrial production index (1967=100)</u>
1977-----	* * *	138.4
1978-----	* * *	146.8
1979-----	* * *	153.6
1980-----	* * *	146.6

U.S. Imports

The pattern established by U.S. imports of strontium nitrate can be divided into two distinct phases, one before and one after the closure of the Kaiser Chemical Co. plant in Nova Scotia, Canada. With the exception of very small importations from West Germany, Canada was the only foreign supplier of strontium nitrate to the United States from 1971 through 1976. Imports from Canada increased irregularly from 68,000 pounds in 1971 to a peak of 1.2 million pounds in 1976 (table 1). Pursuant to the shutdown of Kaiser's plant in mid-1976, however, imports of strontium nitrate from Canada dropped to 80,000 pounds in 1977 and to virtually nothing since that year.

Following the demise of Kaiser's Canadian plant in 1976, West Germany and Italy have been the only significant foreign suppliers of strontium nitrate to the United States. However, imports of strontium nitrate from West Germany were received in appreciable quantities only in 1977 and 1978, presumably to partially fill the void created by the cessation of imports from Canada. Only 2,000 pounds were entered from West Germany in 1979 and no imports from that country were received in 1980.

Since imports of strontium nitrate from Italy began in 1978, that country has been the largest foreign source of strontium nitrate. Such imports jumped fivefold from 514,000 pounds in 1978 to more than 3 million pounds in 1979, then dropped sharply to 816,000 pounds in 1980. As indicated previously, the vast bulk of imports of strontium nitrate from Italy since mid-1978 have been entered by or for the account of the Olin Corp.; only irregular and relatively small entries have been made by Kali-Chemie Corp. ^{1/} Table 2 shows imports by both firms during 1977-80, as reported in response to the Commission's questionnaires.

Imports of strontium nitrate during January-March 1981 amounted to 1,130,300 pounds. In comparison, no imports were received during the corresponding period of 1980. Imports during the first quarter of 1981, virtually all of which were from Italy, were 38 percent greater than total U.S. imports of strontium nitrate in 1980. ^{2/}

^{1/} * * *

^{2/} See footnote 1 to table 2.

Table 1.--Strontium nitrate: U.S. imports for consumption, by specified sources, 1971-80

Year	Italy	Canada	West Germany	Other	Total
Quantity (1,000 pounds)					
1971-----	0	68	1	0	69
1972-----	0	605	1/	1	606
1973-----	0	76	2	0	78
1974-----	0	109	1	0	110
1975-----	0	726	0	0	726
1976-----	0	1,178	22	0	1,200
1977-----	0	80	201	0	281
1978-----	514	0	159	0	672
1979-----	3,086	1/	2	1/	3,088
1980-----	816	0	0	1/	816
Value (1,000 dollars) 2/					
1971-----	-	8	1	-	8
1972-----	-	76	3/	1	78
1973-----	-	10	1	-	11
1974-----	-	20	3/	-	21
1975-----	-	166	-	-	166
1976-----	-	276	7	-	283
1977-----	-	18	61	-	80
1978-----	128	-	50	-	178
1979-----	792	3/	4	1	798
1980-----	269	-	-	1	270
Average unit value (cents per pound)					
1971-----	-	11.0	50.4	-	11.9
1972-----	-	12.6	57.6	102.9	12.8
1973-----	-	13.6	41.4	-	14.2
1974-----	-	18.7	34.4	-	18.9
1975-----	-	22.9	-	-	22.9
1976-----	-	23.4	30.6	-	23.6
1977-----	-	23.0	30.5	-	28.4
1978-----	25.0	-	31.2	-	26.4
1979-----	25.7	92.0	231.1	242.3	25.8
1980-----	33.0	-	-	2,165.5	33.0

1/ Less than 500 pounds.

2/ U.S. customs value.

3/ Less than \$500.

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

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

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Table 2.--Strontium nitrate from Italy: Imports, by selected firms, 1977-80

Item	1977	1978	1979	1980
Quantity (1,000 pounds)				
Olin Corp-----	***	***	***	<u>1/</u> ***
Kali-Chemie Corp-----	***	***	***	***
Total-----	***	***	***	***
Value (1,000 dollars) <u>2/</u>				
Olin Corp-----	***	***	***	<u>3/</u> ***
Kali-Chemie Corp-----	***	***	***	***
Total-----	***	***	***	<u>3/</u> ***
Average unit value (cents per pound)				
Olin Corp-----	***	***	***	<u>3/</u> ***
Kali-Chemie Corp-----	***	***	***	***
Average-----	***	***	***	<u>3/</u> ***
<u>1/</u>	*	*	*	
<u>2/</u>	Landed duty-paid value at the U.S. port of importation.			
<u>3/</u>	*	*	*	

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

Consideration of Material Injury to a U.S. Industry

The only producer of strontium nitrate in the United States since mid-1975 has been the FMC Corp. The following discussion of possible material injury to a U.S. industry, therefore, is directed toward the economic and financial performance of that firm as pertaining to its activities in producing and marketing strontium nitrate. As indicated previously, FMC is a large, multinational firm which manufactures a wide variety of machinery and chemicals and whose total sales in 1980 amounted to \$3.5 billion.

U.S. production, capacity, and capacity utilization

U.S. production of strontium nitrate increased sharply from 1977 to 1978, but has declined by an even greater percentage since then. FMC, the sole U.S. producer, increased its output of strontium nitrate from *** pounds in 1977 to *** pounds in 1978, or by *** percent (table 3). However, production slipped to *** pounds in 1979 and then dropped sharply to *** pounds in 1980; production in the latter year was *** percent less than production in 1978.

Table 3.--Strontium nitrate: U.S. production, capacity, and capacity utilization, 1977-80

Item	1977	1978	1979	1980
Production-----1,000 pounds--:	* * *	* * *	* * *	* * *
Yearend capacity <u>1</u> /-----do-----:	* * *	* * *	* * *	* * *
Capacity utilization <u>2</u> /--percent--:	* * *	* * *	* * *	* * *

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 a 24 hours-a-day operation, 7 days a week, and on an average annual product mix for 1977-80.

2/ Based on the average of beginning and ending annual capacity.

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

U.S. practical capacity for the production of strontium nitrate remained unchanged from the beginning of 1977 through mid-1980. The trend in capacity utilization during that period was thus determined by the trend in FMC's production of strontium nitrate. Capacity utilization increased from * * * percent in 1977 to * * * percent in 1978, but slipped to * * * percent in 1979. FMC reported that its practical capacity to produce strontium nitrate as of yearend 1980 was * * * pounds, or * * * percent greater than its capacity as of the end of 1979. 1/ FMC's capacity utilization in 1980 fell to * * * percent; only a small part of this decrease was attributable to the increase in the firm's reported practical capacity in the second half of the year. Thus, the data indicate that FMC had substantial excess capacity to produce strontium nitrate throughout the 1977-80 period. However, the production of strontium nitrate in the United States is totally dependent on the production of strontium carbonate, and FMC had little or no excess capacity for producing strontium carbonate from 1977 to 1979. 2/

1/ * * *

2/ As indicated previously, FMC, one of only two U.S. producers of precipitated strontium carbonate, both sells the chemical as such and uses it captively to produce strontium nitrate. During the Commission's investigation concerning alleged LTFV imports of strontium carbonate from West Germany (731-TA-32 (Preliminary)), FMC reported that its capacity to produce that chemical had not changed in recent years. The firm's average annual production of strontium carbonate during 1977-79 amounted to * * * percent of its practical rated capacity. During that period, an average of * * * of FMC's annual output of strontium carbonate was consumed in its production of strontium nitrate. An official of FMC testified at the Commission's hearing in this investigation that, even though the firm had little or no excess capacity for producing strontium carbonate from 1977 to 1979, it had sufficient inventories of the chemical to meet any increased demand for strontium nitrate.

In its response to the Commission's questionnaire, FMC reported that
* * *

U.S. producer's domestic and export sales

FMC's domestic sales of strontium nitrate increased sharply from 1977 to 1978, but have declined by an even greater percentage since then. Sales increased from * * * pounds in 1977 to * * * pounds in 1978, or by * * * percent. However, domestic sales fell back by * * * percent to * * * pounds in 1979, and then dropped an additional * * * percent in 1980 to * * * pounds (table 4). The value of these sales followed a similar pattern, although the declines were not as sharp. The value of FMC's domestic sales of strontium nitrate increased from * * * in 1977 to * * * in 1978, or by * * * percent. The value then declined slightly to * * * in 1979, or by * * * percent, before falling by * * * percent in 1980 to * * * .

Table 4.--Strontium nitrate: FMC Corp.'s domestic and export sales, 1977-80

Item	1977	1978	1979	1980
Quantity (1,000 pounds)				
Domestic sales-----	* * *	* * *	* * *	* * *
Export sales-----	* * *	* * *	* * *	* * *
Total-----	* * *	* * *	* * *	* * *
Value (1,000 dollars)				
Domestic sales-----	* * *	* * *	* * *	* * *
Export sales-----	* * *	* * *	* * *	* * *
Total-----	* * *	* * *	* * *	* * *
Average unit value (cents per pound)				
Domestic sales-----	* * *	* * *	* * *	* * *
Export sales-----	* * *	* * *	* * *	* * *
Total-----	* * *	* * *	* * *	* * *

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

As shown in table 4, FMC's export sales of strontium nitrate rose from * * * pounds in 1977 to * * * pounds in 1979, then dropped sharply to * * * pounds in 1980. FMC's export sales of strontium nitrate accounted for * * * percent or less of the firm's annual production of that chemical during 1977-80.

U.S. producer's inventories

FMC's inventories of strontium nitrate rose very sharply during 1977-80. Inventories more than quintupled from * * * pounds on December 31, 1977, to a peak of * * * pounds on June 30, 1980. However, FMC's inventories of strontium nitrate on December 31, 1980, amounted to * * * pounds, representing a decrease of about * * * percent from midyear stocks. The ratio of FMC's yearend inventories to its annual production and sales of strontium nitrate also increased sharply. The ratio of inventories to production, for example, increased from * * * percent in 1977 to * * * percent in 1978, then jumped to * * * percent in 1979 and reached * * * percent in 1980 (table 5).

Table 5.--Strontium nitrate: FMC Corp's inventories as of Dec. 31, 1977-80, June 30, 1979, and June 30, 1980

Date	Quantity	Ratio of inventories to sales	Ratio of inventories to production
	1,000 pounds	Percent	Percent
Dec. 31--			
1977-----	* * *	* * *	* * *
1978-----	* * *	* * *	* * *
1979-----	* * *	* * *	* * *
1980-----	* * *	* * *	* * *
June 30--			
1979-----	* * *	<u>1/</u> * * *	<u>1/</u> * * *
1980-----	* * *	<u>1/</u> * * *	<u>1/</u> * * *

1/ Ratio of midyear inventories to annual sales or production.

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

U.S. employment, wages, and productivity

The average number of all employees in FMC's Modesto, Calif., establishment in which strontium nitrate is produced increased from * * * in 1977 to * * * in 1979, then declined to * * * in 1980. The average number of all production and related workers producing strontium nitrate followed a similar pattern, increasing from * * * in 1977 to * * * in 1979 and then declining to * * * in 1980 (table 6). 1/ FMC reported that Modesto is a "campaign" plant using common employees to produce all products. Thus, for example, the

1/ The average number of workers employed in U.S. establishments principally engaged in producing chemicals and allied products followed a similar trend, as follows (in thousands of employees): 1977--1,074, 1978--1,096, 1979--1,111, and 1980--1,013.

Table 6.--Average number of employees in FMC Corp.'s establishment in which strontium nitrate is produced, total and production and related workers manufacturing strontium nitrate, and wages paid to and man-hours worked by such employees, 1977-80

Item	1977	1978	1979	1980
Average number of all employees-----	***	***	***	***
Average number of production and related workers engaged in the production of--				
All products-----	***	***	***	***
Strontium nitrate 1/-----	***	***	***	***
Man-hours worked by production and related workers producing--				
All products-----1,000 hours--	***	***	***	***
Strontium nitrate 2/-----do----	***	***	***	***
Wages paid to production and related workers producing--				
All products-----1,000 dollars--	***	***	***	***
Strontium nitrate 2/-----do----	***	***	***	***

1/ FMC reported that common employees are used to produce all products manufactured at the Modesto, Calif., establishment; the principal other products produced at that facility include barium carbonate and strontium carbonate.

2/ The number of man-hours worked by production and related workers engaged in producing strontium nitrate and the wages paid to such employees include man-hours worked by and wages paid to those workers required to produce the strontium carbonate used in manufacturing strontium nitrate.

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

*** production and related workers shown in table 6 as "engaged in the production of strontium nitrate" in 1980 were actually engaged in the manufacture of all products at that establishment, not just strontium nitrate. The other principal products produced at the Modesto facility are barium carbonate and strontium carbonate; barium nitrate is also produced at the plant.

Man-hours worked directly in the manufacture of strontium nitrate by FMC's production and related workers, as described in the preceding paragraph, increased sharply from 1977 to 1978, but have declined steadily since. 1/ Man-hours increased from *** in 1977 to *** in 1978, or by *** percent, but then declined to *** in 1979, or by *** percent, and fell an additional *** percent to *** in 1980.

1/ See FMC's response to the Commission's questionnaire, as shown on p. A-13, and footnote 2 in table 6.

Wages paid to FMC's production and related workers manufacturing strontium nitrate increased from 1977 to 1978, but then declined in 1979 and 1980. Wages increased from * * * in 1977 to * * * in 1978, then slipped to * * * in 1979 and * * * in 1980. The average hourly earnings of FMC's workers engaged in the production of strontium nitrate were * * * throughout 1977-80 than average hourly wages received by workers in all manufacturing or by those workers employed in producing chemicals and allied products, as indicated by the following tabulation: 1/

	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>
All manufacturing-----	\$5.68	\$6.17	\$6.69	\$7.27
Chemicals and allied products----	6.43	7.02	7.60	8.29
Strontium nitrate-----	* * *	* * *	* * *	* * *

The productivity of FMC's workers in manufacturing strontium nitrate, as measured by physical output per man-hour worked by production and related workers, increased from 1977 to 1979, but declined in 1980, as shown in the following tabulation:

Item	:	1977	:	1978	:	1979	:	1980
Production-----1,000 pounds--:	:	* * *	:	* * *	:	* * *	:	* * *
Man-hours worked-----1,000 hours--:	:	* * *	:	* * *	:	* * *	:	* * *
Productivity--pounds per man-hour--:	:	* * *	:	* * *	:	* * *	:	* * *
	:		:		:		:	

Financial experience of U.S. producer

FMC's profit-and-loss experience on its strontium nitrate operations declined steadily during 1977-80. Net sales of strontium nitrate increased from * * * in 1977 to * * * in 1978, or by * * * percent (table 7). After remaining virtually unchanged in 1979, net sales then dropped * * * percent in 1980 to * * *. The cost of goods sold increased steadily from * * * in 1977 to * * * in 1979, or by * * * percent, then declined to * * * in 1980. As a percent of the value of net sales, the cost of goods sold increased without interruption, from * * * percent in 1977 to * * * percent in 1980.

FMC's gross margin from its strontium nitrate operations increased from 1977 to 1978, but then declined steadily and significantly. The gross margin increased from * * * in 1977 to * * * in 1978, or by * * * percent, but then declined to * * * in 1979, or by * * * percent. The gross margin declined further in 1980, to * * *, or * * * percent less than in 1979. General, selling, and administrative expenses increased rapidly from 1977 to 1979, then declined slightly in 1980. These expenses increased from * * * in 1977 to * * * in 1979, or by * * * percent, and then declined by * * * percent to * * * in 1980.

1/ Data for workers in all manufacturing and in chemicals and allied products compiled from official statistics of the U.S. Department of Labor.

Table 7.--FMC Corp.'s profit-and-loss experience on its operations in producing strontium nitrate, 1977-80

Item	1977	1978	1979	1980
Net sales-----1,000 dollars--	*	*	*	*
Cost of goods sold:				
Raw materials-----do-----	*	*	*	*
Direct labor 1/-----do-----	*	*	*	*
Depreciation and amortization 2/-----do-----	*	*	*	*
Other factory costs 3/-----do-----	*	*	*	*
Total cost of goods sold-----do-----	*	*	*	*
Gross margin-----do-----	*	*	*	*
General, selling, and administrative expenses: 4/				
Directly charged without allocation--1,000 dollars--	*	*	*	*
Allocated expenses for product-----do-----	*	*	*	*
Allocated corporate joint expenses-----do-----	*	*	*	*
Total -----do-----	*	*	*	*
Net operating profit or (loss)-----do-----	*	*	*	*
Ratio of net operating profit or (loss)				
to net sales-----percent--	*	*	*	*
Ratio of cost of goods sold to net sales-----do-----	*	*	*	*
1/ The FMC plant in Modesto, Calif., is a "campaign" plant; that is, different products are produced on the same equipment at different times. FMC reported that	*	*	*	*
2/ *	*	*	*	*
3/ *	*	*	*	*
4/ *	*	*	*	*

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

Thus, FMC's strontium nitrate operations generated net operating returns which deteriorated rapidly and without interruption during 1977-80. In 1977, the firm realized a net operating profit of * * *, equivalent to * * * percent of net sales in that year. In 1978, net operating profit declined by * * * percent to * * *, or * * * percent of net sales. In 1979, FMC suffered a * * * net operating loss from its strontium nitrate operations (* * * percent of sales), and in 1980 the net loss worsened to * * * (* * * percent of sales).

Cash flow.--The cash flow from FMC's strontium nitrate operations decreased from * * * in 1977 to * * * in 1978, or by * * * percent. ^{1/} In 1979 and 1980 negative cash flows were recorded, amounting to * * * and * * *, respectively, as shown in the following tabulation:

<u>Cash flow</u>	
1977-----	* * *
1978-----	* * *
1979-----	* * *
1980-----	* * *

Capital expenditures and research and development expenses.--FMC's capital expenditures and research and development expenses incurred in connection with its strontium nitrate operations are shown in table 8. As indicated, capital expenditures rose from * * * in 1977 to a peak of * * * in 1978, then fell to * * * in 1979 and * * * in 1980. The great bulk of such expenditures were for * * *. FMC's research and development expenses ranged from * * * to * * * annually during 1977-80.

Table 8.--Strontium nitrate: Capital expenditures and research and development expenses incurred by FMC Corp., 1977-80

(In thousands of dollars)

Item	1977	1978	1979	1980
Capital expenditures:				
Land and land improvements-----	* * *	* * *	* * *	* * *
Building or leasehold improvements-----	* * *	* * *	* * *	* * *
Machinery, equipment, and fixtures-----	* * *	* * *	* * *	* * *
Total-----	* * *	* * *	* * *	* * *
Research and development expenses-----	* * *	* * *	* * *	* * *

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

^{1/} For the purposes of this report, cash flow from operations is defined as the net operating profit plus depreciation and amortization. A-18

In response to the Commission's questionnaire requesting information on the actual and potential negative effects, if any, of imports of strontium nitrate from Italy on the firm's growth, investment, and ability to raise capital, FMC reported the following: * * *

Consideration of the Causal Relationship Between LTFV Imports
From Italy and the Alleged Material Injury

Market penetration of LTFV imports from Italy

U.S. imports of strontium nitrate from Italy, which did not begin until 1978, amounted to * * * percent of apparent U.S. consumption of the chemical in that year; imports from West Germany accounted for an additional * * * percent of consumption (table 9). Imports, virtually all of which were from Italy, jumped sharply in 1979 and were equivalent to * * * percent of apparent U.S. consumption, the peak level reached during 1977-80. Imports of strontium nitrate from Italy dropped in 1980, both in absolute terms and relative to apparent domestic consumption, and amounted to * * * percent of apparent U.S. consumption.

Lost sales

FMC, the sole domestic producer, reported losing * * * pounds (valued at * * *) in sales of strontium nitrate during 1979 and at least * * * pounds (valued at * * *) in sales during 1980 to LTFV imports of this product from Italy. Virtually all alleged lost sales in 1979 (* * * pounds, valued at * * *) and all alleged lost sales in 1980 involved only one firm--the Olin Corp. FMC stated the following in response to the producers' questionnaire returned in connection with the Commission's preliminary investigation: * * *

Counsel to Olin readily acknowledged during the public conference held in connection with the Commission's preliminary investigation that the firm had, in mid-1978, switched part of its purchases of strontium nitrate from FMC to SABED, stating that: 1/

The one absolutely fundamental fact which has to be understood in order for the Commission to reach a meaningful determination in the case of strontium nitrate imports from Italy is that this case involves one arrangement for the supplying of strontium nitrate to one plant of one U.S. purchaser. That is Olin's arrangement with SABED to supply the needs of Olin's Peru, Indiana, plant. That is all this case is about. What we have here is the following: Purchases of strontium nitrate by Olin for the Peru, Indiana, plant from SABED, while FMC continues to supply Olin's Morgan Hill, California, plant. To our knowledge, SABED does not sell to other U.S. purchasers, does not sell strontium nitrate at any rate, to

1/ Transcript of the conference, p. 148.

Table 9.--Strontium nitrate: U.S. producer's sales, imports, 1/ and apparent consumption, 1977-80

Year	U.S. producer's sales			Imports 1/			Apparent	Ratio of imports to consumption		
	Total	Export	From Italy	Other	Total	consumption	From Italy	Other	Total	
-----1,000 pounds-----										
1977-----	**	**	*	0	281	*	-	*	*	
1978-----	**	**	*	*	159	*	*	*	*	
1979-----	**	**	*	*	2	*	*	2/	*	
1980-----	**	**	*	*	3/	*	*	2/	*	

1/ In computing this table, the Olin Corp.'s yearend inventories of strontium nitrate imported from Italy were used to adjust imports for consumption as reported by the Department of Commerce. *

Data on inventories of strontium nitrate held by purchasers other than Olin are not available.

2/ Less than 0.05 percent.

3/ Less than 500 pounds.

Source: U.S. producer's sales, 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 of Commerce.

other U.S. purchasers, nor is it seeking other U.S. customers, nor does Olin resell the imported strontium nitrate in the U.S. market. Rather, it uses all of it internally for the production of highway flares and marine flares.

An official of Olin further testified that the Peru, Ind., plant had switched to the imported product because of the necessity to insure an alternative source of supply, and not because of price considerations. 1/

In response to the importer's questionnaire returned by Olin in connection with the Commission's preliminary investigation, the firm stated that: * * *

Purchases of strontium nitrate reported by Olin during 1977-80 are shown in table 10.

Table 10.--Strontium nitrate: Purchases by Olin Corp., by sources, 1977-80

Source	1977	1978	1979	1980
Quantity (1,000 pounds)				
U.S.-produced-----	***	***	***	***
Imported from Italy-----	***	***	***	***
Total-----	***	***	***	***
Value (1,000 dollars) <u>1/</u>				
U.S.-produced-----	***	***	***	***
Imported from Italy-----	***	***	***	***
Total-----	***	***	***	***

1/ Cost delivered to Olin's U.S. facilities.

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

Prices

FMC, the sole U.S. producer, sells strontium nitrate at its established list price. Terms of payment are normally 30 days, with no cash discounts allowed, and prices are usually quoted f.o.b. factory. Since FMC is the only U.S. producer, there is no need for it to quote strontium nitrate prices on a freight-equalized basis as it does with some of its other chemical products. Customers, therefore, must pay the entire cost of transporting the material to their plants. The product is sold in bagged form and may be shipped by either

truck or rail--distance and convenience being deciding factors in the choice of transport. Strontium nitrate is a heavy chemical and has a relatively low price per pound. Therefore, freight costs can be very important, accounting for as much as 15 percent of the final cost of the product to the end user, depending on the distance involved.

The weighted average prices received by FMC for sales of domestically produced strontium nitrate and the prices paid by Olin, the only significant importer, for strontium nitrate from Italy are given in table 11. Olin began importing the chemical from Italy in mid-1978, and since then has obtained all strontium nitrate used in its Peru, Ind., plant from Italy. Since FMC no longer supplies Olin's Indiana plant, an estimate of freight charges that would be incurred on shipments from FMC's California plant to that location are presented in the table. 1/ Using these estimates, a constructed delivered price for FMC's material is presented for comparison with Olin's actual price for imports from Italy.

FMC's f.o.b. prices increased from * * * cents per pound in January-March 1977 to * * * cents per pound in January-March 1978. This price was maintained until January-March 1979, when a price increase of * * * cents per pound (* * * percent) became effective. The new price of * * * cents per pound was again held constant for one year, then raised by * * * cents per pound (* * * percent) to * * * cents in the first quarter of 1980. The final reported price increase, * * * cents per pound (* * * percent), came in January-March 1981 and resulted in a price of * * * cents per pound. Thus, FMC's f.o.b. prices increased a total of * * * cents per pound (* * * percent) from 1978 to January-March 1981.

The costs of freight from Modesto, Calif., to Peru, Ind., have remained fairly constant at about 10 percent of the f.o.b. value of the strontium nitrate. Therefore, the estimated price of strontium nitrate delivered to Peru, Ind., followed the same trend as FMC's f.o.b. prices, increasing by a total of * * * percent from mid-1978 to January-March 1981.

In contrast, the delivered price paid by Olin for the imported product remained relatively stable from July-September 1978 through October-December 1979, then increased by * * * cents per pound (* * * percent) in April-June 1980 to * * * cents. No further increases were reported through January-March 1981, so that from mid-1978 through January-March 1981, delivered prices for strontium nitrate imported from Italy rose by a total of * * * cents per pound, or * * * percent. 2/

When strontium nitrate from Italy first entered the U.S. market in the third quarter of 1978, the delivered price was only slightly less (about

1/ Freight costs shown in the table are the rates charged for delivery of strontium nitrate in carload quantities (100 thousand pound minimum) from FMC's plant in Modesto, Calif., to Peru, Ind.; rates were obtained from FMC.

2/ Olin reported that the price reported for January-March 1981 was for a shipment under its 1980 contract with SABED, the Italian producer; no shipments were reported under Olin's 1981 contract with SABED.

Table 11. Strontium nitrate: Average prices received by FMC Corp. for sales to principal customers and average prices paid by Olin Corp. for imports from Italy, by quarters, 1978-80 and January-March 1981

Year and quarter	U.S.-made strontium nitrate			Strontium nitrate : imported from Italy			Margin of underselling		
	FMC's price, : f.o.b. Modesto, : Calif.	Freight charges : from Modesto to : Peru, Ind. 1/	Delivered : price to : Peru, Ind.	U.S. : ex-dock : price	Delivered : price to : Peru, Ind.	Based on : f.o.b./ex- : dock prices	Based on : f.o.b./ex- : dock prices	Based on : f.o.b./ex- : dock prices	Based on : f.o.b./ex- : dock prices
	Cents per pound			Percent			Percent		
1978:									
January-March	**	**	**	**	2/	2/	2/	2/	2/
April-June	**	**	**	**	2/	2/	2/	2/	2/
July-September	**	**	**	**	3/	3/	3/	3/	3/
October-December	**	**	**	**	3/	3/	3/	3/	3/
1979:									
January-March	**	**	**	**	**	**	**	**	**
April-June	**	**	**	**	**	**	**	**	**
July-September	**	**	**	**	**	**	**	**	**
October-December	**	**	**	**	**	**	**	**	**
1980:									
January-March	**	**	**	**	2/	2/	2/	2/	2/
April-June	**	**	**	**	2/	2/	2/	2/	2/
July-September	**	**	**	**	2/	2/	2/	2/	2/
October-December	**	**	**	**	2/	2/	2/	2/	2/
1981:									
January-March	**	3/	**	**	**	**	**	**	**

1/ Freight costs shown are the rates charged for delivery of strontium nitrate in carload quantities (100 thousand pound minimum); rates were obtained from FMC.

2/ No imports reported.

3/ Estimated.

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

* * * percent) than that of the domestic product. The margin of underselling widened rapidly to * * * percent in April-June 1979, then fell back to about * * * percent during 1980, before widening again in January-March 1981 to more than * * * percent.

Consideration of the Threat of Material Injury

As part of its consideration of threat of material injury to a domestic industry, the Commission may examine the likelihood of a particular situation developing into actual material injury. In this regard, demonstrable trends--for example, the rate of increase of the dumped exports to the U.S. market, the capacity in the exporting country to generate exports, and the likelihood that such exports will be directed to the U.S. market taking into account the availability of other export markets--may be important. This section summarizes the limited data available concerning Italian capacity to generate exports of strontium nitrate to the United States.

The production of strontium nitrate is believed to account for only a small portion of the total output of all products by SABED--the only Italian producer known to export strontium nitrate to the United States and the only firm found by Commerce to have made sales at less than fair value. The principal products produced by SABED reportedly include such chemicals as chlorides (barium and strontium bases) and other nitrates. As indicated previously, strontium nitrate manufactured by SABED is produced predominantly for the Olin Corp. in the United States. 1/ According to information obtained from Olin, it purchased * * * pounds of strontium nitrate from Italy under its 1980 contract with SABED. Furthermore, that amount was * * *. 2/ If SABED could maintain that rate of production throughout the year, its annual capacity to produce strontium nitrate would thus be at least * * * pounds (* * * that of the U.S. producer).

As indicated previously, the 1980 "blanket order" between Olin and SABED provided for the purchase of a maximum of * * * metric tons (* * * pounds) of strontium nitrate at a price (including pallets) of * * * per metric ton, f.o.b. Massa, Italy. 3/ The 1981 blanket order between Olin and SABED provides for the purchase of a maximum of * * * metric tons (* * * pounds) of strontium nitrate. The f.o.b. Massa, Italy, price in the 1981 agreement is

1/ According to an official of Kali-Chemie Corp., SABED's sales of strontium nitrate in Italy amounted to only * * * metric tons in 1978 and * * * metric tons in 1979. This official reported at the Commission's public hearing that, although SABED had also exported strontium nitrate to certain European countries, sales to the United States accounted for about 95 percent of its total sales of that product.

2/ "Analysis of LTFV Determination in Strontium Nitrate from Italy", pre-hearing statement submitted by counsel for the Olin Corp., May 13, 1981, p. 1.

3/ Olin's actual purchases from SABED under its 1980 blanket order amounted to * * * pounds, or about * * * of the maximum quantity specified in that agreement.

* * * per metric ton (* * * cents per pound) from January 1 through June 30, and * * * per metric ton (* * * cents per pound) from July 1 through December 31.

In response to a request for information pertaining to Italian production, capacity, and capacity utilization in producing strontium nitrate, as well as any projected changes during 1981 and 1982 and intentions with respect to exports to the United States in those years, the U.S. Department of State reported that there are no available statistics on production of or capacity to produce strontium nitrate in Italy. In Italian import and export statistics, strontium nitrate is included with certain other chemical products. The Department of State reported that in 1979, Italian exports of "other nitrates" amounted to 845 metric tons (1,863,000 pounds), of which 432 metric tons (952,400 pounds) went to the United States. During January-September 1980, such exports amounted to 677 metric tons (1,492,500 pounds), of which 115 metric tons (253,500 pounds) went to Portugal.

In its prehearing statement submitted in connection with this investigation, the petitioner stated that "in the present investigation, there is ample reason for making an affirmative determination on this ground (threat of material injury) alone," and cited the following points: 1/

First, the Italian producer operates virtually exclusively for exportation to the United States . . . SABED's ability to ship vast quantities of strontium nitrate to this country in a short span of time has already been conclusively established. Indeed, that proven ability is one of the most compelling pieces of evidence of the threat SABED poses.

Furthermore, having made a substantial investment in the production and exportation of strontium nitrate, SABED would have nothing to lose and everything to gain by maintaining and indeed expanding its participation in the U.S. market. With a major customer already in tow and many smaller consumers undoubtedly eager to take advantage of unfairly priced imports, 2/ SABED is highly unlikely to abandon voluntarily its successful effort to penetrate the American market.

In testimony before the Commission at its hearing on May 18, 1981, representatives of the respondents in this investigation stated that Kali-Chemie AG, the West German parent of SABED, had never made strontium nitrate and has no intention of doing so. 3/ They also indicated that SABED was not actively soliciting strontium nitrate customers in the United States other than the Olin Corp., as indicated by the following exchange: 4/

1/ Prehearing Statement of FMC Corp., petitioner, May 14, 1981, pp. 31 and 32.

2/ Kali-Chemie Corp., the U.S. subsidiary of SABED's West German parent Kali-Chemie AG, reported the following importations and resales of strontium nitrate produced by SABED: * * *

3/ Transcript of proceedings, p. 280.

4/ Transcript of proceedings, pp. 282 and 283.

Vice Chairman Calhoun: If you were requested by another major user in the United States would you be prepared to supply them as well?

Mr. Fremuth: I cannot say that right now.

Vice Chairman Calhoun: But there is no plan to use the Olin contract as a beachhead to further expand your activities in this market?

Mr. Fremuth: No, definitely not. If that would have been the plan, then we would have started with that in 1978, I think.

In July 1979, the Pyrotechnic Signal Manufacturers Association presented testimony before the Subcommittee on Trade of the Committee on Ways and Means in support of a bill (H.R. 2537) to suspend the import duty on strontium nitrate. In that testimony, Mr. Robert Waidner, President of the Standard Railway Fusee Corp., stated that "Fortunately, potential suppliers in other countries such as Italy, West Germany and Switzerland have shown an interest in supplying the U.S. pyrotechnic signal industry with strontium nitrate. We believe that suspension of the duty on strontium nitrate is essential in order that supplies from these sources can be obtained at a cost which will enable the continued operation of our industry." Mr. Waidner, also stated that: 1/

There are four reasons why the duty on strontium nitrate should be suspended: (a) the maintenance of a strong pyrotechnic signal industry serves the national security of the United States; (b) the viability of the domestic pyrotechnic signal industry would be assisted by the continued access of the U.S. industry to strontium nitrate at the lowest price possible; (c) domestic employment would be increased by the reduction of the duty; and (d) U.S. consumers, and efforts to control inflation in the United States, would benefit from lower-priced pyrotechnic products.

1/ Statement of the Pyrotechnic Signal Manufacturers Association Regarding H.R. 2537, Strontium Nitrate Duty Suspension Bill, before the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, July 27, 1979, pp. 5 and 7. * * *

APPENDIX A

U.S. INTERNATIONAL TRADE COMMISSION'S PRELIMINARY DETERMINATION

INTERNATIONAL TRADE COMMISSION

**(Investigations Nos. 731-TA-31-33
(Preliminary))**

**Barium Carbonate from the Federal
Republic of Germany; Strontium
Carbonate from the Federal Republic
of Germany; Strontium Nitrate from
Italy**

Determination

On the basis of the record ¹ developed in investigation No. 731-TA-31 (Preliminary), the Commission unanimously determines that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury,² by reason of imports of barium carbonate from the Federal Republic of Germany, provided for in item 472.06 of the Tariff Schedules of the United States (TUS), which are allegedly being sold in the United States at less than fair value (LTFV).

On the basis of the record ¹ developed in investigation No. 731-TA-31 (Preliminary), the Commission determines ³ that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury ⁴ by reason of imports of strontium

¹ The record is defined in § 207.2(j) of the Commission's Rules of Practice and Procedures (19 CFR 207.2(j)).

² Chairman Alberger found only that there is a reasonable indication that an industry in the United States is materially injured.

³ Commissioners Moore and Bedel dissenting.

⁴ Material retardation of the establishment of an industry is not an issue in this investigation.

carbonate from the Federal Republic of Germany, provided for in item 421.72 of the TSUS, which are allegedly being sold in the United States at LTFV.

On the basis of the record⁶ developed in investigation No. 731-TA-31 (Preliminary), the Commission unanimously determines that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury,⁷ by reason of imports of strontium nitrate from Italy, provided for in item 421.74 of the TSUS, which are allegedly being sold in the United States at LTFV.

Background

On September 9, 1980, the U.S. International Trade Commission and the U.S. Department of Commerce each received three petitions alleging sales in the United States at LTFV. The products identified in the petitions were: precipitated barium carbonate imported from the Federal Republic of Germany,⁸ precipitated strontium carbonate imported from the Federal Republic of Germany,⁹ and strontium nitrate imported from Italy.¹⁰ Accordingly, the Commission instituted preliminary antidumping investigations under section 733 of the Tariff Act of 1930 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 the specified products into the United States. The statute directs that the Commission make its determination within 45 days of its receipt of the petition, or in the case by October 24, 1980.

Notice of the institution of the Commission's investigations and of a 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 in the Commission's New York City Office, located at 6 World Trade Center, and by publishing the notice in the Federal Register on September 24, 1980 (45 FR 63388). The public conference was held in Washington D.C., on October 3, 1980, and all persons who requested the opportunity were

permitted to appear in person or by counsel.

Statement of Reasons for the Affirmative Determination of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, Commissioners George M. Moore and Catherine Bedell in Investigation No. 731-TA-31 (Preliminary) and in Investigation No. 731-TA-33 (Preliminary)

Determinations

On the basis of the record in investigation No. 731-TA-31 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is materially injured,¹⁰ or is threatened with material injury,¹¹ by reason of imports from the Federal Republic of Germany of barium carbonate, provided for in item 472.06 of the Tariff Schedules of the United States, allegedly sold or likely to be sold in the United States at less than fair value (LTFV).

On the basis of the record in investigation No. 731-TA-33 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is materially injured,¹⁰ or is threatened with material injury,¹¹ by reason of imports from Italy of strontium nitrate, provided for in item 421.74 of the Tariff Schedules of the United States, allegedly sold or likely to be sold in the United States at less than fair value.

The following findings and conclusions, based on the record in these investigations, support these determinations.

The Products

Each of the products subject to these investigations has distinct uses and characteristics, and each is therefore sold in a distinct market. Barium carbonate is used in a variety of ways, principally to prevent scumming in the manufacture of bricks and discoloration in the production of ceramics, and to increase the brilliance and refractive index of glass. It is also used in lesser amounts in the manufacture of permanent-magnet ferrites and photographic paper, and in the manufacture of other chemicals.¹² Strontium nitrate is used primarily in the manufacture of pyrotechnic devices, with small amounts being used in

chromate coatings and as chemical reagents. There appear to be no available commercial substitutes for barium carbonate and strontium nitrate.

Because domestically produced barium carbonate and strontium nitrate are virtually identical to the respective products being imported, we conclude that for investigation 731-TA-31 (Preliminary) the like product is barium carbonate and for investigation 731-TA-33 (Preliminary) the like product is strontium nitrate within the meaning of section 771(10) of the Tariff Act of 1930 (19 U.S.C. 1677(10)).

The Domestic Industry

In these investigations, we have concluded that there are separate appropriate domestic industries against which the impact of the alleged LTFV sales of the imports should be measured, each consisting of the producers of the respective like products.¹³

Each of these chemicals is produced continuously on either a separate production line or for several months at a time on a production line which may also be used for other chemical products. Further, each of the products is very different in characteristics and uses, and each is sold in a different market. Therefore, we conclude that there is a separate industry corresponding to each chemical, and that the data permit the assessment of injury in each industry.

The Question of Reasonable Indication of Material Injury or Threat Thereof

Section 733(a) of the Tariff Act 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." Section 771(7)(B) directs that in making its injury determination, the Commission shall consider, among other factors, (1) the volume of imports of the merchandise which is the subject of the investigation, (2) the effect of imports of such merchandise on prices in the United States for like products, and (3) the impact of imports of such merchandise on domestic producers of like products. In light of these directives, we base our decisions on the findings of fact and conclusions of law discussed below.

Barium Carbonate

Volume of imports.—U.S. imports of precipitated barium carbonate from

⁶ The record is defined in § 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

⁷ Chairman Alberger found only that there is a reasonable indication that an industry in the United States is materially injured.

⁸ Petition filed on behalf of FMC Corp., Chemical Products Corp., and the Sherwin-Williams Co.

⁹ Petition filed on behalf of FMC Corp. and Chemical Products Corp.

¹⁰ Petition filed on behalf of the FMC Corp.

¹¹ Chairman Alberger finds only that there is a reasonable indication that an industry is materially injured.

¹² Material retardation of the establishment of an industry is not in issue in these cases since there are producers of each product under consideration. Thus this issue is not discussed further.

¹³ Chemical Profile on barium carbonate, Sept. 8, 1980.

¹⁴ See views of Chairman Alberger and Vice Chairman Calhoun in investigation No. 731-TA-32 for the relationship among these products.

West Germany, by far the major foreign supplier, have increased substantially in recent years, rising from 11.4 million pounds in 1977 to 15.6 million pounds in 1979, or by 37 percent. The market penetration of imports from West Germany has similarly increased, rising from 13.6 percent in 1977 to 18.6 percent in 1979.¹⁴

Effects of imports on prices.—During 1977–79, a period of sharply increased imports of West German barium carbonate, the imported product consistently undersold its domestic counterpart by substantial margins. These margins of underselling, which were at their highest level during 1979, continued into January–June 1980. In all instances, the margins of underselling were more than accounted for by the alleged margins of sales at less than fair value.¹⁵

Impact of imports on the domestic producers.—The record shows that domestic production, capacity utilization, sales, and profit realized from U.S. producers' barium carbonate operations fell during 1977–79 and January–June 1980. During this period—one in which imports increased substantially—inventories held by domestic producers displayed sharp and continuing increases.¹⁶

U.S. production of barium carbonate declined from 69 million pounds in 1977 to 63 million pounds in 1979, and capacity utilization declined from 92 percent to 83 percent.¹⁷ Producers' domestic sales fell from 70 million pounds to 61 million pounds, or by 13 percent, and declined an additional 18 percent in January–June 1980 compared with sales in the corresponding period of 1979.¹⁸ Producers' inventories of barium carbonate increased from 5 million pounds as of yearend 1977 to about 7 million pounds by yearend 1979, and then almost doubled to 14 million pounds as of June 30, 1980.¹⁹

U.S. producers realized low profit from their operations in producing barium carbonate during 1977–79, and virtually no profit during January–June 1980. The ratio of net operating profit to net sales of barium carbonate by domestic producers increased from 1.6 percent in 1977 to 5.2 percent in 1979, but then fell to about 0.05 percent in January–June 1980.²⁰

Strontium Nitrate

Volume of imports.—Imports of strontium nitrate from Italy began only in mid-1978; since that time, however, Italy has been virtually the only foreign supplier of this product to the United States. Imports from Italy increased from zero in 1977 to 0.5 million pounds in 1978, and then jumped to 3.1 million pounds in 1979. The market penetration of imports from Italy similarly increased, rising more than fourfold from 1978 to 1979.²¹

Effects of imports on prices.—During 1977–79, a period of very sharply increased imports of Italian strontium nitrate, the imported product generally undersold its domestic counterpart by substantial margins. The margins of underselling increased markedly during 1979. In all instances, the margins of underselling were more than accounted for by the alleged margins of sales at less than fair value.²²

Impact of imports on the domestic producers.—U.S. production of strontium nitrate increased from 1977 to 1978, but fell substantially thereafter. Production declined by more than one-fourth in January–June 1980 in comparison with production during the corresponding period of 1979. Trends in capacity utilization were similar.²³

End-of-period inventories of strontium nitrate held by the domestic producer increased without interruption during the period January 1977–June 1980. Inventories as of June 30, 1980, were more than double those held a year earlier, and were equivalent to a very large percentage of the producer's annual sales of this product.²⁴

The number of man-hours worked by production and related workers in producing strontium nitrate in the United States, as well as wages paid to such employees, declined from 1978 to 1979. These declines continued into January–June 1980.²⁵

The domestic producer's sales of strontium nitrate increased from 1977 to 1978, and then fell substantially in 1979. The decline in such sales continued into January–June 1980, as compared with sales during the corresponding period of 1979.²⁶

The U.S. producer's profit realized from operations in producing strontium nitrate deteriorated sharply after 1978, the year in which imports of strontium nitrate from Italy first entered the U.S. market. The ratio of net operating profit

to net sales in 1979 was less than half that in 1978, and the ratio continued to fall during January–June 1980.²⁷

Conclusions

On the basis of the large margin of underselling coupled with rising U.S. producers' inventories and the declining trends in their production, capacity utilization, sales, and profit during 1977–79 and January–June 1980, we conclude that there is a reasonable indication that the domestic industry producing barium carbonate is materially injured,²⁸ or is threatened with material injury, by reason of imports from West Germany allegedly sold, or likely to be sold, at less than fair value.

On the basis of the margin of underselling coupled with the high inventories held by the U.S. producer and declining trends in domestic production, capacity utilization, sales, employment, and profit during 1977–79 and January–June 1980, we conclude that there is a reasonable indication that the domestic industry producing strontium nitrate is materially injured,²⁹ or is threatened with material injury, by reason of imports from Italy allegedly sold, or likely to be sold, at less than fair value.

Views of Commissioner Paula Stern

Introduction

On the basis of the best available information in these preliminary antidumping investigations, I voted in the affirmative in both investigations 731-TA-31 (Barium Carbonate from the Federal Republic of Germany, and 731-TA-33 (Strontium Nitrate from Italy). In Investigation 731-TA-32 (Strontium Carbonate from the Federal Republic of Germany), my determination was negative.

I concur with my colleagues regarding the definition of industry in each investigation.*

* Report, at pp. A-29 through A-31.

²⁸ Chairman Alberger's finding is limited to material injury.

²⁹ Further, I point out that the available data permit analysis of the effects of the alleged LTFV imports on production of the respective like products. In contrast to *Pipes and Tubes of Iron and Steel from Japan* (Inv. No. 731-TA-15 (Preliminary), April 1980), it is not necessary to aggregate. In these cases, data clearly provide a separate identity for each product. Each of the chemicals is produced either on a separate production line or on an individual production line for several months at a time. As a result, the task of allocating wages is more complex than in *Pipes and Tubes*. There is a virtually unique demand for each chemical, and all of the companies provided allocated profit-and-loss data. For these reasons, a product-by-product analysis is possible.

¹⁴ Report, at pp. A-33 through A-35.

¹⁵ Report, at pp. A-6 and A-40 through A-44.

¹⁶ Report, at p. A-23 through A-25.

¹⁷ Report, at p. A-17.

¹⁸ Report, at pp. A-19 through A-20.

¹⁹ Report, at pp. A-23 through A-25.

²⁰ Report, at pp. A-28 through A-30.

²¹ Report, at pp. A-34 through A-36.

²² Report, at pp. A-6, A-47 and A-49.

²³ Report, at pp. A-17 through A-19.

²⁴ Report, at pp. A-24 through A-26.

²⁵ Report, at pp. A-27 through A-28.

²⁶ Report, at pp. A-20 through A-23.

Material Injury by Reason of Alleged LTFV Imports

Investigation 731-TA-31. Barium Carbonate from the Federal Republic of Germany

The most striking indications of the economic difficulties being experienced by the U.S. barium carbonate industry are the data related to sales and profitability. Sales of barium carbonate have fallen steadily since 1977. In 1977 sales amounted to 69.9 million pounds. By 1979 they had fallen thirteen percent to 60.8 million pounds, and from January-June 1980 they declined roughly eighteen percent over the January-June 1979 level. Profitability has been low since the beginning of the period under consideration. Profits did increase from 1977 to 1979; however, from January-June 1980 they fell to less than 0.5 percent of sales.²⁹

The industry is comprised of three domestic producers—FMC Corp. (FMC), Chemicals Products Corp. (CPC), and Sherwin-Williams Co. The unusual production procedure utilized by FMC, where barium and strontium carbonate are produced on the same production line on a "campaign" basis,³⁰ requires looking beyond the aggregated figures on production, capacity and inventories to determine whether FMC's product mix shifts are camouflaging economic difficulties facing the industry as a whole. Production, capacity and inventory figures on a company-by-company basis reveal adverse signs that cannot be attributed to the "campaign" production of FMC. Production has been declining since 1978. Though capacity utilization has generally been high, analysis suggests some weakness in the figures. There has also been a significant build-up of inventories in 1980.

The question that needs to be answered is whether these indications of injury can be attributed to the alleged LTFV imports. A number of causes other than imports were put forward in this preliminary investigation, including the recession-related drop in consumption, the shift from barium to strontium carbonate for use in controlling TV X-ray emissions, and internal problems of the domestic producers. Further analysis of the record also raises another possible cause. The drop in domestic

sales from January-June 1980 is largely accounted for by a drop in sales of chemical grade barium carbonate. However, it is not clear if West Germany ships chemical grade barium carbonate to the United States.³¹

In antidumping cases the Commission does not weigh the causes of injury to a domestic industry. Other factors are to be considered, however, and the essential point is that the Commission "must satisfy itself that in light of all the information presented, there is sufficient causal link between the less-than-fair-value imports and the requisite injury."³²

In this preliminary investigation, I found a reasonable indication that the injury discussed above is by reason of alleged LTFV imports. The staff report in this investigation shows sizeable margins of underselling for both glass and ceramic grade barium carbonate.³³ Underselling by the alleged LTFV imports of the glass grade barium carbonate averaged fourteen percent for the period under consideration. Ceramic grade carbonate imports from West Germany undersold the similar U.S. product by an average of twenty percent over the same period.

Imports increased from 1977 to 1979 from 11.4 million pounds to 15.9 million pounds. Though imports have been dropping since 1978 concomitant with the decline in consumption, market penetration from January-June 1980 was still above the 1977 level. Market penetration increased from 13.6 percent in 1977 to 18.3 percent in 1978. This increase in part results from the fact that the "supply gap" (the shortfall between domestic capacity and demand) increased from 8 million pounds in 1977 to 14 million pounds in 1978. However, in 1979 when the "supply gap" narrowed to 9 million pounds, the share of the market held by imports did not decline. In fact, in 1979, it continued to increase minimally. At that time the margin of underselling was at the highest levels for the whole period under consideration. While market penetration dropped from 19.3 percent in January-June 1979 to 15.4 percent in the same period in 1980, the latest level is still significant.

²⁹ The Staff Report identifies various grades of both barium and strontium carbonate. There are, however, no published industry-wide specifications concerning grades, and staff advises that the end-user can normally adapt to the use of any of the available grades. All the grades of each product are chemically identical.

³⁰ S. Rep. No. 90-249, 90th Cong., 1st Sess. 78 (1979).

³¹ A brief submitted late in the investigation by the importer raises questions about the veracity of the margins. The staff did not have time to verify data submitted in this brief.

Prices of both U.S.-produced and imported barium carbonate have been increasing substantially. During the period under consideration, U.S. prices of ceramic grade barium carbonate rose 57 percent, while prices of imports increased fifty percent. Over the same period, U.S. prices of glass grade barium carbonate rose fifty percent, while import prices rose 55 percent. Despite the substantial U.S. price increases, the petitioners allege that prices have been suppressed because they have not been able to cover rising costs with sufficiently large price increases. Should the case return for a final determination, this issue needs to be explored further.

Based on the information developed in this investigation concerning the level of imports, the margin of underselling, and the economic condition of the U.S. industry, I have found that there has been a showing of a reasonable indication of material injury by reason of the alleged LTFV imports.³⁴

Investigation 731-TA-32. Strontium Carbonate from the Federal Republic of Germany

In this investigation price data gathered by the Commission staff reveal that underselling has increased significantly from 1977 to the present. In January-June 1977 the price of imported strontium carbonate was only slightly less than the U.S. price. The margin of underselling from mid-1977 through the first quarter of 1979 averaged about five percent. At that time the differential between the prices of U.S. and strontium carbonate imported from West Germany jumped to approximately fifteen percent. By October 1979, however, the margin began to narrow, and in June 1980 stood at about ten percent.³⁵ While underselling might suggest a causal link to alleged LTFV imports, I have not found any reasonable indication of material injury by reason of such imports.

A number of factors might indicate that the health of the U.S. industry is deteriorating. Though increasing over the 1977-79 period, the figures for production, sales, and capacity utilization are down from January to June 1980. Production dropped more than fifteen percent from the January-June 1979 level. Sales fell nearly five percent over the same period, and

³² Important data necessary to analyze threat were not available in this investigation. This issue requires thorough exploration should this case return for a final determination.

³³ The term "underselling" or "undercutting" as in Section 771(7)(C)(ii)(I) of the Tariff Act of 1930, refers to the circumstances where the price of the alleged LTFV imports is below the price of the domestic like product in the U.S. market.

³⁴ *Supra* note 5 at page 14.

²⁹ Profitability has varied substantially by company. Should this case return for a final investigation, profit data will need to be reviewed carefully to ensure that allocations have been made in a uniform manner by all companies.

³⁰ In production by "campaign," common equipment is used to alternately produce barium carbonate and strontium carbonate. Between changeovers, the equipment is purged and cleaned. The plant "turns around" between the production of the two chemicals two to four times per year.

capacity utilization declined accordingly. Inventories in June 1980 were higher than in June 1979, another possible indication of ill health.

However, a careful analysis reveals that these "negative" data are not indicative of material injury by alleged LTFV imports. There are two domestic producers of strontium carbonate, FMC and CPC. FMC uses the same production line for both strontium carbonate and barium carbonate production. From January to June 1980, FMC increased barium carbonate production. This shift fully accounts for the declines in strontium carbonate production, sales, and capacity utilization.²⁷ Also, due to FMC's "campaign" plant operations, inventory levels reported for the period under consideration are not necessarily indicative of economic difficulties. FMC maintains high inventories of strontium carbonate while the barium carbonate "campaign" is on; this is a rational business practice and not a negative factor. Strontium carbonate production, sales, and capacity utilization have not declined at any time during the period under consideration for the other domestic producer, which maintains separate production lines for each carbonate.

Profitability data in the aggregate shows serious declines between 1977 and 1979, but a rebound in 1980 (though not to 1977 levels). It is essential to disaggregate these data in order to reach a judgement on attributing material injury to LTFV imports. On a disaggregated basis the data reveal that one company has been making handsome profits and that these profits increased over the January-June 1980 period. The other company has been facing increasing profitability problems, although the net-profit-to-sales ratio improved in January-June 1980 compared to the same period in 1979. The problems of the latter company cannot be attributed to imports. Though there may be some allocation problems with the financial data, it is clear that this company's costs—both "costs of goods" sold and particularly "general, selling and administrative costs"—are responsible for its financial dilemma. These high costs relate to expenditures necessary to meet environmental regulations and expenditures of freight equalization. These "internal" causes of declining profitability cannot be attributed to the alleged LTFV imports. The other company facing the same alleged LTFV imports but without these

handicaps is clearly not suffering material injury.

There have been substantial price increases by U.S. producers of strontium carbonate over the past few years. Domestic producers' average prices of glass grade strontium carbonate—the principal grade being traded—rose about fifty percent from January-March 1977 to April-June 1980. Despite these price increases, the petitioners allege price suppression. Given the enormous costs of production of one producer, this allegation is not surprising. It is clear that price increases have not compensated for these heavy costs, but this producer also faces domestic competition and its inability to raise prices further has not been demonstrably linked to imports. Moreover, a look at profits for the other company reveals it is not experiencing price suppression.

The overall health of the domestic strontium carbonate industry is clearly reflected in sales that have steadily increased since 1977. Even as consumption dropped in 1980, sales continued to grow. U.S. sales increased almost ten percent from 1977 to 1979. From January-June 1980—although apparent U.S. consumption dropped about ten percent—domestic sales increased over January-June 1979 levels.

On the other hand, imports, which had risen substantially from 1977 to 1979, plummeted from January-June 1980. The alleged LTFV imports grew from 2.3 million pounds in 1977 to 7.7 million pounds in 1979. In January-June 1980, imports amounted to only 397,000 pounds. Import penetration rose substantially from 1977 to 1979. In January-June 1980, however, import penetration fell significantly below the 1977 level. The drop in import penetration in 1980 far surpasses the recession-related drop in consumption during that period. Further, the current low level of import penetration combined with all the other information discussed above dispels the idea that the U.S. industry may be "threatened" by the alleged LTFV imports.

Investigation 731-TA-33

Strontium Nitrate from Italy

FMC is the sole domestic producer of strontium nitrate, and all of its problems began when the alleged LTFV imports from Italy arrived in this country in 1978. The actual declines in the company's economic indicators were submitted to the Commission on a confidential basis and can only be referred to in general terms. Declines in production, shipments, capacity utilization, and manhours worked have been sizable.

The decline in profitability has been even more striking, although the data do not show actual losses on the strontium nitrate line.²⁸ Inventories have risen steadily and significantly. However, given the "campaign" nature of FMC's production of strontium carbonate, the raw material from which strontium nitrate is produced, inventory data is not particularly useful as an indicator of economic well-being.

These indications of material injury relate directly to the imports of strontium nitrate from Italy. In 1978, the Olin Corporation, an important FMC customer, shifted all of its strontium nitrate purchases for its Peru, Indiana plant to SABED, the Italian producer. As a result, the alleged LTFV imports rose nearly 500 percent from 1978 to 1979, and the import consumption ratio increased accordingly to approximately twenty percent. The level of imports dropped in January-June 1980—with the concomitant decline in consumption related to the recession—but the market penetration of the alleged LTFV imports increased slightly in comparison to January-June 1979.

On an FOB factory/ex dock basis²⁹ the alleged LTFV imports did not undersell U.S. strontium nitrate at the time they first began to trickle into the United States. Nor did they undersell U.S.-produced strontium nitrate in June of this year on this accounting basis. However, at the time when imports were highest (1979), the margin of underselling was greatest. Moreover, on a delivered-price basis—given the distance from FMC's strontium nitrate plant in California to Olin's plant in Indiana—imports have undersold the domestic product throughout the period under review.

Allegations of price suppression have also been made in this investigation. The petitioner claims that he has not been able to increase his prices enough to recover his costs due to the alleged LTFV imports. This allegation will need to be further explored should this case return for a final investigation. More research needs to be done on the petitioner's costs relative to production.

²⁷The profitability data needs to be reviewed carefully in the final investigation. Profitability data provided to the Commission in this investigation raises a question whether FMC has allocated its costs between strontium carbonate and strontium nitrate. Strontium carbonate is an input in the production of strontium nitrate.

²⁸The domestic producer provided the Commission with f.o.b. factory prices (i.e., net prices received excluding expenses incident to delivering the merchandise to the purchaser). The principal importer of strontium nitrate from Italy provided the Commission with ex dock prices (i.e., purchase price delivered to the first U.S. port of importation, including import duty and clearance charges) paid for such merchandise.

²⁹It is likely that declines in manhours worked in 1980 are also predominantly related to shifts in the barium/strontium mix on the FMC production line.

As mentioned in the strontium carbonate discussion above, it is not clear how much the alleged LTFV imports can be held responsible for FMC's pricing policies.

The importer, Olin, has asked the Commission to dismiss this case because Olin's decision to switch suppliers for its Indiana plant was based on a need for an alternative, reliable source of supply. An Olin representative stated at the conference: "The supply considerations were our sole reason for purchasing from SABED, not price, and not because we wished to cease dealing with FMC."⁴⁰

The legislative history of the Trade Agreements Act of 1979 provides the Commission with considerable discretion in analyzing the relative importance of various factors related to this investigation. The House Report on the Trade Agreements Act states: "The significance of the various factors affecting an industry will depend upon the facts of each particular case. Neither the presence nor the absence of any factor listed in the bill can necessarily give decisive guidance with respect to an injury determination."⁴¹

It would be highly unusual for an evaluation of lost sales information to be pivotal rather than supplementary in reaching a determination in either antidumping or countervailing duty cases. Clearly, lost sales information is among the most subjective data gathered in these investigations since it is prone to interpretation in terms of the self-interest of the party responding to the questionnaire.

In this case Olin staunchly claims that its decision to switch supplier is not "motivated" by price considerations and thus the problems of the U.S. industry should not be attributed to any alleged LTFV practices of SABED. It is clear, however, from other testimony and from Exhibit D of Exhibit 2, a letter sent from Olin to FMC at the time Olin decided to shift supplier, that price did and does factor into Olin's decision to supply the Indiana plant from Italy.

Exhibit D of Exhibit 2 states: "Our right to develop a second source has become of paramount importance with your continued aggressive pricing policy and the surprise revelation that you have serious environmental problems at Modesto." (Emphasis added.) At the conference, in response to questioning by the ITC staff as to whether "Olin would pay a substantially higher price in order to have a second source of supply in Italy than the price that was currently

quoted by FMC, the sole supplier," counsel for Olin stated:

"Obviously there are parameters there, but they [Olin] are willing to pay a higher price and did do so."

A second Olin representative added:

"We have paid a higher price. We have to evaluate the term substantial. The market place in the East for our end product is very competitive. It would be difficult for us to sustain a substantial price increase at the Peru facility."⁴²

At another point in the Conference, he stated further:

"Not only have our supply problems with FMC been extremely serious, but we also are concerned about the rate of FMC's price increases."⁴³

The Olin representative also indicated that the decision to use imports at its Peru, Indiana plant and not its Morgan Hill, California plant, was the result of an evaluation of the relative costs of the U.S. and imported products, including the freight cases, to each plant.⁴⁴

The desire of any customer to avoid relying on a sole supplier is inherently related to price considerations. But the central dispute in antidumping cases involves the "fairness" of the price being offered by the alternative, foreign supplier. In this case, there are allegations of substantial dumping margins. If these margins are indeed found to exist by the Department of Commerce and if the Commission in turn votes in the affirmative in a final investigation, the price of Italian strontium nitrate would increase substantially as a result of the application of antidumping duties. Given the testimony in this investigation, it is questionable whether Olin under these circumstances would continue to purchase Italian strontium nitrate.

It is clear that at this stage there is a reasonable indication that there is material injury by reason of the alleged LTFV imports.⁴⁵

Conclusion

Each of these investigations presented a unique configuration of economic data. In the strontium carbonate case, the variation of the performance of the two domestic producers is striking and the role of the alleged LTFV imports in the U.S. market has declined dramatically. In the barium carbonate industry, in contrast, the role of imports has

remained significant and there are reasonable indications of economic difficulties attributable to the subject imports. The strontium nitrate case is highly unusual; in the face of present adverse economic trends, I judged it inappropriate to dismiss the case at this time on the basis of lost sales information undermined by the contradictory record.

Statement of Reasons for the Negative Determination of Chairman Bill Alberger and Vice Chairman Michael J. Calhoun in Investigation 731-TA-32 (Preliminary)

Determination and Conclusion of Law

On the basis of the record in investigation No. 731-TA-32 (Preliminary), we determine that there is no reasonable indication that an industry in the United States is materially injured or is threatened with material injury by reason of imports from the Federal Republic of Germany of strontium carbonate,⁴⁶ provided for in item 421.72 of the Tariff Schedules of the United States, allegedly sold or likely to be sold in the United States at less than fair value.

Pursuant to Section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(b)) (hereinafter the Tariff Act), in order to reach a determination in this investigation, we are required to define the domestic industry and review the best information available for a reasonable indication of material injury or threat of material injury by reason of the imports of strontium carbonate.

Domestic Industry

The term "industry" is defined in section 771(4)(A) of the Tariff Act (19 U.S.C. 1677(4)(A)) as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." The term "like product" is further defined in section 771(10) of the Tariff Act (19 U.S.C. 1677(10)) 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 the statute, the identification of the domestic industry in each investigation is based upon the proper identification of the "like product," which, in turn, is a function of the article which is the subject of the investigation by the Department of Commerce. The Department of Commerce initiated an

⁴⁰Conference Transcript, p. 160.

⁴¹H. Rep. No. 90-317, 96th Cong., 1st Sess. 46 (1979).

⁴²Conference Transcript, p. 154.

⁴³*Id.*, p. 159.

⁴⁴*Id.*, pp. 166-167.

⁴⁵In this preliminary investigation important information related to "threat of material injury" was not available. Data on Italian capacity and the likelihood of increased exports being directed to the United States will need to be explored if the case returns for a final investigation.

⁴⁶Material retardation of the establishment of an industry is not in issue in this investigation, since there are producers of strontium carbonate. Thus, this issue is not discussed further.

Investigation concerning imports of strontium carbonate." Furthermore, there is domestically produced strontium carbonate, which is virtually identical to the strontium carbonate being imported. Thus, for the reasons discussed below, we find that in Investigation 731-TA-32 (Preliminary) the like product is strontium carbonate and the domestic industry is the producers of that product.

All strontium carbonate, whether imported or produced in the United States, has the same chemical formula.⁴⁵ It is sold for use primarily in the manufacture of picture tubes for color television receivers (80 percent) because of its superior ability to prevent x-ray emissions. It is also used for the production of ferrite magnets, ceramics, and other uses, including the manufacture of strontium nitrate. There appears to be no practical substitute for the major use of strontium carbonate.

The petitioners in this investigation and in Investigations 731-TA-31 and 731-TA-33 (relating to barium carbonate and strontium nitrate, respectively) acknowledge that there is some relationship among the production of various of the three products being investigated. However, we believe that these are distinct products which serve distinct markets. Each of these chemicals is produced by a few companies: Three firms manufacture about 98 percent of U.S. barium carbonate, two firms manufacture 100 percent of the U.S. strontium carbonate, and one firm produces 100 percent of the U.S. strontium nitrate. Each product is produced in either a separate production line or is produced for several months at a time on an individual production line. Further, each of the products is very different in characteristics and uses, and each of the chemicals is sold in a different market. Therefore, we conclude that there is a separate industry corresponding to each chemical and that the data permit the assessment of injury in each industry.

The question of reasonable indication of material injury or threat thereof

Section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b) directs the Commission to make a determination, based upon the best information available to it at the time of the determination, whether there is a reasonable indication that an industry is being materially injured or threatened with material injury by reason of the imported merchandise. Section 771(7)(A) (19 U.S.C. 1677(7))

defines the term "material injury" to mean "harm which is not inconsequential, immaterial or unimportant." In making its determination, the Commission must consider, among other factors, (1) the volume of imports of the merchandise which is the subject of the investigation, (2) the effect of imports of such merchandise on prices in the United States for like products, and (3) the impact of imports of such merchandise on domestic producers of like products (19 U.S.C. 1677(7)(B)).

A careful preliminary analysis of the health of the domestic industry has led us to the conclusion that there is no reasonable indication that its condition has sufficient connection to imports to support an affirmative preliminary determination. We were first struck by the drastic decline—almost disappearance—of imports in January-June 1980 after three years of increase. Further analysis led us to the conclusion that the decline in the profitability of the industry is related to the high transportation and other general costs incurred by one of the two domestic producers of strontium carbonate. Another domestic factor affecting the industry, particularly inventories, may have been a buildup in inventories to prepare for the shift of the production of one producer from strontium carbonate to barium carbonate. Yet, in the face of the increase in imports from 1977-1979 and a recent decline in demand, domestic producers have increased prices and sales. Moreover, we found no sales lost by reason of price. Based on these and other considerations, we find no reasonable indication of material injury or the threat thereof by reason of imports of strontium carbonate.

We base our decision on the findings of fact and conclusions of law discussed below.

Volume of Imports

The alleged LTFV imports in this investigation were from Kali-Chemie, A.G., of West Germany, which has accounted for virtually all imports of strontium carbonate since 1977. The volume of imports did increase significantly between 1977 and 1978, and increased slightly in the next year as well. However, the volume of imports in the first six months of 1980 was 85 percent below the amount for the same period of 1979.

In fact, imports in this most recent period were virtually nil, and the market shared enjoyed by West German imports declined substantially from 1979 to the first half of 1980. Moreover, the significant increase in the imports' market share from 1977 to 1978

coincided with a shortfall in supply available from domestic producers in the face of rapidly expanding domestic demand. Thus, purchasers who initially turned to imports because of availability problems may now be seeking to maintain an alternative source of supply.

Effect of LTFV Imports on Prices

The best information available to the Commission at this time does indicate significant price undercutting by the West German imports of glass grade strontium carbonate. This is the grade which accounts for a large majority of domestic production. However, in the period 1977-78, when the import share experienced its biggest gain, the margin of underselling was relatively small, ranging from almost zero to less than 5 percent. The most significant price undercutting occurred in 1979, but during this period, the imports did not increase by nearly as much, even though the margin of underselling grew. The margin of underselling appears to be narrowing in 1980.

Price suppression does not appear to be a factor either. In fact, domestic prices for the glass grade products have increased almost 50 percent since 1977, a rate of increase well above that experienced by the entire chemical industry.

Impact on the Affected Industry

Domestic production of strontium carbonate grew substantially from 1977 to 1979. While production in the first half of 1980 is down slightly, our investigation reveals that one firm has shifted production significantly to barium carbonate. Since this firm makes both articles on the same production facility, its production of each is on a "campaign" basis, meaning that to produce barium carbonate it must temporarily cease production of strontium carbonate. This may explain the downturn in 1980.

Domestic sales were also up during the period under investigation, increasing approximately 10 percent from 1977 to 1979 and then remaining steady in 1979. Aggregate profits have experienced a contrary trend to production and sales. From 1977 to 1979, for example, net operating profits for the two domestic producers declined by more than 50 percent.

At first blush this may appear to provide a reasonable indication of injury. However, one of the two producers reported a steadily improving profit situation and, in fact, has A-34 substantial profits. The producer whose losses account for the aggregate decline in profitability experienced huge

⁴⁵ 45 F.R. 60186 (October 6, 1980).

⁴⁶ The chemical formula for strontium carbonate is SrCO₃.

Increases in transportation and other selling costs. It is unlikely that competition between and profitability of the two producers would be any different without imports. In addition, this firm shifted much of its production to barium carbonate in 1980, thus accounting for declines in production, shipments, and capacity utilization. Previous to this change, capacity utilization had remained at nearly 100 percent industry wide.

Inventories decreased in 1978, then jumped substantially in 1979. Moreover, inventories are up in the first six months of 1980 over the prior comparable period. Much of this may be because the producer who shifted to barium carbonate sought to build-up its strontium carbonate supplies in anticipation of its changeover. The other producer did not report increasing inventory levels.

Although there were allegations of sales lost to alleged less than fair value imports because of price, we find the evidence on the record does not support the allegations.

Statement of Reasons for the Affirmative Determination of Commissioners George M. Moore and Catherine Bedell in Investigation No. 731-TA-32 (Preliminary)

Determination

On the basis of the record in Investigation No. 731-TA-32 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury,⁴⁹ by reason of imports from the Federal Republic of Germany of strontium carbonate, provided for in item 421.72 of the Tariff Schedules of the United States, allegedly sold or likely to be sold at less than fair value (LTFV).

The following findings and conclusions, based on the record in this investigation, support this determination.

The Product

Strontium carbonate is used primarily in the production of television picture tubes, as well as in the production of ferrite magnets, ceramics, and other uses, including the manufacture of strontium nitrate.⁵⁰ There appear to be no available commercial substitute for strontium carbonate.

Because domestically produced strontium carbonate is virtually

identical to the imported product, we conclude that the "like product" in this investigation, within the meaning of section 771(10) of the Tariff Act of 1930 (19 U.S.C. 1677(10)) is strontium carbonate.

The Domestic Industry

We have concluded that the relevant domestic industry consists of the domestic producers as a whole of strontium carbonate, within the meaning of section 771(4)(A) of the Tariff Act of 1930 (19 U.S.C. 1677(4)(A)).

The Question of Reasonable Indication of Material Injury or Threat Thereof

Section 733(a) of the Tariff Act 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." Section 771(7)(B) directs that in making its determination, the Commission shall consider, among other factors, (1) the volume of imports of the merchandise which is the subject of the investigation, (2) the effect of imports of such merchandise on prices in the United States for like products and (3) the impact of imports of such merchandise on domestic producers of like products. In light of these directives, we base our decision on the findings of fact and conclusions of law discussed below.

Volume of imports

Imports of precipitated strontium carbonate from West Germany have accounted for virtually all U.S. imports of this product since 1977. Imports from West Germany have increased very sharply in recent years, more than trebling from 2.3 million pounds in 1977 to 7.7 million pounds in 1979. The market penetration of imports from West Germany has similarly increased, almost trebling from 1977 to 1979.⁵¹

Effects of imports on prices

During 1977-79, a period of greatly increased imports of West German strontium carbonate, the imported product consistently undersold its domestic counterpart by substantial and generally increasing margins. The margins of underselling increased markedly during 1979 and continued into January-June 1980. In all instances, the margins of underselling were more than

accounted for by the alleged margins of sales at less than fair value.⁵²

Impact of imports on the domestic producers

Stimulated by increasing domestic consumption, U.S. production of strontium carbonate increased from 1977 to 1979; however, production declined by more than 15 percent in January-June 1980 in comparison with production during the corresponding period of 1979. Trends in capacity utilization were similar.⁵³

Yearend inventories of strontium carbonate held by domestic producers more than doubled from 1978 to 1979. Inventories had been reduced somewhat by mid-1980, but they remained at substantially greater levels than those in other recent years.⁵⁴

Producers' domestic sales of strontium carbonate increased from 1977 to 1978, then remained stable in 1979. The increase in such sales from 1977 to 1979 was far less than the increase in apparent domestic consumption, as imports from West Germany captured a much larger share of the market.⁵⁵

U.S. producers' profit realized from operations in producing strontium carbonate deteriorated sharply from 1977 to 1979; the ratio of net operating profit to net sales in 1979 was less than half that 2 years earlier. The ratio of net profit to sales increased somewhat during January-June 1980, in comparison with that in the corresponding period of 1979, but remained at a much lower level than that achieved in 1977, the year immediately preceding the large increase in imports from West Germany.⁵⁶

Conclusion

On the basis of the large margin of underselling coupled with the relatively high inventories held by U.S. producers and the stagnant or declining trends in production, capacity utilization, sales, and profit during 1977-79 and January-June 1980, we conclude that there is a reasonable indication that the domestic industry producing strontium carbonate is materially injured, or is threatened with material injury, by reason of imports from West Germany allegedly sold, or likely to be sold, at less than fair value.

Issued: October 24, 1980. ^{A-35}

⁴⁹ Since petitioners do not allege that imports of strontium carbonate materially retard the establishment of an industry in the United States, this issue will not be discussed further.

⁵⁰ Chemical Profile on strontium carbonate, Oct. 1, 1979.

⁵¹ Report, at pp. A-33, A-34, and A-38.

⁵² Report, at pp. A-8, A-40, and A-46 through A-48.

⁵³ Report, at pp. A-17 through A-18.

⁵⁴ Report, at pp. A-24 through A-25.

⁵⁵ Report, at pp. A-20 through A-21.

⁵⁶ Report, at pp. A-29 through A-31.

73820

Federal Register / Vol. 45, No. 217 / Thursday, November 6, 1980 / Notices

By Order of the Commission.
Kenneth R. Mason,
Secretary.

[FR Doc. 80-34547 Filed 11-6-80; 2:45 am]
BILLING CODE 7030-02-M

APPENDIX B

DEPARTMENT OF COMMERCE'S LETTER TO THE COMMISSION
AND NOTICE OF PRELIMINARY DETERMINATION OF
SALES AT LESS THAN FAIR VALUE



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

717 P2:48

12 FEB 1981

Honorable Bill Alberger
Chairman, International
Trade Commission
Washington, D.C. 20436

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OFFICE OF THE CHAIRMAN
U.S.I.T.C.

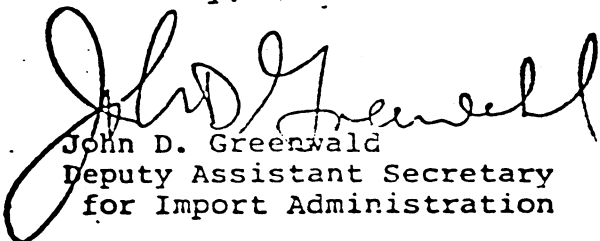
SECRET #716
Office of the Secretary Int'l Trade Commission

Dear Mr. Chairman:

In accordance with section 733(b)(1), of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act), the Department of Commerce has preliminarily determined that strontium nitrate from Italy is being sold in the United States at less than fair value within the meaning of section 731 of the Act. As section 733 of the Act requires, we are hereby formally advising you of this determination and the bases for it which are specified in the attached copy of the Federal Register notice.

Section 733(d)(3) of the Act, as amended (19 U.S.C. 1673b) directs us to give full access to all nonprivileged and nonconfidential information in our files. We will also make available all privileged and confidential information related to this case, once you confirm that you will maintain its confidentiality and will not disclose it either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Sincerely,


John D. Greenwald
Deputy Assistant Secretary
for Import Administration

Attachment

**Strontium Nitrate From Italy;
Antidumping; Preliminary
Determination of Sales at Less Than
Fair Value and Suspension of
Liquidation**

AGENCY: U.S. Department of Commerce.

ACTION: Preliminary determination of sales at less than fair value and suspension of liquidation.

SUMMARY: The U.S. Department of Commerce has preliminarily determined that strontium nitrate from Italy is being, or is likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended. Liquidation of entries for consumption is being suspended. A cash deposit, bond, or other security in an amount equal to the estimated dumping margin of 5.8 percent will be required at the time of each entry or withdrawal from warehouse. Unless there is an extension, the final determination will be made on or before May 4, 1981.

EFFECTIVE DATE: February 18, 1981.

FOR FURTHER INFORMATION CONTACT: Michael Hudak, Office of Investigations, Import Administration, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202-377-3530).

SUPPLEMENTARY INFORMATION:

Procedural Background

On September 9, 1980, the Department of Commerce received an antidumping petition from counsel representing FMC Corporation, Chicago, Illinois. The petition alleges that strontium nitrate from Italy is being, or is likely to be, sold in the United States at less than the fair value. After reviewing the petition as required by section 732 of the Tariff Act of 1930, as amended (19 U.S.C. 1673a) (the Act), we determined that there were sufficient grounds to initiate an antidumping investigation. Therefore, on October 6, 1980, we announced the initiation in the Federal Register (45 FR 66187).

On October 24, 1980, the United States International Trade Commission found that there is a reasonable indication that these imports, allegedly sold at less than fair value, are materially injuring or are threatening to materially injure a U.S. industry. The ITC published its determination in the Federal Register on November 6, 1980 (45 FR 73812).

Product Description

Currently classifiable under item 421.74 of the Tariff Schedules of the United States, strontium nitrate is a chemical compound used predominantly for producing red colors during

combustion of pyrotechnics, such as distress signals, rockets, flares, fuses and fireworks. It is also used in the manufacture of certain pigments.

Fair Value Comparisons

Fair value comparisons have been made by comparing the purchase price to the constructed value.

Purchase Price

Purchase price as defined in section 772(b) of the Act (19 U.S.C. 1677a) was used because the price to the unrelated customer was agreed to prior to the date of importation of the merchandise. Purchase price was calculated by adding cost of packing to the f.o.b. plant price.

Foreign Market Value

Constructed value, determined in accordance with section 773(e) of the Act (19 U.S.C. 1677b), was used as the basis for foreign market value because neither the sales for exportation to countries other than the United States, nor the sales in Italy, constitute a viable market. Sabed only made these sales because they had excess tonnage from a single production run. This run occurred in February and March 1980 to fulfill a contract for sale to the sole U.S. importer, and Sabed has no intention of repeating these non-U.S. sales.

The rate of exchange used in the calculation of the foreign market value was the rate for the first quarter of 1980. This is because terms for exportation to the United States were agreed to on February 8, 1980. The rate used was determined in accordance with section 353.56, Commerce Regulations (19 CFR 353.56). Statutory profit rather than actual profit was used in the calculation of constructed value in accordance with section 773(e) of the Act (19 U.S.C. 1677b).

Results of Fair Value Comparisons

Using the above criteria, we found that the purchase price was lower than the foreign market value. The margin was 5.8 percent.

Verification

We verified all information relied on in making the preliminary determination at the respondent's offices in Italy from corporate books and records. No discrepancies were noted.

Preliminary Determination

Based on comparison between United States price and constructed value we have preliminarily determined that there is a reasonable basis to believe or suspect that exports of strontium nitrate from Italy are being, or are likely to be, sold in the United States at less than fair

value within the meaning of section 731 of the Act (19 U.S.C. 1673). The margin preliminarily found was 5.8 percent.

The Department will afford interested parties an opportunity to present oral views in accordance with section 353.47, Commerce Regulations (19 CFR 353.47). This hearing is scheduled to be held, if requested, at the U.S. Department of Commerce, room 3708, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, beginning at 2:00 p.m. March 18, 1981. Interested parties who desire such a conference should provide a written request for a conference to the Office of the Deputy Assistant Secretary for Import Administration, room 2600, at the address shown above. This request should contain: (1) the name, address, and telephone number of the party requesting the conference; (2) the number of participants; and (3) a list of the issues to be discussed. All requests must be received by the Deputy Assistant Secretary no later than 10 days after publication of this notice. Any written views filed in accordance with section 353.46(a), Commerce Regulations (19 CFR 353.46(a)) should be filed at the address indicated above, in at least 10 copies. Any written views should be filed not later than March 20, 1981.

In accordance with section 733(d)(1) and (2) of the Act (19 U.S.C. 1673b), the liquidation of all entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, shall be suspended. The posting of a cash deposit, bond, or other security in the amount of 5.3 percent of the f.o.b. value, Massa, Italy of strontium nitrate will be required as of that date. This suspension of liquidation shall remain in effect until further notice.

In accordance with section 733(d)(3) of the Act (19 U.S.C. 1673b), we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will also make available all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

This determination is published in accordance with § 353.39(a)(2), Commerce Regulations (19 CFR 353.39(a)(2)).

12770

Federal Register / Vol. 46, No. 32 / Wednesday, February 18, 1981 / Notices

Dated: February 11, 1981.

John D. Greenwald,

*Deputy Assistant Secretary for Import
Administration.*

(FR Doc. 81-3454 Filed 2-17-81; 9:45 am)

BILLING CODE 3510-25-M

APPENDIX C

**NOTICE OF COMMISSION'S INVESTIGATION AND HEARING
AND LIST OF WITNESSES**

[Investigations Nos. 731-TA-31 (Final) and 731-TA-33 (Final)]

Precipitated Barium Carbonate From the Federal Republic of Germany and Strontium Nitrate From Italy

AGENCY: United States International Trade Commission.

ACTION: Institution of final antidumping investigations.

SUMMARY: As a result of affirmative preliminary determinations by the United States Department of Commerce that there is a reasonable basis to believe or suspect that exports of precipitated barium carbonate from the Federal Republic of Germany and strontium nitrate from Italy are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission (hereinafter "the Commission"), hereby gives notice of the institution of investigations Nos. 731-TA-33 (Final)—Precipitated Barium Carbonate from the Federal Republic of Germany— and 731-TA-31 (Final)—Strontium Nitrate from Italy—to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. For purposes of these investigations, precipitated barium carbonate and strontium nitrate mean those products provided for under items 422.06 and 421.74, respectively, of the Tariff Schedules of the United States (TSUS). These investigations will be conducted according to the provisions of part 207.

subpart C. of the Commission's Rules of Practice and Procedure (19 CFR Part 207, 44 FR 76457).

EFFECTIVE DATE: February 12, 1981.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Eninger, Office of Investigations, U.S. International Trade Commission, Room 348, 701 E Street, NW., Washington, D.C. 20436; telephone (202) 523-0312.

SUPPLEMENTARY INFORMATION: On October 24, 1980, the Commission unanimously determined, on the basis of the information developed during the course of investigations Nos. 731-TA-31 (Preliminary) and 731-TA-33 (Preliminary), that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports of precipitated barium carbonate from the Federal Republic of Germany and strontium nitrate from Italy, provided for in items 421.06 and 421.74, respectively, of the TSUS, which were allegedly being sold in the United States at LTFV. As a result of the Commission's affirmative preliminary determinations, the Department of Commerce continued its investigations into the question of LTFV sales. Unless the investigations are extended, the final LTFV determinations will be made by the Department of Commerce on or before May 4, 1981.

Written Submissions

Any person may submit to the Commission a written statement of information pertinent to the subject of these investigations. A signed original and nineteen (19) true copies of each submission must be filed at the office of the Secretary, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, on or before May 14, 1981. All written submissions, except for confidential business data, will be available for public inspection.

Any submission of business information for which confidential treatment is desired shall be submitted separately from other documents. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

A staff report containing preliminary findings of fact in each investigation will be available to all interested parties on April 29, 1981.

Public Hearing

The Commission will hold a public hearing in connection with these investigations on May 18, 1981, in the Hearing Room of the U.S. International Trade Commission Building, beginning at 10 a.m., e.d.t. Testimony will be received separately at the hearing for each investigation. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than close of business (5:15 p.m., e.d.t.), April 27, 1981. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10 a.m., e.d.t., on April 28, 1981, in Room 117 at the United States International Trade Commission Building. Prehearing statements must be filed on or before May 14, 1981.

Testimony at the public hearing is governed by § 207.23 of the Commission's Rules of Practice and Procedure (19 CFR 207.23). This rule requires that testimony be limited to a non-confidential summary and analysis of material contained in prehearing statements and to new information. The Commission will not receive prepared testimony for the public hearing, as would otherwise be provided for by rule 201.12(d). All legal arguments, economic analyses, and factual material's relevant to the public hearing should be included in prehearing statements in accordance with rule 207.22. Posthearing briefs will also be accepted within a time specified at the hearing.

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

This notice is published pursuant to § 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20, 44 FR 76458).

By order of the Commission.

Issued: March 3, 1981.

Kenneth R. Mason,
Secretary.

(FR Doc. 81-7813 Filed 3-10-81; 8:46 am)
BILLING CODE 7020-02-48

CALENDAR OF PUBLIC HEARING

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

Subject : Precipitated Barium Carbonate from
the Federal Republic of Germany and
Strontium Nitrate from Italy

Inv. Nos. : 731-TA-31 & 731-TA-33 (Finals)

Date and time: May 18, 1981 - 10:00 a.m., e.d.t.

Sessions were held in connection with the investigations in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., in Washington.

In support of the petition:

Leva, Hawes, Symington, Martin & Oppenheimer--Counsel
Washington, D.C.
on behalf of

FMC Corporation, Modesto, California
CPC, Cartersville, Georgia and
Sherwin Williams Co., Coffeyville, Kansas

David B. Cassidy, Product Manager, Barium and
Strontium Products, Alkali Chemicals Division,
FMC Corporation, Philadelphia, Pennsylvania

J. L. Gray, President, Chemical Products Corporation,
Cartersville, Georgia

Frank E. Butler, Manager of Operations, Coffeyville
Plant, Sherwin Williams Co., Coffeyville, Kansas

Joseph H. Price)
Simeon M. Kriesberg)--OF COUNSEL

- more -

In opposition to the petition:

Schreiber, Klink, Schreiber, Lehnardt & Carney--Counsel
New York, N.Y.
on behalf of

Kali-Chemie AG, Kalie-Chemie Corporation and
Societa Bario e Derivati, SpA

Winfried J. Fremuth, President, Kalie-Chemie Corp.

John F. Carney)--OF COUNSEL
Lawrence C. Browne)

Steptoe & Johnson--Counsel
Washington, D.C.
on behalf of

Olin Corporation, the sole US importer of strontium
nitrate from Italy

Richard O. Cunningham)--OF COUNSEL
Ms. Charlene Barshefsky)

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the company's financial health and for providing reliable information to stakeholders. The document also outlines the specific procedures for recording transactions, including the use of standardized forms and the requirement for double-checking entries.

The second part of the document focuses on the internal control system. It describes the various controls in place to prevent fraud and errors, such as segregation of duties, authorization requirements, and regular audits. The document stresses that these controls are not just administrative tasks but are critical to the company's long-term success.

The third part of the document addresses the issue of budgeting and financial planning. It explains how the company's budget is developed and how it is used to monitor performance. The document also discusses the importance of staying on budget and the consequences of overspending.

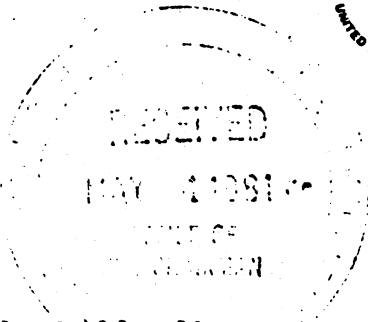
The fourth part of the document covers the topic of financial reporting. It details the requirements for preparing financial statements and the importance of transparency in reporting. The document also discusses the role of the board of directors in overseeing the company's financial performance.

APPENDIX D

DEPARTMENT OF COMMERCE'S LETTER TO THE COMMISSION
AND NOTICE OF FINAL DETERMINATION OF
SALES AT LESS THAN FAIR VALUE



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230



01 MAY 1981

Honorable Bill Alberger
Chairman, International Trade
Commission
Washington, D.C. 20436


Dear Mr. Chairman:

This is to advise you that we have reached a final determination of sales at less than fair value on strontium nitrate from Italy. We referred this case to you on February 12, 1981. Our preliminary affirmative determination was published in the Federal Register on February 18, 1981.

At the time of the preliminary determination, we found a weighted average margin of 5.8 percent. The data was revised and the current weighted average margin is 2.6 percent.

A copy of our final determination is enclosed for your information.

Sincerely,


John D. Greenwald
Deputy Assistant Secretary
for Import Administration

Enclosure



Antidumping—Strontium Nitrate From Italy; Final Determination of Sales at Less Than Fair Value

AGENCY: Department of Commerce; ITA.

ACTION: Final determination of sales at less than fair value.

SUMMARY: We have determined that strontium nitrate from Italy is being sold in the United States at a weighted-average dumping margin of 2.6 percent. The U.S. International Trade Commission is determining whether these imports are materially injuring or threatening material injury to a U.S. industry.

EFFECTIVE DATE: May 7, 1981.

FOR FURTHER INFORMATION CONTACT: Michael Hudak, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230 (202-377-3530).

SUPPLEMENTARY INFORMATION:

Procedural Background

On September 9, 1980, we received a petition in proper form from counsel representing FMC Corporation, Chicago, Illinois. The petition alleged that strontium nitrate from Italy is being "dumped", that is, sold in the United States at less than fair value within the meaning of Section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) ("the Act"), thereby materially injuring a U.S. industry. Because the petition contained sufficient grounds to warrant an investigation, on September 30, 1980, we initiated an antidumping investigation and informed the U.S. International Trade Commission ("ITC") of our action (45 FR 66187).

On the basis of information the ITC developed during its preliminary investigation, the Commission unanimously determined on October 21, 1980, that there is a reasonable indication that these imports are materially injuring, or are threatening to injure materially, a U.S. industry (45 FR 73812).

On February 11, 1981, we announced our preliminary determination that there was a reasonable basis to believe or suspect that strontium nitrate from Italy was, or was likely to be, sold in the United States at less than fair value (46 FR 12769).

Scope of the Investigation

This determination covers strontium nitrate, which is a chemical compound currently classifiable under item 421.74 of the Tariff Schedules of the United States. It is used predominantly for producing red colors during combustion

of pyrotechnics, such as distress signals, rockets, flares, fusees and fireworks.

The investigation covers the period January 1, 1980 through September 30, 1980. As Societa Bario e Derivati SpA ("SABED") of Massa, Italy produced virtually all of the strontium nitrate sold to the United States during the period under consideration, we limited the investigation to sales from SABED.

Methodology

U.S. Price

Since all sales of strontium nitrate from Italy to an unrelated U.S. customer were concluded before the merchandise was imported into the United States, we used purchase price, as defined in section 772(b) of the Act, to determine the U.S. price. We calculated purchase price on the basis of a packed price for Massa, Italy.

Foreign Market Value

Constructed value is the basis for foreign market value because we determined that neither the sales in Italy, or for exportation to countries other than the United States, constitute a viable market.

In our preliminary determination, we used the first quarter 1980 rate of exchange to convert the constructed value from lire to dollars. Counsel for the importer and counsel for the respondent have argued that this was improper, since all terms necessary for a legally enforceable contract were not fixed until each specific shipment was requested by the importer and confirmed by respondent and that a blanket order forwarded by the importer in January 1980, and confirmed by respondent in February 1980, was not binding. We scrutinized all the documents pertaining to this issue and have concluded that the terms of sale were fixed only when respondent confirmed the importer's order to ship at a quantity and price specified by the importer and confirmed by the respondent. We have therefore converted the constructed value from lire to dollars, for each shipment, using the quarterly rate of exchange applicable on the date that each order to ship was confirmed.

The respondent claimed deductions from the constructed value for extraordinary repair cost and extraordinary production loss. These claims were due to equipment breakdown. Equipment failures are to be expected in any production process and unless they are demonstrated to be unusual and extraordinary we will not permit an allocation to longer time periods or different production runs.

Respondent has not provided us with evidence that the equipment failure was unusual and extraordinary. Consequently we have not allowed this claim.

The constructed value calculation includes a deduction from raw material costs for the value of a by-product generated in the production process. Counsel for the petitioner has maintained that this value must be based on actual sales and not be an imputed value. During verification, we obtained sufficient documentation to ensure that the by-product value was based on actual sales and that all production and sales related costs were deducted.

Counsel for the petitioner argues that all costs incurred by the parent firm in support of respondent's production and sales of strontium nitrate should be included in the constructed value calculation. The respondent has explained that the parent firm incurs costs attributable to auditing and financial planning as well as those attributable to the services of directors of the parent firm who are also directors of SABED. The respondent also claims that payment for these costs are made by SABED and are part of the "Selling and General Administration" ("SGA") costs of SABED. Counsel for the respondent, however, has not been able to provide sufficient documentation to prove that the amounts for auditing and financial planning as well as for services of the directors have been included in the total SGA calculation. Therefore, we assured inclusion of these amounts by using a factor based upon sales of the parent company and sales of the merchandise in question.

In making this determination we also have focused upon questions concerning the calculation of profit for purposes of constructed value. In a prior case (*Electric Motors from Japan*, 45 FR 73723), we determined that the profit element of constructed value, as defined in section 773(e) of the Act, should be determined based upon sales of comparable merchandise to the United States by the individual producer under investigation. Consistent with that interpretation, we investigated SABED's profits on its sales to the United States during the investigation. Since the profit on these sales was less than the statutorily required minimum profit factor of eight percent, eight percent was added as the profit factor in calculating constructed values. However, we have reviewed our interpretation of section 773(e) as announced in *Electric Motors from Japan* and followed here, and we have concluded that that interpretation

is incorrect. The calculation of profit based on sales to the United States appears to be inconsistent with the meaning and intent of the statute, which, as enacted in 1979, brings constructed value within the definition of "foreign market value." In order to calculate profit for purposes of constructed value in future cases we will look to:

(1) profits on home market sales of comparable merchandise by the individual producer under investigation;

(2) profits on third country sales of comparable merchandise by the individual producer under investigation, to the extent such information is readily available; or, if not,

(3) profits on home market sales of comparable merchandise by the industry.

Verification

In making our final determination, in accordance with section 776 of the Act, we have verified all the information we relied upon, using the corporate books and records of the Italian company involved, SABED of Massa, Italy.

Final Determination

Based on the preceding criteria, and in accordance with § 353.44 of the Commerce Regulations, we have determined that exports of strontium nitrate from Italy are being sold at less than fair value within the meaning of section 731 of the Act. Margins were found on 38 percent of the merchandise sold to unrelated U.S. purchasers during the period, and they ranged from 0 to 6.6 percent. The weighted average margin over all sales was 2.6 percent. We have provided interested parties with an opportunity to present oral views in accordance with 19 CFR 353.47 and written views in accordance with 19 CFR 353.46(a).

Continuation of Suspension of Liquidation

The liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise will continue to be suspended. The Customs Service will require posting of a cash deposit, bond, or other security in the amount of 2.6 percent of the f.o.b. ex-factory value of strontium nitrate from Italy for all entries, or withdrawals from warehouse, for consumption on or after the date of publication of this notice. The cash deposits, bonds or other security on merchandise entered since the preliminary determination will remain in effect.

ITC Notification

We have referred this case to the ITC so that it may determine whether these

imports are materially injuring a U.S. industry. That determination is due within 45 days of the publication of this notice.

As section 735(c)(1)(A) of the Act requires, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without written consent of the Deputy Assistant Secretary for Import Administration.

If the ITC rules that material injury does not exist, this case will be terminated, and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC rules that such injury does exist, within seven days we will issue an antidumping duty order, directing customs officers to assess an antidumping duty on all strontium nitrate from Italy, entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, which was sold at less than the foreign market value.

John D. Greenwald,
Acting Assistant Secretary for Trade
Administration.

May 1, 1981.

[FR Doc. 81-13687 Filed 5-6-81; 8:45 am]

BILLING CODE 3510-25-M

