

# **CHLOROPICRIN FROM THE PEOPLE'S REPUBLIC OF CHINA**

**Determination of the Commission in  
Investigation No. 731-TA-130 (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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---

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Lawrence Johnson, Industry Analyst  
Andrew Valiunas, Economist  
Clarease Mitchell, Attorney  
Marvin Claywell, Accountant

---

**John MacHatton, Supervisory Investigator**

**Address all communications to  
Office of the Secretary  
United States International Trade Commission  
Washington, D.C. 20436**

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Note.--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report.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-130 (Final)

CHLOROPICRIN FROM THE PEOPLE'S REPUBLIC OF CHINA

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission unanimously determines, pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. § 1673(b)(1)), that an industry in the United States is materially injured by reason of imports from the People's Republic of China of chloropicrin, provided for in items 408.16, 408.29 and 425.52 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective September 19, 1983, following a preliminary determination by the Department of Commerce that imports of chloropicrin from China are being sold in the United States at LTFV.

Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register of October 5, 1983 (48 F.R. 45480).

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

On October 7, 1983, the Department of Commerce published a notice in the Federal Register (48 F.R. 45816) postponing its final antidumping determination. Accordingly, the Commission published a notice in the Federal Register of October 26, 1983 (48 F.R. 49558) revising its schedule for the conduct of the investigation. The public hearing was held in Washington, D.C., on February 9, 1984, and all persons who requested the opportunity were permitted to appear in person or by counsel. The staff briefing of the Commission and the Commission's vote on the investigation occurred on March 6, 1984 in a public "Government in the Sunshine" meeting of the Commission.



## VIEWS OF THE COMMISSION

On the basis of the record in investigation No. 731-TA-130 (Final), we determine that an industry in the United States is materially injured by reason of imports of chloropicrin from the People's Republic of China (China), which are being sold at less than fair value (LTFV).

Definition of the domestic industry 1/

The domestic industry against which the impact of the LTFV imports is to be assessed is defined in section 771(4)(A) of the Tariff Act of 1930 as "the domestic producers as a whole of a like product . . . ." 2/ Like product is defined in section 771(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 . . . ." 3/ During the preliminary investigation, the Commission determined that the product most like the product imported from China is chloropicrin 4/ and that the domestic industry consists of two producers of chloropicrin, Niklor Chemical Co. (Niklor) and LCP Chemicals and Plastics, Inc. (LCP). 5/ There are no additional facts in the record of this final investigation which warrant altering our preliminary definition of either the like product or the domestic industry. Thus, we adopt the definitions as previously discussed in our preliminary determination. 6/

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1/ Since there is a domestic industry, material retardation of the establishment of an industry is not an issue and will not be discussed further.

2/ 19 U.S.C. § 1677(4)(A).

3/ 19 U.S.C. § 1677(10).

4/ See Commission Report in Investigation No. 731-TA-130 (Final) Chloropicrin from the People's Republic of China (Report) at A-3-A-4 for a thorough discussion of the product.

5/ Id. at A-5.

6/ Chloropicrin from the People's Republic of China, Inv. No. 731-TA-130 (Preliminary), USITC Publication 1395 (May 1983).

Condition of the domestic industry 7/

Compared with 1980 and 1981, the condition of the domestic industry deteriorated in 1982 as production, shipments, and capacity utilization declined significantly. 8/ During 1983, some improvement was evident in production, shipments, and capacity utilization, compared with that of 1982; however, production, shipments, and capacity utilization levels in 1983 were still below the level of output in 1981. 9/

Cash flow generated from U.S. producers' chloropicrin operations increased from 1980 to 1981, but fell sharply in 1982. Sales declined in 1982 from that of 1981 and, as a result, operating profits were adversely affected in 1982. In 1983, cash flow improved, net sales increased, and the industry reported operating profits. 10/

Material injury by reason of LTFV imports

In making its determination, the Commission is directed by section 771(7)(B) of the Tariff Act of 1930 to consider, among other factors: (1) the volume of imports of merchandise under investigation; (2) the effect of such imports on domestic prices, and (3) the impact of such imports on the domestic industry. 11/

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7/ Because for most of the period covered by the investigation there were only two domestic producers, industry data have been designated confidential and our discussion must focus upon trends cast in general terms.

8/ Report at A-10-A-12.

9/ Report at A-10, A-11.

10/ In September 1983, the U.S. Department of Commerce (Commerce) preliminarily determined a 222 percent dumping margin for the Chinese product and the Chinese ceased their chloropicrin exports to the United States. *Id.* at A-8, n. 1. Subsequently, domestic fumigant manufacturers, who had already committed substantial sales to end users based on the availability of LTFV imports from China, increased purchases of the U.S. product in late 1983. This situation substantially improved the condition of the domestic industry. Consequently, 1983 data evidence an improvement in the condition of the U.S. industry. See Report at A-54-A-59.

11/ 19 U.S.C. § 1677(7).

Domestic consumption of chloropicrin remained relatively constant from 1980 to 1982, but increased in 1983. 12/ Imports of chloropicrin from China increased from a negligible amount in 1980 to a substantial amount in 1981, and in 1982 imports more than tripled. 13/ Imports declined slightly in 1983. 14/ As a share of domestic consumption, imports of chloropicrin from China increased significantly from 1980 to 1982, and declined slightly in 1983. 15/

The record shows that the price of the Chinese product has been consistently below the U.S. producers' price. The Chinese product undersold the domestic product by margins ranging from 3.7 to 29.5 percent. 16/ 17/ Consequently, the U.S. producers were forced to reduce their prices in order to compete with the LTFV imports of chloropicrin from China. Both domestic producers lowered their prices in excess of 10 percent in the beginning of 1983. 18/

In order to assess the impact of the low-priced LTFV imports in the market, it is necessary to review the historic relationship between the

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12/ Report at A-9, table 3. We note that domestic consumption of chloropicrin increased substantially in 1983 in response to the availability of low priced imports as well as lower priced domestic product.

13/ Report at A-7, A-8.

14/ Id.

15/ Report at A-9, table 3. As indicated previously, in September 1983, after Commerce's preliminary determination of sales of LTFV, imports from China were discontinued. The available data indicate that imports during the first three quarters of 1983 were substantially higher than the levels reported during the first three quarters of 1982. Report at A-54, table D-1.

16/ Report at A-23-A-26 and at A-31, table 20.

17/ Commissioner Stern notes that the large LTFV margins found by Commerce played a crucial role in assisting the sales of the subject imports.

18/ In 1982, domestic producers requested that their sole supplier of nitromethane, Angus Chemical Co., lower the price of this raw material to allow them to compete more effectively with LTFV imports from China. Angus responded by lowering the price of nitromethane in the third quarter of 1982, again in the fourth quarter of 1982, and by an even larger amount in the first quarter of 1983. The price for the first quarter of 1983 was in effect during all of 1983. Report at A-32.

domestic producers and the major domestic purchasers of chloropicrin. As the following discussion indicates, the availability of LTFV imports from China significantly affected the U.S. market structure and resulted in domestic producers losing significant sales volume and market share to imports. 19/

Only Niklor Chemical Co., Inc. (Niklor) and LCP Chemicals and Plastics, Inc. (LCP), currently produce chloropicrin in the United States. International Minerals & Chemical Corp. (IMC) and Dow Chemical Co. (Dow) also produced chloropicrin in the United States. In November 1980, Dow ceased producing chloropicrin and became a purchaser of chloropicrin. On April 30, 1982, IMC sold its chloropicrin producing plants to LCP. The three major purchasers of chloropicrin are Great Lakes Chemical Corp. (Great Lakes), Trical, Inc. (Trical), and Dow, all of which are major manufacturers of chloropicrin based fumigants.

Prior to 1981, Great Lakes had purchased almost all of its chloropicrin from domestic producers, principally IMC. In 1981, two domestic producers, IMC and Niklor, continued to supply the bulk of Great Lakes' requirements. In 1982, however, Great Lakes ceased buying domestically produced chloropicrin entirely. As a share of Great Lakes' total purchases of chloropicrin, purchases from China accounted for 100 percent of Great Lakes' purchases in 1982 and substantially less in 1983.

During 1980 and 1981, Niklor supplied all of Trical's requirements for chloropicrin. In 1982, Great Lakes was able to market LTFV imports from China. Consequently, Trical substantially reduced its purchases of domestically produced chloropicrin and began purchasing the Chinese product from Great Lakes. Subsequently, Trical not only purchased Chinese

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19/ Report at A-9, table 3, and at A-23-A-26.

chloropicrin from Great Lakes, but it also began importing chloropicrin directly from China.

The third major purchaser, Dow, produced chloropicrin in the United States for its internal consumption until November 1980. Subsequently, Dow became a significant purchaser of domestically produced chloropicrin. Dow has not purchased any imported chloropicrin. 20/

Great Lakes, one of the largest importers of chloropicrin from China and a domestic chloropicrin fumigant manufacturer, argues that it significantly increased imports of chloropicrin from China in 1981 and 1982 because of the quality and supply problems it experienced with IMC. IMC was a major producer of chloropicrin in the United States for 20 years prior to selling its chloropicrin facilities to LCP. Great Lakes argues that the low price of the imported chloropicrin was not a factor in its decision to source offshore. LCP has acknowledged that such problems existed, but that these problems had been solved, and Great Lakes had been apprised of this, before Great Lakes began importing significant quantities of chloropicrin from China in 1981. 21/ No purchaser has raised the issue of quality with respect to Niklor, the second major domestic producer of chloropicrin.

Even if Great Lakes' quality problems with IMC's product caused it initially to import chloropicrin from China, the record indicates that beyond importing chloropicrin for its own needs, Great Lakes began selling

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20/ A fourth domestic soil fumigant manufacturer began using small quantities of imported chloropicrin from the PRC in 1983. Report at A-70.

21/ Until 1983, Great Lakes never purchased chloropicrin from LCP after it ceased purchasing from IMC in 1981. Thus, the quality and supply problems it alleged related only to Great Lakes' purchases from IMC. Dow, which began purchasing chloropicrin from IMC and LCP after IMC ceased production of chloropicrin in 1980, has not reported any quality problems with domestically produced chloropicrin. Report at A-27 and Memorandum INV-H-046, Mar. 5, 1984.

imported chloropicrin in competition with domestic producers, including Niklor. In 1982 and 1983, Great Lakes sold substantial quantities of imported chloropicrin to Niklor's principal customer, Trical. 22/ The information available to the Commission indicates that the price of the imported chloropicrin sold by Great Lakes to Trical was lower than Niklor's price to Trical for domestically produced chloropicrin. Subsequently, Trical began importing directly from China because Trical did not want to rely upon its competitor, Great Lakes, as a supplier of the low-cost imported product. Furthermore, Trical was concerned that Great Lakes would sell the imported chloropicrin directly to Trical's customers. 23/ Thus, price was an important factor in Trical's purchase of imported chloropicrin from Great Lakes and China. 24/

Great Lakes and Trical have also alleged that they experienced supply problems with domestic producers. Chloropicrin is used by manufacturers of chloropicrin based fumigants. The sale of chloropicrin is very seasonal; the bulk of it is sold during the months of April to October for blending with other chemicals for use in fumigating fields in the summer and fall. 25/ The petitioners have asserted that there would have been no supply problems with domestic producers if Great Lakes had purchased chloropicrin from domestic producers on the same contractual terms that it

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22/ Trical is a competitor of Great Lakes in the chloropicrin fumigant market. Counsel for Great Lakes has asserted that it is not uncommon for competitors to sell chloropicrin to one another. The information gathered by the Commission does not support this assertion. Great Lakes never purchased chloropicrin from Trical during the period 1980 through 1983. Furthermore, Trical never purchased chloropicrin from Great Lakes in 1980 or 1981. In 1982, only after Great Lakes had imported substantially more chloropicrin than it used in 1980 or 1981, did Trical begin to purchase chloropicrin from Great Lakes.

23/ Post-hearing statement of Trical.

24/ Transcript at 201-203.

25/ Report at A-26.

purchased from China. Great Lakes' purchases from IMC were made on a noncommittal, as needed basis. IMC's production was based on Great Lakes' forecasts of its annual needs, which were frequently subject to revision throughout the year. Unlike the situation with IMC, Great Lakes' purchases from China were made on a contractual basis for a period covering one year with approximately equal monthly shipments. 26/ Great Lakes's purchase price for the imported product was substantially lower than IMC's f.o.b. plant price to Great Lakes in 1981. The low price of the imported chloropicrin allowed Great Lakes to assume the cost of inventorying the imported product for use as needed. 27/ In turn, Great Lakes' ability to become a vendor of chloropicrin in the U.S. market was related to the fact that it had a low-priced product which allowed it to resell the product at a profit.

Based upon the substantial increase in the volume of imports, the significant degree of underselling, and the loss of market share experienced by domestic producers, we conclude that an industry in the United States is materially injured by reason of imports of chloropicrin from the PRC.

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26/ Report A-26.

27/ Prior to importation of chloropicrin from China, the record indicates that neither the domestic producers nor the domestic purchasers were willing to assume the cost of inventorying chloropicrin. Transcript at 60-61, 172, and 201. As a result, supply problems may have arisen during certain peak demand periods. The low price of the Chinese product allowed Great Lakes to inventory chloropicrin economically. This substantiates our conclusion that the low price of the LTFV imports from China was an important factor in Trical's and Great Lakes' sourcing decision and in Great Lakes' ability to resell imported chloropicrin in competition with domestic producers.





## INFORMATION OBTAINED IN THE INVESTIGATION

## Introduction

On April 6, 1983, a petition was filed with the U.S. Department of Commerce by counsel for Niklor Chemical Co., Inc., and LCP Chemicals & Plastics, Inc., alleging that imports of chloropicrin from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV), and that these imports are materially injuring, or threatening to materially injure, a U.S. industry. Accordingly, effective April 6, 1983, the Commission instituted antidumping investigation No. 731-TA-130 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673 b(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 China of chloropicrin, classified under items 408.16, 408.29, and 425.52 of the Tariff Schedules of the United States (TSUS), which are allegedly being sold at LTFV.

On May 17, 1983, the Commission determined that there was a reasonable indication that an industry in the United States is materially injured by reason of alleged LTFV imports of chloropicrin from China. Commerce, therefore, continued its investigation into the question of alleged LTFV imports and published its preliminary determination in the Federal Register of September 26, 1983 (48 F.R. 41799). Commerce preliminarily determined that chloropicrin from China is being sold, or is likely to be sold, in the United States at LTFV. Commerce also found that "critical circumstances" existed with respect to imports of chloropicrin from China. On the basis of Commerce's preliminary determination, the Commission instituted a final antidumping investigation on September 26, 1983.

Notice of the Commission's investigation and public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register of October 5, 1983 (48 F.R. 45480). On October 7, 1983, Commerce published a notice in the Federal Register (48 F.R. 45816) postponing its final antidumping determination. Accordingly, the Commission published a notice in the Federal Register of October 26, 1983 (48 F.R. 49558) revising its schedule for the conduct of the investigation. 1/ The public hearing was held on February 9, 1984. 2/

On February 1, 1984, Commerce issued an affirmative final determination with respect to dumping, but a negative final determination with respect to critical circumstances. 3/ By statute the Commission must notify Commerce of its final determination within 45 days after the final Commerce action--in this case by March 19, 1984.

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1/ Copies of the Commission's notices of institution of a final antidumping investigation and revision of schedule are shown in app. A.

2/ A list of those appearing in support of and in opposition to the petition is shown in app. B.

3/ A copy of Commerce's notice of its final dumping determination is shown in app. C.

Chloropicrin has not been the subject of any other investigation conducted by the Commission, and no other petitions for import relief have been filed by any of the petitioners or by former U.S. producers of chloropicrin.

#### Nature and Extent of Alleged Sales at LTFV

The Department of Commerce's final LTFV determination was based on an examination of chloropicrin manufactured by the China National Dyestuffs Plant in Dalian and sold by the China National Import and Export Corp. (SINOCHEM) during the period November 1, 1982--April 30, 1983. The China National Dyestuffs plant in Dalian and SINOCHEM account for all exports of chloropicrin to the United States. \* \* \* shipments, totaling \* \* \* pounds, were sent to the United States during the representative period.

For the purpose of determining whether these shipments were, or were likely to be, sold at LTFV, Commerce used as a basis of comparison the purchase price to the U.S. customers--\* \* \*--and a fair market value constructed on the basis of specific components of production in China which were valued on the basis of prices and costs in India. The purchase price was used since neither \* \* \* nor \* \* \* is related to either the Chinese manufacturer or exporter, and a constructed fair market value was used in lieu of a home-market price or third country price because China's economy is state controlled. A fair market value may be constructed on the basis of either sales prices for the product or costs of production for similar products in a nonstate-controlled-economy country which is at a stage of development comparable to the state-controlled-economy country. If the value is constructed on the basis of sales prices, the comparable nonstate-controlled-economy country must also manufacture the product in question. Japan and France are the only nonstate-controlled-economy countries other than the United States that produce chloropicrin; however, Commerce concluded that neither is at a stage of economic development comparable to China. Commerce, therefore, chose to construct a fair value on the basis of cost of production for similar products, and chose India as the country at a stage of development most comparable to China for purposes of evaluation.

Using the above criteria, Commerce calculated a weighted-average dumping margin of 58 percent. The ranges of the margins studied ranged from 38 to 63 percent of the purchase prices to the U.S. importers of the merchandise. The data used in the calculation are summarized in table 1.

Table 1.--Chloropicrin: Department of Commerce's LTFV calculations on SINOCHEM'S sales to the United States, Nov. 1, 1982-Apr. 30, 1983

\* \* \* \* \*

## The Product

### Description and uses

The product which is the subject of the petitioners' complaint is chloropicrin, a highly toxic liquid chemical compound with the formula  $\text{CCl}_3\text{NO}_2$ , used primarily as an active agent in soil fumigants for killing fungi. Small amounts are used to control insects and rodents in grain storage and to prevent decay in wood.

Soil fumigants, which contain active agents for the control of weeds, fungi, and other agricultural pests, are generally injected by machine into the soil shortly before planting. Their effect is to increase crop yields. Several chemical agents for the control of different pests are usually blended into a single fumigant. In some instances chloropicrin is used alone. In the vast majority of instances, however, it is blended with other chemical agents in concentrations ranging from less than 1 percent to over 50 percent. Most chloropicrin is used in combination with methylbromide, a weed killer, in concentrations which average about 25 to 50 percent.

The actual concentration of chloropicrin and the total quantity of fumigant used per acre will vary according to the type of crop, the degree of fungi infestation, regional climatic and soil conditions, time of year, and several other variables. Because of the high cost of using chloropicrin as a soil fungicide, about \$900 per acre, <sup>1/</sup> it is mostly used for high-unit value crops such as strawberries, flowers, and fruit trees. When it is used for relatively low-unit value crops, such as Irish potatoes or tomatoes, it is generally because such crops require less fumigant per acre to achieve the same increase in yield. Many crops which have historically been adversely affected by fungi-infested soils are now available in fungi-resistant varieties. The fungi-killing effect of chloropicrin is temporary. Once the tarps are removed from a fumigated field, the soil is subject to recontamination. For this reason chloropicrin is not used preventively. Most chloropicrin is sold from April to October, for blending with other chemicals for use in fumigating fields in the summer and fall.

Chloropicrin is not differentiated; however, it will sometimes vary in purity as a consequence of the production and packaging processes. The most critical contaminants are moisture and acid. These contaminants not only pollute the chloropicrin, but also corrode shipping containers and fumigation machinery. The quantities of moisture and acid in chloropicrin will vary from batch to batch and from time to time within a batch. Certain chemical compounds, for example, if accidentally present in chloropicrin, will degenerate into acids during storage. Ill-maintained containers can be a source of both contaminants. Currently, both the U.S.-produced and U.S.-imported products

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<sup>1/</sup> About half of the expense of using chloropicrin as a soil fungicide derives from the procedure of injecting it into the soil. Plastic tarps must be secured to the soil immediately after injection to ensure that the chemicals are not lost to the air by evaporation.

are manufactured to a level of purity which meets or exceeds virtually all commercial standards; however, prior to 1980 substantial amounts of the chloropicrin produced by one U.S. manufacturer were unacceptable to at least one large purchaser. Within the United States, most chloropicrin is stored and shipped in either railway tank cars or in steel cylinders fitted with brass valves or steel plugs.

There are two methods for producing chloropicrin, one which utilizes nitromethane as the principal raw material, and another which utilizes picric acid. Producers in the United States utilize the former method; all others utilize the latter. In the nitromethane process, nitromethane is mixed with sodium hypochlorite, formed from chlorine and caustic soda, to form chloropicrin and sodium hydroxide (caustic soda). The sodium hydroxide is either wasted or recycled back into sodium hypochlorite for further chloropicrin production. In the picric acid process, chlorine gas is bubbled through a solution of picric acid to form chloropicrin, carbon dioxide gas, and a dilute hydrochloric acid solution. U.S. producers discontinued using this method in the 1950's because of the risk and expense of handling and disposing of picric acid, a highly volatile liquid. Producers in foreign countries are generally not subject to environmental and safety regulations as strict as those in the United States. Under the same conditions, the overall purity of chloropicrin produced by the picric-acid process is somewhat higher than that produced by the nitromethane process, but the difference is normally small enough to be insignificant for end-use purposes.

For some types of fungi, chloropicrin is the only known fungicide. For other types there are chemicals, such as methyl bromide and 1-3 dichloro propene, which to some extent may be used in place of chloropicrin, but it is universally agreed that, although generally cheaper, they are not as effective. As the price of chloropicrin increases (and thus the price of fumigants containing chloropicrin), chloropicrin users will generally utilize formulations containing a lower concentration of chloropicrin before utilizing those containing no chloropicrin at all.

#### U.S. tariff treatment

Chloropicrin which is manufactured from picric acid is classified under item 408.29 (pesticides, not artificially mixed, other than insecticides, herbicides, and fungicides) of the TSUS. 1/ The column 1 (most-favored-

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1/ The petitioner believes that some chloropicrin has entered under TSUS item 408.16 (fungicides), but the Commission has been unable to obtain any evidence of such imports to date. Chloropicrin which is manufactured from nitromethane would be classified under item 425.52 (a basket provision for "other nitrogenous compounds"), according to representatives of the U.S. Customs Service.

nation) rate of duty for item 408.29 is 12.5 percent ad valorem. 1/ This rate was not changed as a result of the Tokyo round of the Multilateral Trade Negotiations (MTN). As a result, imports of chloropicrin from "least developed developing countries" (LDDC's) are dutiable at the respective column 1 rate for this item rather than at a preferential rate. 2/

The column 2 rate for item 408.29 is 7 cents per pound plus 64.5 percent ad valorem. 3/ There are no known imports from countries subject to column 2 rates of duty. Imports of chloropicrin from all beneficiary developing countries under this item are eligible for duty-free treatment under the Generalized System of Preferences (GSP). 4/ There are no known imports from countries designated as beneficiary developing countries under the GSP.

### U.S. Channels of Distribution

The vast majority of chloropicrin that is sold in the United States by U.S. and foreign producers is sold to firms which produce soil fumigants. These fumigants are then either used by fumigating divisions of these firms or are sold to independent fumigators and ultimately to farmers. All but one of the importers are producers of soil fumigants.

### U.S. Producers

The petitioners, Niklor and LCP, are the only firms which currently produce chloropicrin in the United States. Two other firms--International Minerals & Chemical Corp. (IMC), Northbrook, Ill., and Dow Chemical Co., Midland, Mich--also produced chloropicrin in the United States until April

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1/ Col. 1 rates are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China is not so enumerated and thus enjoys col. 1, most-favored-nation, status. However, these rates would not apply to products of developing countries where such articles are eligible for preferential tariff treatment provided under the Generalized System of Preferences or under the "LDDC" rate of duty column.

2/ The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items which are the products of LDDC's enumerated in general headnote 3(d) of the TSUS. Because there are no staged reductions of duty specified for item 408.29 in the Trade Agreements Act of 1979, which implemented the concessions granted as a result of the MTN, the LDDC rate of duty for this item is equivalent to the col. 1 rate.

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

4/ The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented in 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.

1982, and November 1980, respectively. On April 30, 1982, IMC sold its chloropicrin-producing plants to LCP. Neither Niklor nor LCP imports chloropicrin or manufactures nitromethane, the principal raw material used in chloropicrin production.

Niklor accounted for \* \* \* percent of U.S. chloropicrin production in 1980-83. Its headquarters and sole plant are located in Long Beach, Calif., where chloropicrin has accounted for all of Niklor's production and nearly all of its sales since it began production in 1958. About \* \* \* of Niklor's chloropicrin is blended with methyl bromide and/or other chemical agents before shipment; the rest is sold in unmixed form to fumigant producers.

LCP has been producing chloropicrin since April 1982 when it purchased IMC's chloralkaline-producing facilities at Orrington, Maine, and Ashtabula, Ohio. For LCP, as for IMC, chloropicrin has been a means of recycling waste chlorine. 1/ Chloropicrin accounts for about \* \* \* percent of sales of the chemicals manufactured at these plants. None of the chloropicrin LCP sells is blended with other chemicals before shipment.

IMC produced chloropicrin at Orrington, Maine, and Ashtabula, Ohio, for approximately 20 years before selling these facilities to LCP. The sale was predicated on its decision to cease producing chloralkali products, not chloropicrin. It sold its chloropicrin in unblended condition.

Dow also produced chloropicrin for about 20 years before it ceased production in late 1980. At this time Dow felt that purchasing chloropicrin would be cheaper than rehabilitating its aging plant. Virtually all the chloropicrin it produced it blended into fumigants. Dow remains a major producer of fumigants and a purchaser of chloropicrin.

For many years there has been only one establishment in the United States producing nitromethane. 2/ Prior to May 1975, this facility, located in Sterlington, La., was owned and operated by Commercial Solvents, Inc., at the same location. In May 1975, this facility was purchased by IMC, which in turn sold it to Angus Chemical Co., Northbrook, Ill. (a subsidiary of Alberta Natural Gas), in July 1982. The U.S. chloropicrin industry accounts for about 10 percent of domestic nitromethane sales. 3/

#### Foreign Producers

Only five plants, other than those in the United States, are known to produce chloropicrin: one in China 4/ with a reported capacity of \* \* \*

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1/ At other LCP plants waste chlorine is used to produce muriatic acid and hyperchloride bleach.

2/ The W.R. Grace Co. is currently constructing a nitromethane plant in Nashua, N.H., which, according to company officials, will be ready for commercial production by October 1984.

3/ See transcript, p. 71.

4/ China has notified the Environmental Protection Agency that chloropicrin may also be produced at plants in Wuhan, Tientsin, Shanghai, Shenyang, and Qingdao. None of these plants is known to be producing chloropicrin at the present time.

pounds (about \* \* \* that of the United States), three in Japan with a combined capacity of about 9 million pounds, and one in France with unknown capacity. With the exception of one relatively small shipment imported from \* \* \* in \* \* \*, China's Dalian facility has been the sole source of chloropicrin imported into the United States since 1980.

#### U.S. Importers

There are four firms which import chloropicrin from China: Great Lakes Chemical Corp., West Lafayette, Ind.; Toyomenka (America), Inc., New York, N.Y.; \* \* \*; and Trical, Inc., Morgan Hill, Calif. Great Lakes and Trical are major producers of agricultural fumigants and are the only major fumigant producers which are also fumigant applicators.

Great Lakes directly, or indirectly through Toyomenka, accounted for over \* \* \* percent of U.S. imports of chloropicrin from China during 1980-83. A leading producer of bromine and brominated specialty chemicals, Great Lakes obtains chloropicrin primarily for use in the soil fumigants it produces at plants in El Dorado, Ark., and Bakersfield, Calif. About \* \* \* percent of the chloropicrin Great Lakes imported between 1980 and 1983 was resold to other fumigant manufacturers. The fumigants it produces are either used in its own soil-fumigation operations or sold to other fumigators.

Trical has only recently imported chloropicrin from China. Like Great Lakes, it purchases chloropicrin for use in soil fumigants, which it manufactures at its plant in Morgan Hill, Calif. A substantial portion of these are used in its own crop fumigation business.

Toyomenka, a trading firm wholly owned by Toyomenka-kisha, Ltd., of Japan, began importing chloropicrin from China in 1981. All of the chloropicrin it has imported has been sold to Great Lakes under successive 1-year contracts.

\* \* \* \* \*

#### U.S. Fumigant Producers

In addition to Great Lakes and Trical, Dow is a major manufacturer of chloropicrin-based fumigants. Together these firms accounted for about \* \* \* percent of the chloropicrin consumed in the United States from 1980 to 1983. Other major purchasers of chloropicrin for use in soil fumigants include Hy-Yield Bromine, cited above; Pfizer, Inc., Groton, Conn.; Reddick Fumigants, Wilmington, N.C.; and Asgrow Florida Co., Plant City, Fla.

#### U.S. Imports

With the exception of a \* \* \* shipment of \* \* \* pounds imported from \* \* \* by \* \* \* in 1982, China has been the only foreign source of commercial quantities of chloropicrin in recent periods. Import data, by firms, are shown in table 2. Imports from China increased from \* \* \* pounds, valued at

Table 2.--Chloropicrin: U.S. imports from China, by firms, 1980-83

Firm	1980	1981	1982	1983
Quantity (1,000 pounds)				
Great Lakes-----	***	***	***	***
Toyomenka-----	***	***	***	***
Trical-----	***	***	***	***
* * *-----	***	***	***	***
Total-----	***	***	***	***
Value (1,000 dollars)				
Great Lakes-----	***	***	***	***
Toyomenka-----	***	***	***	***
Trical-----	***	***	***	***
* * *-----	***	***	***	***
Total-----	***	***	***	***

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

\* \* \*, in 1980 to \* \* \* pounds, valued at \* \* \*, in 1982, but then declined by \* \* \* percent in 1983. There have been no imports since September 1983 following Commerce's preliminary affirmative antidumping determination. <sup>1/</sup> From January-September 1982 to January-September 1983, imports increased by \* \* \* percent, from \* \* \* pounds to \* \* \* pounds. January-September and October-December data for 1982 and 1983 are presented in table D-1 in appendix D of this report.

Following Great Lakes' initial importation of \* \* \* pounds in 1980, both Great Lakes and Toyomenka began importing significant quantities from China in 1981, followed by \* \* \* and Trical in 1983. Prior to 1980, there were no known imports of chloropicrin from any source.

#### U.S. Consumption and Import Penetration

U.S. consumption of chloropicrin remained relatively constant from 1980 to 1982, but increased by \* \* \* percent in 1983 (table 3). Because of the availability of lower priced, Chinese-produced chloropicrin, U.S. importers planned to increase sales of chloropicrin-based fumigants in 1983. When they discontinued importing in September 1983 following Commerce's preliminary determination, importers fulfilled much of what remained of their anticipated needs with purchases of the U.S.-produced product. As a share of U.S. consumption, imports from China increased from a negligible amount in 1980 to \* \* \* percent in 1982, and then declined to \* \* \* percent in 1983 as imports

<sup>1/</sup> Commerce's preliminary LTFV determination, published on September 26, 1983, found dumping margins of 222 percent, accompanied by a preliminary affirmative determination of critical circumstances. In its final affirmative determination, Commerce found a weighted average LTFV margin of 58 percent, and reversed its critical circumstances determination.



Table 3.--Chloropicrin: U.S. producers' shipments and captive consumption, imports for consumption, exports of domestic merchandise, and apparent consumption, 1980-83

Year	Producers' shipments and captive consumption:		Imports		Producers' exports	Apparent consumption	Ratio of imports to consumption--			
	From China	From other countries	From China	From other countries			Total			
	-----1,000 pounds-----						-----Percent-----			
1980-----	***	***	***	***	***	***	***	***	***	***
1981-----	***	***	***	***	***	***	***	***	***	***
1982-----	***	***	***	***	***	***	***	***	***	***
1983-----	***	***	***	***	***	***	***	***	***	***

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

were discontinued during the last quarter. Correspondingly, U.S. producers' share fell from virtually 100 percent in 1980 to \* \* \* percent in 1982, and then rose to \* \* \* percent in 1983.

Excluding Dow's captive consumption (\* \* \* pounds in 1980 and \* \* \* pounds in 1981), U.S. consumption increased by \* \* \* percent from 1980 to 1982, or from \* \* \* pounds to \* \* \* pounds. Excluding Dow's captive consumption has no effect on the ratio of imports to consumption, except in 1981. As a share of U.S. consumption, less Dow's captive consumption, imports from China were \* \* \* percent in 1981, compared with \* \* \* percent when Dow's captive consumption is included. Data on apparent U.S. consumption and import penetration for January-September and October-December 1982 and 1983 are presented in table D-2.

### The Question of Material Injury

#### U.S. production, capacity, and capacity utilization

Because of increased production by IMC, which more than compensated for Dow's withdrawal from the industry in 1980, U.S. production of chloropicrin increased by \* \* \* percent from 1980 to 1981 (table 4). From 1981 to 1982, however, U.S. production fell by \* \* \* percent. Although U.S. production in 1983 was \* \* \* percent higher than that of 1982, it remained \* \* \* percent lower than it was in 1981. U.S. producers reported no unusual circumstances, such as employment-related problems, temporary equipment-related problems, sourcing problems, power shortages, or transitions, which resulted in a loss of production. According to company officials, there was no slowdown in operations during the transfer of IMC's facilities to LCP in April 1982. None of the U.S. producers' declines reflect a reallocation of resources to any foreign subsidiaries.

Since Dow withdrew its \* \* \* pound capacity from production in 1980, resulting in a \* \* \* percent decline in U.S. capacity in 1981, U.S. capacity to produce chloropicrin has remained at \* \* \* pounds per year. Note, however, that although Niklor's capacity was reported on the basis of operating its facilities \* \* \* hours per week, \* \* \* weeks per year, those for LCP and IMC were reported on the basis of \* \* \* hours per week, \* \* \* weeks per year. Niklor has reported that it could easily expand its productive capacity by operating its plant with additional work shifts. <sup>1/</sup> The plants operated by IMC, and then by LCP, are not affected by decisions to produce more or less chlorine or caustic soda in adjacent plants, because the chloropicrin plants use relatively small quantities of these chemicals.

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<sup>1/</sup> Transcript of hearing, at p. 132.

Table 4.--Chloropicrin: U.S. production, practical capacity, and capacity utilization, by firms, 1980-83

Item and firm	1980	1981	1982	1983
Production:				
Niklor-----1,000 pounds--	***	***	***	***
IMC/LCP 1/-----do-----	***	***	***	***
Dow-----do-----	***	***	***	***
Total-----do-----	***	***	***	***
Practical Capacity:				
Niklor 2/-----1,000 pounds--	***	***	***	***
IMC/LCP 1/ 3/-----do-----	***	***	***	***
Dow-----4/-----do-----	***	***	***	***
Total-----do-----	***	***	***	***
Ratio of production to capacity:				
Niklor-----percent--	***	***	***	***
IMC/LCP 1/-----do-----	***	***	***	***
Dow-----do-----	***	***	***	***
Average-----do-----	***	***	***	***

1/ Data through April 1982 are for IMC; subsequent data are for LCP.

2/ Capacity based on operating facilities \* \* \* hours per week, \* \* \* weeks per year. Niklor reports that it could expand its capacity by the addition of an extra work shift.

3/ Capacity based on operating facilities \* \* \* hours per week, \* \* \* weeks per year.

4/ Capacity based on operating facilities \* \* \* hours per week, \* \* \* weeks per year.

IMC's \* \* \* in production between 1980 and 1981 resulted in an increase in capacity utilization for the U.S. industry from \* \* \* percent in 1980 to \* \* \* percent in 1981. Capacity utilization then declined, however, to \* \* \* percent in 1982 as production declined. The trend reversed in 1983 when capacity utilization increased to \* \* \* percent. U.S. production, practical capacity, and capacity utilization ratios for January-September and for October-December 1982 and 1983 are shown in table D-3; these data reflect, at least in part, the effect on the domestic industry of the cessation of imports from China during October-December 1983.

#### U.S. producers' shipments and exports

U.S. producers' domestic shipments increased by \* \* \* percent from \* \* \* pounds, valued at \* \* \*, in 1980 to \* \* \* pounds, valued at \* \* \*, in 1981, but then declined by \* \* \* percent to \* \* \* pounds, valued at \* \* \*, in 1982 (table 5). From 1982 to 1983, U.S. producers' domestic shipments increased by \* \* \* percent. Unlike Niklor, IMC, and LCP, which shipped all the chloropicrin they produced, Dow used all of its production in the manufacture

Table 5.--Chloropicrin: U.S. producers' domestic shipments, intracompany consumption, and exports of U.S. production, by firms, 1980-83

Item and firm	1980	1981	1982	1983
Quantity (1,000 pounds)				
Domestic shipments:				
Niklor-----	***	***	***	***
IMC/LCP <u>1/</u> -----	***	***	***	***
Total <u>2/</u> -----	***	***	***	***
Intracompany consumption: <u>3/</u>				
Dow-----	***	***	***	***
Exports:				
Niklor-----	***	***	***	***
LCP-----	***	***	***	***
Total <u>4/</u> -----	***	***	***	***
Grand total-----	***	***	***	***
Value (1,000 dollars)				
Domestic shipments:				
Niklor-----	***	***	***	***
IMC/LCP <u>1/</u> -----	***	***	***	***
Total <u>2/</u> -----	***	***	***	***
Exports:				
Niklor-----	***	***	***	***
LCP-----	***	***	***	***
Total <u>4/</u> -----	***	***	***	***
Grand total <u>5/</u> -----	***	***	***	***

1/ Data through April 1982 are for IMC; subsequent data are for LCP.

2/ Dow shipped none of its own production.

3/ Of the U.S. producers, only Dow consumes chloropicrin. The figures represent only the amount it consumed of its own production.

4/ IMC and Dow exported none of their own production.

5/ Does not include the value of Dow's internal consumption.

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

of soil fumigants. U.S. producers' exports were less than \* \* \* percent of total shipments during the period examined. Data on U.S. producers' domestic shipments and exports for January-September and October-December of 1982 and 1983 are presented in table D-4. These data reflect, at least partially, the impact of the cessation of imports from China during October-December 1983 on domestic chloropicrin sales.

U.S. producers' inventories

Because of large increases in \* \* \* and \* \* \* inventories of chloropicrin, aggregate U.S. producers' inventories rose by \* \* \* percent from the yearend 1980 to yearend 1981 (table 6). From yearend 1981 to yearend 1983, however, U.S. producers' inventories declined by \* \* \* percent. As a share of the previous year's shipments, inventories increased from \* \* \* percent in 1980 to \* \* \* percent in 1982, but declined to \* \* \* percent in 1983, as a result of the large decline in inventories. Data on U.S. producers' inventories during January–September, and October–December of 1982 and 1983, are presented in table D-5. These data reflect, at least partially, the impact of the cessation of imports from China during October–December 1983 on producers' inventories.

Table 6.—Chloropicrin: U.S. producers' inventories of U.S. production, by firms, Dec. 31 of 1980–83

Item and firm	Dec. 31--			
	1980	1981	1982	1983
Inventories:				
Niklor-----1,000 pounds-----	***	***	***	***
IMC/LCP 1/-----do-----	***	***	***	***
Dow-----do-----	***	***	***	***
Total-----do-----	***	***	***	***
Ratio of inventories to				
total shipments				
during the preceding				
period:				
Niklor-----percent-----	***	***	***	***
IMC/LCP 1/-----do-----	***	***	2/ ***	***
Dow 3/-----do-----	***	***	***	***
Total-----do-----	***	***	***	***

1/ Data through Dec. 31, 1981, are for IMC; subsequent data are for LCP.

2/ Includes IMC's shipments from January 1980 through April 1982.

3/ Ratio of inventories to internal consumption during the preceding period.

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

Employment

For most of the chemical industry, a decline in production of one chemical does not ordinarily result in a decline in employment in the industry as a whole, since a worker's time may be allocated among several different chemicals. Even when all of a firm's resources are devoted to the production

of a single chemical, such as Niklor's, workers are usually retained to clean and maintain equipment. Basic changes in employment occur when new plants are opened or when old plants are closed or converted to produce other chemicals.

Since Dow ceased production of chloropicrin in 1980, the average number of U.S. production and related workers producing chloropicrin has remained about the same (table 7). The hours worked by these workers, however, have steadily declined. From 1980 to 1982, the hours worked by U.S. production and related workers producing chloropicrin fell by \* \* \* percent, and continued to fall, by \* \* \* percent, from January-September 1982 to January-September 1983. Annual output, in terms of pounds produced per worker-hour, was erratic and varied considerably from producer to producer. In the aggregate, output declined irregularly by \* \* \* percent from 1980 to 1982, but increased by \* \* \* percent from January-September 1982 to January-September 1983.

Excluding Dow, total compensation paid to production and related workers producing chloropicrin increased by \* \* \* percent from 1980 to 1982, but declined by \* \* \* percent from January-September 1982 to January-September 1983 (table 8). Average hourly compensation paid to these workers rose irregularly by \* \* \* percent from 1980 to 1982, and continued to rise, albeit by only \* \* \* percent, from January-September 1982 relative to the corresponding period of 1983. From 1980 to 1982, average unit labor costs rose by \* \* \* percent, but declined from January-September 1982 to January-September 1983 by \* \* \* percent.

Table 7.--Average number of production and related workers producing chloropicrin in U.S. establishments, hours worked by them, and output per hour, by firms, 1980-82, January-September 1982, and January-September 1983

Item and firm	1980	1981	1982	January-September--	
				1982	1983
Average number of production and related workers producing chloropicrin:					
Niklor-----	***	***	***	***	***
IMC/LCP 1/-----	***	***	***	***	***
Dow-----	***	***	***	***	***
Total-----	***	***	***	***	***
Hours worked by production and related workers producing chloropicrin:					
Niklor-----1,000 hours--	***	***	***	***	***
IMC/LCP 1/-----do-----	***	***	***	***	***
Dow-----do-----	***	***	***	***	***
Total-----do-----	***	***	***	***	***
Output:					
Niklor---pounds per hour--	***	***	***	***	***
IMC/LCP 1/-----do-----	***	***	***	***	***
Dow-----do-----	***	***	***	***	***
Average-----do-----	***	***	***	***	***

1/ Data through April 1982 are for IMC; subsequent data are for LCP.

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

Table 8.--Total compensation paid to production and related workers producing chloropicrin in U.S. establishments, hourly compensation, and unit labor costs, by firms, 1980-82, January-September 1982, and January-September 1983

Item and firm	1980	1981	1982	January-September--	
				1982	1983
Total compensation paid to production and related workers:					
Niklor-----1,000 dollars--	***	***	***	***	***
IMC/LCP 1/-----do-----	***	***	***	***	***
Dow-----do-----	***	***	***	***	***
Total-----do-----	***	***	***	***	***
Hourly compensation paid to production and related workers:					
Niklor-----per hour--	***	***	***	***	***
IMC/LCP 1/-----do-----	***	***	***	***	***
Dow-----do-----	***	***	***	***	***
Average-----do-----	***	***	***	***	***
Unit labor cost:					
Niklor--per 1,000 pounds--	***	***	***	***	***
IMC/LCP 1/-----do-----	***	***	***	***	***
Dow-----do-----	***	***	***	***	***
Average-----do-----	***	***	***	***	***

1/ Data through April 1982 are for IMC; subsequent data are for LCP.

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



### Financial experience of U.S. producers

Three firms, IMC, LCP, and Niklor, furnished usable income-and-loss data relative to both their establishment operations and their operations on chloropicrin alone. <sup>1/</sup> These firms accounted for 100 percent of total U.S. shipments of chloropicrin from 1980 through 1983.

Overall establishment operations.--The income-and-loss experience of IMC, LCP, and Niklor for 1980-83 on the overall operations of their establishments within which chloropicrin is produced is shown in table 9. Net sales of all products produced in these establishments were \* \* \* in 1982, down \* \* \* percent from the \* \* \* in sales reported for 1981, and down \* \* \* percent from that of \* \* \* in 1980. Establishment net sales rose by \* \* \* percent to \* \* \* in 1983. From 1980 to 1982, operating income followed approximately the same trend as net sales--rising \* \* \* percent from \* \* \*, or \* \* \* percent of net sales, in 1980 to \* \* \*, or \* \* \* percent of net sales, in 1981 and then declining sharply by \* \* \* percent to \* \* \*, or \* \* \* percent of net sales, in 1982. From 1982 to 1983, operating income declined by \* \* \* percent to \* \* \*, or \* \* \* percent of net sales.

\* \* \*. As a result, the U.S. producers sustained aggregate net losses equal to \* \* \* percent of net sales and \* \* \* percent of net sales in 1982 and 1983, respectively.

Chloropicrin operations.--Income-and-loss experience of U.S. producers on their operations producing chloropicrin is shown in table 10. Net sales of chloropicrin were \* \* \* in 1982, down \* \* \* percent from the \* \* \* level achieved in 1981, and down \* \* \* percent from the \* \* \* level achieved in 1980. Despite a decline in U.S. producers' prices from 1982 to 1983, net sales rose by \* \* \* percent to \* \* \*, as Great Lakes resumed purchasing U.S.-produced chloropicrin and ceased importing the Chinese product in the latter half of 1983. Niklor's average unit selling price rose by \* \* \* percent during 1980-82 before declining by \* \* \* percent during interim 1983. Correspondingly, Niklor's sales volume (pounds) declined by \* \* \* percent during 1980-82 before increasing by \* \* \* percent in 1983. IMC/LCP's average unit selling price rose by \* \* \* percent during 1980-82 and declined by \* \* \* percent during 1983; its sales volume (pounds) rose by \* \* \* percent in 1981, declined by \* \* \* percent in 1982, and then increased by \* \* \* percent in 1983.

In the aggregate, U.S. producers of chloropicrin earned operating incomes in each of the reporting periods and net incomes in each of the reporting periods except 1982. Operating income rose from \* \* \*, or \* \* \* percent of net sales, in 1980 to \* \* \*, or \* \* \* percent of net sales, in 1981 and then it fell sharply to \* \* \*, or \* \* \* percent of net sales, in 1982. It again rose sharply to \* \* \*, or \* \* \* percent of net sales, in 1983, paralleling the increase in U.S. producers' selling volume. Despite declining prices, U.S. producers' cost of goods sold declined from \* \* \* percent of net sales in 1982

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<sup>1/</sup> IMC sold its chloropicrin operation and other chemical operations to LCP on Apr. 30, 1982. Another firm, Dow Chemical, closed its chloropicrin operations during November 1980. Dow \* \* \* on intracompany net sales of \* \* \* during the period commencing Jan. 1, 1980, and ending in November 1980.

Table 9.--Income-and-loss experience of U.S. producers on the overall operations of their establishments within which chloropicrin is produced, by firms, 1980-83 <sup>1/</sup>

Year and firm	Net sales	Cost of goods sold	Gross income or (loss)	General, selling, and administrative expenses	Operating income or (loss)	Interest expense	All other income or (expense), net	Net income or (loss) before income taxes	Cash flow from operations	Ratio of operating income or (loss) to net sales	Ratio of net income or (loss) before income taxes to net sales
										Percent	Percent
1980											
IMC	***	***	***	***	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***	***	***	***	***
1981											
IMC	***	***	***	***	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***	***	***	***	***
1982											
IMC	***	***	***	***	***	***	***	***	***	***	***
LCP	***	***	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***	***	***	***	***
1983											
IMC	***	***	***	***	***	***	***	***	***	***	***
LCP	***	***	***	***	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***	***	***	***	***

<sup>1/</sup> Accounting years for Niklor and IMC ended on June 30, but both firms provided data on a calendar year basis.

<sup>2/</sup> IMC reported data for only the 4-month period ending Apr. 30, as it sold the chemical plants within which chloropicrin was produced on that date to LCP. LCP reported data for the 8-month period ended Dec. 31, 1982.

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

Table 10.--Income-and-loss experience of U.S. producers on their operations producing chloropicrin, by firms, 1980-83 1/

Year and firm	Net sales	Cost of goods sold	Gross income or (loss)	General, selling, and administrative expenses	Operating income or (loss)	Interest expense	All other income or (expense), net	Net income or (loss) before income taxes	Cash flow from operations	Ratio of operating income or (loss) to net sales	Ratio of net income or (loss) before income taxes to net sales
											Percent
1,000 dollars											
1980											
IMC	***	***	***	***	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***	***	***	***	***
1981											
IMC	***	***	***	***	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***	***	***	***	***
1982											
IMC 2/	***	***	***	***	***	***	***	***	***	***	***
LCP 2/	***	***	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***	***	***	***	***
1983											
LCP	***	***	***	***	***	***	***	***	***	***	***
Niklor	***	***	***	***	***	***	***	***	***	***	***
Total or average	***	***	***	***	***	***	***	***	***	***	***

1/ Accounting years for Niklor and IMC ended on June 30, but both firms provided data on a calendar-year basis.

2/ IMC reported data for only the 4-month period ending Apr. 30, as it sold the chemical plants within which chloropicrin was produced on that date to LCP. LCP reported data for the 8-month period ended Dec. 31, 1982.

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

to \* \* \* percent of net sales in 1983, primarily as a result of a decline in the price of nitromethane. Nitromethane accounts for \* \* \* percent of Niklor's and \* \* \* percent of LCP's raw-material costs. Raw materials account for \* \* \* percent of Niklor's and \* \* \* percent of LCP's cost of goods sold. <sup>1/</sup> Overall, nitromethane accounts for \* \* \* percent of Niklor's cost of producing chloropicrin, and \* \* \* percent of LCP's cost of production. Net income before income taxes was equal to \* \* \* percent of net sales in 1980, \* \* \* percent in 1981, and \* \* \* percent in 1983. The 1982 net loss was equal to \* \* \* percent of net sales.

The reporting firms reported positive cash flows of \* \* \*, \* \* \*, and \* \* \* during 1980, 1981, and 1982, respectively. Cash flow was \* \* \* for 1983. Data on the financial experience of U.S. producers on their chloropicrin operations for January-September and October-December of 1982 and 1983 are presented in table D-6.

Investment in productive facilities.--U.S. producers' investment in productive facilities employed in the manufacture of chloropicrin is shown in table 11. Their investment in such facilities, valued at original cost, ranged from a high of \* \* \*, as of December 31, 1981, to a low of \* \* \*, as of September 30, 1982, December 31, 1982, and September 30, 1983. The book value of such assets ranged from a low of \* \* \*, as of December 31, 1980, to a high of \* \* \*, as of September 30, 1982. The 1982 change in the original cost and book value of productive facilities reflects LCP's purchase of IMC's chloropicrin facilities.

Capital expenditures.--Capital expenditures relative to the production of chloropicrin are shown in table 12 for 1980-82, January-September 1982, and January-September 1983. Such expenditures declined by \* \* \* percent, from \* \* \* in 1980 to \* \* \* in 1982. Expenditures for January-September 1983 were \* \* \*, compared with \* \* \* for the corresponding period of 1982.

Research and development expenditures.--\* \* \* was the only producer that incurred research and development expenditures relative to its chloropicrin operation during 1980-82 and January-September 1983. Such expenditures are shown in the following tabulation (in thousands of dollars):

	<u>Value</u>
1980-----	***
1981-----	***
1982-----	***
January-September--	
1982-----	***
1983-----	***

---

<sup>1/</sup> See separate section of this report on Nitromethane, at pp. A-31 to A-33.

Table 11.--U.S. producers' investment in productive facilities used in the manufacture of chloropicrin, as of Dec. 31, 1980-82, Sept. 30, 1982, and Sept. 30, 1983 <sup>1/</sup>

Period and firm	Fixed assets		Operating income or (loss)	Ratio of operating income or (loss) to--	
	Original	Book		Original	Book
	cost	value		cost	value
	<u>1,000 dollars</u>			<u>Percent</u>	
1980:					
IMC-----	***	***	***	***	***
Niklor-----	***	***	***	***	***
Total or average--	***	***	***	***	***
1981:					
IMC-----	***	***	***	***	***
Niklor-----	***	***	***	***	***
Total or average--	***	***	***	***	***
1982:					
LCP-----	***	***	<u>2/</u> ***	***	***
Niklor-----	***	***	***	***	***
Total or average--	***	***	***	***	***
Sept. 30, 1982--					
LCP-----	***	***	<u>2/</u> ***	***	***
Niklor-----	***	***	***	***	***
Total or average--	***	***	***	***	***
Sept. 30, 1983--					
LCP-----	***	***	***	***	***
Niklor-----	***	***	***	***	***
Total or average--	***	***	***	***	***

<sup>1/</sup> The accounting year for IMC and Niklor ended on June 30, but both firms provided data on a calendar-year basis. LCP's accounting year ended Dec. 31.

<sup>2/</sup> Including the income of IMC for January-April 1982.

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

Table 12.--U.S. producers' capital expenditures for land, buildings, and machinery and equipment used in the production of chloropicrin, 1980-82, January-September 1982, and January-September 1983

Item	1980	1981	1982	January-September--	
				1982	1983
Buildings or leasehold improvements:					
IMC-----1,000 dollars--	***	***	***	***	***
Niklor-----do-----	***	***	***	***	***
Total-----do-----	***	***	***	***	***
Machinery, equipment, and fixtures:					
IMC-----1,000 dollars--	***	***	***	***	***
LCP-----do-----	***	***	***	***	***
Niklor-----do-----	***	***	***	***	***
Total-----do-----	***	***	***	***	***
Total:					
IMC-----1,000 dollars--	***	***	***	***	***
LCP-----do-----	***	***	***	***	***
Niklor-----do-----	***	***	***	***	***
Total-----do-----	***	***	***	***	***

1/ IMC reported capital expenditures for the 4 month period ended Apr. 30, 1982, as it sold its chloropicrin operation to LCP on that date.

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

U.S. producers' statements relating to the impact of LTFV imports from China on their growth, investment, and ability to raise capital.--U.S. producers were asked to describe any actual or potential negative effects of imports of chloropicrin from China on their firm's growth, investment, and ability to raise capital. Excerpts from their replies are shown below:

LCP.---\* \* \*

Niklor.---\* \* \*

#### The Question of Threat of Material Injury to an Industry in the United States

In the examination of the question of threat of material injury to an industry in the United States, the Commission may take into consideration such factors as the rate of increase of alleged LTFV imports, the capacity of producers in the exporting country to generate exports, the availability of

export markets other than the United States, and other factors, such as U.S. importers' inventories. Import trends for chloropicrin are addressed in an earlier section. Discussions of importers' inventories, Chinese capacity to generate exports, and the availability of export markets follow.

\* \* \* and \* \* \* are the only importers to have maintained inventories of Chinese-produced chloropicrin during 1980-83. These inventories, are shown in the following tabulation (in thousands of pounds):

Firm	As of Dec. 31--			
	1980	1981	1982	1983
* * *	***	***	***	***
* * *	***	***	***	***
Total	***	***	***	***

\* \* \*.

Data regarding Chinese capacity, production, and exports of chloropicrin are shown in table 13. China's capacity to produce chloropicrin has remained at about \* \* \* pounds, or about \* \* \* percent compared with that of the United States, in recent periods. Although China currently has no plans to increase capacity, expanding or building a chloropicrin plant is neither difficult nor particularly expensive, according to U.S. producers. Production increased from \* \* \* pounds, or \* \* \* percent of capacity, in 1980 to \* \* \* pounds, or \* \* \* percent of capacity, in 1983. As a share of its total production, China's exports increased from \* \* \* percent in 1980 to \* \* \* percent in 1982, but declined to \* \* \* percent in 1983. The United States' share of these exports increased from \* \* \* percent in 1980 to \* \* \* percent in 1983.

The dependency of the U.S. industry on a single source of nitromethane may limit its ability to respond to foreign competition. The W.R. Grace Co., however, may provide U.S. producers with a second source by late 1984. Nitromethane prices and their effect on U.S. producers' chloropicrin prices are further discussed in the price section of this report.

#### The Question of the Causal Relationship Between LTFV Imports and the Alleged Material Injury to an Industry in the United States

##### Lost sales

U.S. producers were asked to furnish the Commission with customer names, quantities, and dates relating to any lost sales of chloropicrin to a like product from China since January 1, 1980. IMC reported that beginning in January 1982 it lost Great Lakes as a customer. Niklor reported that in 1982

Table 13.--Chloropicrin: Chinese capacity, production, and exports, 1980-83

Item	1980	1981	1982	1983
Capacity-----1,000 pounds--	***	***	***	***
Production-----do-----	***	***	***	***
Capacity utilization-----percent--	***	***	***	***
Exports to--				
United States-----1,000 pounds--	***	***	***	***
All other-----do-----	***	***	***	***
Total-----do-----	***	***	***	***
Share of production that is exported-----percent--	***	***	***	***
Share of total exports to--				
United States-----do-----	***	***	***	***
All other-----do-----	***	***	***	***
Total-----do-----	100.0	100.0	100.0	100.0

Source: Exports to the United States compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; all other data supplied by SINOCHEN.

it lost sales of an estimated \* \* \* of chloropicrin, valued at \* \* \*, to Great Lakes, and from May 1982 to July 1983 it lost sales of an estimated \* \* \*, valued at \* \* \*, to Trical. Both estimates were made on the basis of sales to these customers in 1981.

Trical's purchases of chloropicrin in recent periods, by sources, are shown in table 14. From 1980 to 1983, Trical's purchases of chloropicrin increased from \* \* \* pounds to \* \* \* pounds, or by \* \* \* percent.

Table 14.--Chloropicrin: Trical's purchases, by sources, 1980-83

\* \* \* \* \*

Until 1982, Niklor supplied \* \* \* of Trical's needs. In 1982 Trical reduced its purchases from Niklor by \* \* \* pounds, or by \* \* \* percent, and purchased \* \* \* pounds of Chinese-produced material, valued at \* \* \*, from Great Lakes. Trical increased its purchases from Niklor by \* \* \* percent from 1982 to 1983, but continued to purchase from Great Lakes and \* \* \*. \* \* \*.

Trical's share of total purchases, total shipments, and share of U.S. consumption, by sources, are shown in table 15. Niklor's share of Trical's purchases declined from \* \* \* percent in 1980 and 1981 to \* \* \* percent in 1982, but increased to \* \* \* percent in 1983. As Niklor's share of Trical's purchases declined from 1980 to 1982, Trical's share of Niklor's shipments increased from \* \* \* percent to \* \* \* percent. The trend reversed in 1983. \* \* \*.



Table 15.--Chloropicrin: Trical's share of total purchases and shipments received, and share of U.S. consumption, by sources, 1980-83

\* \* \* \* \*

Great Lakes' purchases of chloropicrin in recent periods, are shown in table 16. From 1980 to 1983, Great Lakes' purchases increased from \* \* \* pounds to \* \* \* pounds, or by \* \* \* percent. Until 1980, when Great Lakes purchased a trial shipment from China and \* \* \* pounds from Niklor, IMC supplied virtually all of Great Lakes' needs. In 1981, Great Lakes purchased \* \* \* pounds of chloropicrin from China and increased its purchases by \* \* \* pounds from Niklor, and reduced its purchases from IMC by \* \* \* pounds. From 1980 to 1981, Great Lakes' purchases of U.S.-produced material increased by \* \* \* percent. In 1982, however, Great Lakes ceased purchasing chloropicrin from all U.S. sources. All of its needs were satisfied with material it imported from China. China continued to be Great Lakes' dominant source of chloropicrin until September 1983, when it canceled its contracts for Chinese-produced chloropicrin and resumed purchasing from LCP in large quantities. Of the \* \* \* pounds of chloropicrin Great Lakes purchased from LCP in 1983, only \* \* \* pounds were purchased prior to October. Of the chloropicrin Great Lakes imported from China in 1982 and 1983, \* \* \* percent, or \* \* \* pounds, was shipped to \* \* \* 1/; \* \* \* percent, or \* \* \* pounds, was shipped to other users; and the remainder was consumed internally by Great Lakes. The unit value of the chloropicrin it imported from China in 1983 was \* \* \* percent lower than that which it purchased from U.S. sources.

Having experienced quality and supply problems with IMC for at least 2 years, documentation of which was supplied to the Commission, 2/ Great Lakes began searching for an alternate source of supply in 1980 and 1981. IMC acknowledges that problems in this regard did exist, but that it effectively solved them before Great Lakes began importing in 1980 and that it kept Great Lakes apprised of its progress. Great Lakes was also concerned with the increasing cost of chloropicrin, which it claims was responsible for a reduction of its purchases from 1976 to 1980. Great Lakes approached Niklor during this period for additional chloropicrin. Because most of Niklor's production was committed to its regular customers in this period, Niklor was unable to supply Great Lakes with all of its requirements. Niklor, therefore, limited Great Lakes to certain quantities which it sold at premium prices. Indeed, Niklor ceased shipping to Great Lakes in \* \* \* 1981. Having been satisfied with a trial shipment purchased from China in 1980, Great Lakes substantially increased its purchases of Chinese-produced material in 1981. Niklor could have resumed producing for Great Lakes in \* \* \* 1981, but neither party contacted the other with respect to any future resumption of sales. Although Great Lakes began purchasing from LCP in 1983, it reports that it has experienced repeated delays in receiving shipments.

1/ This figure is reported by Great Lakes. \* \* \* reports that it purchased \* \* \* pounds from Great Lakes in this period, as shown in table 14.

2/ Exhibits for Great Lakes Chemical Corporation, dated Apr. 28, 1983, submitted to the Commission in conjunction with its preliminary investigation.

Table 16.--Chloropicrin: Great Lakes' purchases, by sources, 1980-83

\*            \*            \*            \*            \*            \*

Unlike its purchases from IMC, which had been made on a noncommittal basis, <sup>1/</sup> Great Lakes' purchases from China were made on a contractual basis for \* \* \*. Great Lakes entered into \* \* \* purchase agreements for the purchase of chloropicrin from China--\* \* \*.

Great Lakes' share of total purchases, its total shipments received, and share of U.S. consumption, by sources, are shown in table 17. As a share of Great Lakes' total purchases of chloropicrin, U.S. producers accounted for \* \* \* percent in 1980, \* \* \* percent in 1981, and \* \* \* percent in 1982. U.S. producers accounted for \* \* \* percent of Great Lakes' purchases in 1983, but for only \* \* \* percent of Great Lakes' purchases prior to October of that year. As a share of U.S. consumption, Great Lakes' purchases from U.S. producers declined from \* \* \* percent in 1980 to \* \* \* percent in 1982; its purchases from China increased from \* \* \* percent to \* \* \* percent in the same period.

#### Prices of chloropicrin

The sale of chloropicrin is very seasonal; the bulk of it is sold during April through October for blending with other chemicals for use in fumigating fields in the summer and fall.

The domestic producers stated in Commission questionnaires that for several years nearly all of their sales have been made to blenders (which blend chloropicrin with other chemicals before selling it to end users). \* \* \* sold \* \* \* chloropicrin to blenders; \* \* \* sold mainly to blenders but also sold very small quantities to distributors and end users. Although Great Lakes is primarily a blender, \* \* \*. \* \* \*.

Although price lists for chloropicrin are published periodically, the prices are negotiable and discounts of 5 to 10 percent are usually given from list prices. The prices quoted are usually delivered prices, with the purchasers providing their own containers and cylinders for shipment of chloropicrin, which can be either by truck or by rail.

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<sup>1/</sup> The quantity of chloropicrin that IMC produced was related to Great Lakes' forecasts of its annual needs, which were frequently revised throughout the year.

Table 17.--Chloropicrin: Great Lakes' share of total purchases and total shipments received, and share of U.S. consumption, by sources, 1980-83

Item and source	1980	1981	1982	1983
Share of total purchases from--				
Niklor-----	***	***	***	***
IMC/LCP-----	***	***	***	***
Total, U.S. producers-----	***	***	***	***
China-----	***	***	***	***
Total-----	100.0	100.0	100.0	100.0
Share of total shipments from--				
Niklor-----	***	***	***	***
IMC/LCP-----	***	***	***	***
China <u>1/</u> -----	***	***	***	***
Share of U.S. consumption from--				
Niklor-----	***	***	***	***
IMC/LCP-----	***	***	***	***
Total, U.S. producers-----	***	***	***	***
China-----	***	***	***	***
Total-----	***	***	***	***

1/ As a share of total shipments to the United States.

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

The domestic producers have alleged that the decline in the price of chloropicrin in 1983 was a result of competition from Great Lakes. The domestic producers claim that a major blender, Dow, requested that LCP lower its prices so that Dow could compete in the blended-products market with Great Lakes. 1/ According to Niklor, it reduced its prices upon the urgent request of its customers, which needed price concessions to compete. 2/

On the other hand, the importers have claimed that the decline in the domestic price of chloropicrin in 1983 was in part a result of the declining price of the principal raw material, nitromethane, and not a result of any competition from Great Lakes (which, it is reported, has not significantly reduced its end-product prices). 3/

1/ Dow is a substantial purchaser of LCP's chloropicrin. Since April 1982, when LCP acquired IMC's chloropicrin facilities, Dow purchased \* \* \* percent of LCP's chloropicrin output. Since September 1983, however, when Great Lakes began to purchase LCP's chloropicrin because of the cessation of imports from China, Dow has accounted for only \* \* \* to \* \* \* percent of LCP's output.

2/ Post-conference brief of Sidley & Austin, p. 9.

3/ Post-conference brief of Kirkland & Ellis, pp. 10 and 15.

\* \* \* \* \*

The Commission requested price data for chloropicrin from four U.S. producers, and four importers. All responded to the Commission's requests and provided information for use in this investigation. \* \* \* of the importers also purchase the U.S.-produced product; \* \* \*. Price data were requested, by quarters, for the period January 1980 through December 1983. The price data requested from domestic producers and importers were to be net delivered prices for the largest quantities sold to each respondent's eight principal customers during a given quarter.

U.S. producers' prices.---The net delivered prices for chloropicrin sold by domestic producers are presented in table 18. \* \* \*.

Niklor's weighted-average prices increased from \* \* \* per pound for its sales to its eight largest customers during \* \* \* 1980 to \* \* \* per pound during \* \* \* 1981. During \* \* \* 1982, such weighted-average prices ranged from \* \* \* to \* \* \* per pound, dropping thereafter to \* \* \* per pound in \* \* \* 1983.

The second domestic producer, IMC, produced chloropicrin until April 30, 1982, at which time the facilities of the company were acquired by LCP. The prices received by IMC for chloropicrin declined from \* \* \* per pound in \* \* \* 1980 to \* \* \* per pound in \* \* \* 1980, for an overall decline of \* \* \* percent. IMC's prices remained at that level through \* \* \* 1981, but thereafter rose by \* \* \* percent to \* \* \* during \* \* \* 1982. When LCP entered the market during \* \* \* 1982, its prices for chloropicrin were \* \* \* per pound, \* \* \*. LCP's prices fell thereafter to \* \* \* per pound by \* \* \* 1983.

Prices paid by purchasers for U.S.-produced and U.S.-imported chloropicrin.---The net delivered prices paid by purchasers of domestic and imported chloropicrin are shown in table 19. \* \* \*. The net delivered price paid by Trical for domestic chloropicrin remained at \* \* \* per pound throughout \* \* \* 1980, increased to \* \* \* per pound during \* \* \* 1981, then jumped to \* \* \* in \* \* \* 1981 and remained at this level through \* \* \* 1982. The prices declined to \* \* \* per pound during \* \* \* 1983, then increased slightly to \* \* \* per pound in \* \* \* 1983. Trical also purchased imported chloropicrin from China, \* \* \*. \* \* \*.

Table 18.--Chloropicrin: Largest quantities sold, net delivered price ranges, and weighted-average prices received by domestic producers from their 8 largest customers, by quarters, January 1980-December 1983

Period	Niklor				LCP				IMC			
	Quan- tity	Price range	Weighted- average price per pound	Quan- tity	Price range	Weighted- average price per pound	Quan- tity	Price range	Weighted- average price per pound	Quan- tity	Price range	Weighted- average price per pound
1980:	1,000			1,000			1,000			1,000		
Jan.-Mar----	***	***	***	***	***	***	***	***	***	***	***	***
Apr.-June----	***	***	***	***	***	***	***	***	***	***	***	***
July-Sept----	***	***	***	***	***	***	***	***	***	***	***	***
Oct.-Dec----	***	***	***	***	***	***	***	***	***	***	***	***
1981:												
Jan.-Mar----	***	***	***	***	***	***	***	***	***	***	***	***
Apr.-June----	***	***	***	***	***	***	***	***	***	***	***	***
July-Sept----	***	***	***	***	***	***	***	***	***	***	***	***
Oct.-Dec----	***	***	***	***	***	***	***	***	***	***	***	***
1982:												
Jan.-Mar----	***	***	***	***	***	***	***	***	***	***	***	***
Apr.-June----	***	***	***	***	***	***	***	***	***	***	***	***
July-Sept----	***	***	***	***	***	***	***	***	***	***	***	***
Oct.-Dec----	***	***	***	***	***	***	***	***	***	***	***	***
1983:												
Jan.-Mar----	***	***	***	***	***	***	***	***	***	***	***	***
Apr.-June----	***	***	***	***	***	***	***	***	***	***	***	***
July-Sept----	***	***	***	***	***	***	***	***	***	***	***	***
Oct.-Dec----	***	***	***	***	***	***	***	***	***	***	***	***

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

Table 19.--Chloropicrin: Net delivered prices paid by purchasers for domestic and imported product, by quarters, January 1980-December 1983

\* \* \* \* \*

Toyomenka purchased \* \* \* U.S.-produced chloropicrin during the period covered by the Commission's questionnaire. It began purchasing Chinese chloropicrin in October-December 1981. Toyomenka's prices for Chinese-produced chloropicrin, which ranged from \* \* \* to \* \* \* between October-December 1981 and July-September 1983, were \* \* \* than prices paid by any other importer.

Great Lakes \* \* \* chloropicrin from China from \* \* \* 1980 to \* \* \* 1983. Great Lakes purchased Chinese chloropicrin \* \* \*. The prices paid for the imported product varied because of differences in packaging (ISO (International Standard Organization)) containers or pails and also varied by destination. In addition, Great Lakes also purchased the domestic product in \* \* \* 1980, at \* \* \* per pound, and in \* \* \* 1981, at \* \* \* per pound. Other purchases were from China. Great Lakes' initial purchase, in \* \* \* 1980, was at \* \* \* per pound. Its imports during \* \* \* 1981 were at \* \* \* per pound, with the price first declining to \* \* \* per pound in \* \* \* 1982, then rising to \* \* \* per pound (the level of \* \* \* 1981), then decreasing somewhat to \* \* \* per pound during \* \* \* 1982. The prices increased to \* \* \* per pound in \* \* \* 1983, and then declined slightly to \* \* \* per pound in \* \* \* 1983. There were no purchases of Chinese chloropicrin during the last quarter of 1983.

Margins of underselling.--The delivered price for Chinese-produced chloropicrin has been consistently below that of U.S. producers. The margins of underselling for the Chinese chloropicrin are presented in table 20. The table shows six quarters, one in 1980, three in 1982, and two in 1983, for which domestic and imported chloropicrin were purchased by the same firm. During \* \* \* 1980, Great Lakes' purchase price for domestic chloropicrin was \* \* \* per pound; the price paid for the Chinese product was \* \* \* per pound, resulting in a margin of underselling of \* \* \* percent. Another purchaser, Trical, bought Chinese chloropicrin from Great Lakes during \* \* \* 1982 at \* \* \* per pound, and paid \* \* \* per pound for the domestic product, resulting in a margin of underselling during these \* \* \* quarters of \* \* \* percent. During \* \* \* 1982, Trical paid \* \* \* per pound for the Chinese chloropicrin, whereas the domestic price remained at \* \* \*; thus the margin of underselling for the \* \* \* 1982 was \* \* \* percent. \* \* \*. Trical purchased the Chinese product during \* \* \* 1983 at \* \* \* per pound \* \* \*, and paid \* \* \* per pound for the domestic chloropicrin. The margin of underselling for this period was \* \* \* percent.

Table 20.--Chloropicrin: Margins of underselling, by quarters, January 1980  
December 1983

\* \* \* \* \*

Exchange-rate changes.--China's currency depreciated considerably in terms of the U.S. dollar during 1980-83 as indicated in the following tabulation, which shows the exchange rate indexes for 1980-83 (January-March 1980=100): 1/

<u>Period</u>	<u>Yuan per U.S. dollar</u>	<u>Index</u>
1980:		
January-March-----	1.5151	100
April-June-----	1.5009	99
July-September-----	1.4644	97
October-December-----	1.5132	100
1981:		
January-March-----	1.5958	105
April-June-----	1.7150	113
July-September-----	1.7684	117
October-December-----	1.7410	115
1982:		
January-March-----	1.8077	119
April-June-----	1.8374	121
July-September-----	1.9376	128
October-December-----	1.9722	130
1983:		
January-March-----	1.9528	129
April-June-----	1.9873	131
July-September-----	1.9848	131
October-December-----	1.9850	131

The tabulation indicates that during April-September 1980, the yuan's value vis-a-vis the U.S. dollar increased somewhat; however since 1981 the Chinese yuan's value has declined relative to the dollar. The decline of the yuan relative to the dollar between January-March 1980 and April-December 1983 was 31 percent.

Prices of nitromethane.--A substantial portion of the price of domestically produced chloropicrin consists of the cost of nitromethane, the

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1/ International Financial Statistics, February 1984.

principal raw material used in the production of chloropicrin. 1/ IMC purchased the Sterlington, La., facility of Commercial Solvents Co., the only U.S. producer of nitromethane, in 1975. IMC thereby became the owner of the only known nitromethane production facility in the world. It sold this facility to Angus Chemical Co. in July 1982, as one of its steps in divesting itself of many of its chemicals operations. To the extent that the petitioners are dependent upon this sole producer for their supplies of nitromethane, they operate under a certain degree of risk. Although it is possible to construct a chloropicrin plant of Niklor's size for approximately \* \* \*, excluding land, the capital investment required to construct a nitromethane plant would be considerable, even prohibitive, if the nitromethane were exclusively earmarked for chloropicrin production. Chloropicrin producers currently purchase only 10 percent of Angus' annual output of nitromethane. The remaining 90 percent of Angus' output, therefore is used for other purposes. 2/ The W.R. Grace Co. has recently announced that it is constructing a nitromethane plant which should be ready for commercial production by October 1984. Should this second source of nitromethane become available to U.S. producers, their operating risk will be reduced accordingly.

The price of nitromethane generally increased steadily during January 1979-June 1982, then declined during subsequent quarters, as shown in the following tabulation (per pound): 3/

<u>Year</u>	<u>January- March</u>	<u>April- June</u>	<u>July- September</u>	<u>October- December</u>
1979	***	***	***	***
1980	***	***	***	***
1981	***	***	***	***
1982	***	***	***	***
1983	***	***	***	***

---

1/ Niklor reported, in its posthearing submissions that nitromethane accounts for \* \* \* percent of its total cost of producing chloropicrin, other raw materials (mostly chlorine and caustic soda) account for \* \* \* percent, direct labor accounts for \* \* \* percent and other factory costs account for \* \* \* percent of the cost of production. For LCP, its posthearing submission indicates that nitromethane accounts for \* \* \* percent of its cost of production of chloropicrin, other raw materials account for \* \* \* percent, direct labor accounts for \* \* \* percent, and other factory costs account for \* \* \* percent of the cost of producing chloropicrin. As indicated in Niklor's testimony in the public hearing (Transcript, p. 56), its other raw materials costs are higher than LCP's because Niklor is not a producer of chlorine or of caustic soda and must purchase these chemicals at open market prices, while LCP produces these chemicals itself, at a probable overall cost savings to the firm.

2/ Transcript, p. 71.

3/ Price data provided by Angus Chemical Co.



The above tabulation shows that the price for nitromethane rose from \* \* \* per pound during \* \* \* 1979 to \* \* \* during \* \* \* 1982. To lower their raw-material costs and thus remain more competitive with imports, Niklor and LCP, which had purchased IMC's chloropicrin operations at the end of April 1982, requested that Angus lower its nitromethane prices in mid-1982. Angus responded by lowering its prices first to \* \* \* and then to \* \* \* during \* \* \* 1982, respectively, and then finally to \* \* \* in \* \* \* 1983. The price of \* \* \* per pound was in effect during all of 1983.



**APPENDIX A**

**COMMISSION'S NOTICES  
OF INSTITUTION OF A FINAL ANTIDUMPING INVESTIGATION  
AND REVISION OF SCHEDULE**

**Written submissions.**—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before December 16, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. 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 (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A, C, and D (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982) and Part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.30 of the Commission's rules (19 CFR 207.30).

Issued September 27, 1983.

By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 83-27186 Filed 10-4-83; 8:45 am]  
BILLING CODE 7020-02-M

#### [Investigation No. 1C4-TAA-19]

#### Certain Scissors and Shears From Brazil

**AGENCY:** International Trade Commission.

**ACTION:** Change in the date for the hearing to be held in connection with the subject investigation.

**EFFECTIVE DATE:** September 23, 1983.

**SUMMARY:** The United States International Trade Commission hereby gives notice that the date of the public hearing to be held in connection with the subject investigation is changed

from October 6, 1983, to October 20, 1983. The hearing will begin at 10:30 a.m. on that date and will be held in the Commission's Hearing Room, located at 701 E Street, NW., Washington, D.C. Information concerning participation in the hearing is contained in the Commission's original notice of investigation (48 FR 33064, July 20, 1983).

Because the date for the hearing is changed, certain other dates established in the original notice of investigation are also changed. The new date for the submission of prehearing briefs by parties is October 14, 1983, and the new date for the submission of posthearing briefs is October 25, 1983. All other dates established in the original notice of investigation remain unchanged.

**FOR FURTHER INFORMATION CONTACT:** Mr. Lynn Featherstone, Supervisor Investigator (202-523-0242), Office of Investigations, U.S. International Trade Commission.

Issued: September 26, 1983.

By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 83-27187 Filed 10-4-83; 8:45 am]  
BILLING CODE 7020-02-M

#### [Investigation No. 731-TA-130 (Final)]

#### Chloropicrin From the People's Republic of China

**AGENCY:** International Trade Commission.

**ACTION:** Institution of final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

**EFFECTIVE DATE:** September 19, 1983.

**SUMMARY:** As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from the People's Republic of China (China) of chloropicrin, classified under items 408.16, 408.29, and 425.52 of the Tariff Schedules of the United States, 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 hereby gives notice of the institution of Investigation No. 731-TA-130 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) 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. Unless the investigation is extended, the Department of Commerce will make its final dumping determination in the case on or before November 28, 1983, and the Commission will make its final injury determination on or before January 17, 1984 (19 CFR 207.25).

**FOR FURTHER INFORMATION CONTACT:** Larry Reavis, Office of Investigations, U.S. International Trade Commission, telephone 202-523-0296.

#### SUPPLEMENTARY INFORMATION:

**Background.**—On May 23, 1983, the Commission notified the Department of Commerce that, on the basis of the information developed during the course of its preliminary investigation, there is a reasonable indication that an industry in the United States is materially injured by reason of alleged LTFV imports of chloropicrin from China. The preliminary investigation was instituted in response to a petition filed on April 6, 1983, by counsel for LCP Chemicals and Plastics, Inc., and Niklor Chemical Co., Inc.

**Participation in the investigation.**—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), amended by 47 FR 33682, Aug. 4, 1982).

**Staff report.**—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on November 18, 1983, pursuant to § 207.21

of the Commission's rules (19 CFR 207.21).

**Hearing.**—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on December 7, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Request to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on November 7, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., on November 21, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is November 29, 1983.

**Testimony at the public hearing** is governed by 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, August 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Post hearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24, as amended by 47 FR 6191, February 10, 1982) and must be submitted not later than the close of business on December 15, 1983.

**Written submission.**—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before December 15, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13791, April 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. 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 section 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, 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, as amended by 47 FR 6190, February 10, 1982, and 47 FR 33682, August 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 FR 6188, February 10, 1982; 47 FR 13791, April 1, 1982; and 47 FR 33682, August 4, 1982).

This notice is published pursuant to 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, February 10, 1982).

Issued: September 27, 1983.  
By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 83-27190 Filed 10-4-83; 8:45 am]  
BILLING CODE 7020-02-M

[Investigation No. 731-TA-103 (Final)]

### Cotton Shop Towels From the People's Republic of China

#### Determination

On the basis of the record<sup>1</sup> developed in the subject investigation, 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 the People's Republic of China (China) of shop towels of cotton, provided for in item 366.2740 of the Tariff Schedules of the United States Annotated (TSUSA), which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

#### Background

The Commission instituted this investigation effective April 14, 1983, following a preliminary determination by the Department of Commerce that imports of cotton shop towels from China are being sold in the United States at LTFV.

Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of

the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. and by publishing the notice in the Federal Register on April 20, 1983, (48 FR 16976). The hearing was held in Washington, D.C. on August 18, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on the investigation to the Secretary of Commerce on September 23, 1983. A public version of the Commission's report, *Cotton Shop Towels from the People's Republic of China* (investigation No. 731-TA-103 (Final), USITC Publication 1431, 1983), contains the views of the Commission and information developed during the investigation.

Issued: September 23, 1983.

By Order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 83-27190 Filed 10-4-83; 8:45 am]  
BILLING CODE 7020-02-M

### INTERSTATE COMMERCE COMMISSION

[Docket No. AB-1 (Sub-146)]

### Chicago and North Western Transportation Co.—Abandonment Between Gladbrook and Conrad in Tama and Grundy Counties, IA; Notice of Findings

September 28, 1983.

Notice is hereby given pursuant to 49 U.S.C. 10903 that a decision decided September 28, 1983, a finding, which is administratively final, was made by the Administrative Law Judge stating that, the public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of a line of railroad extending between Gladbrook and Conrad, IA, a distance of 9.0 miles, in Tama and Grundy Counties, IA.

Abandonment is subject to the conditions for the protection of employees discussed in *Oregon Short Line Railroad Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above-described finding, 30 days after publication of this notice, unless within 15 days from the date of publication, the Commission further finds:

A-37

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form

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

of alleged (1) infringement of claims 1 through 8 of U.S. Letters Patent 3,397,069; (2) infringement of claims 2 through 5 and 7 through 14 of U.S. Letters Patent 3,704,483; and (3) misappropriation of trade secrets. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that after a full investigation, the Commission issue a permanent exclusion order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of investigation: Having considered the complaint, the U.S. International Trade Commission, on October 19, 1983, ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain skinless sausage casings into the United States, or in their sale, by reason of alleged (1) infringement of claims 1 through 8 of U.S. Letters Patent 3,397,069; (2) infringement of claims 2 through 5 and 7 through 14 of U.S. Letters Patent 3,704,483; or (3) misappropriation of trade secrets, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Union Carbide Corp., Old Ridgebury Road, Danbury, Connecticut 06817.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Viscofan, S.A., Industria Navarra de Involturas Cellulosicas, S.A., Avenida Tolosa S/N, Torre Lacea I.C., San Sebastian, Spain.

Hygrade Food Products Corporation, 680 Fifth Avenue, New York, New York 10019.

(c) Juan Cockburn, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 128, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondent in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

**FOR FURTHER INFORMATION CONTACT:**  
Juan Cockburn, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202-523-1272.

Issued: October 21, 1983.  
By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 83-29147 Filed 10-25-83; 8:45 am]  
BILLING CODE 7020-02-M

[Investigation No. 337-TA-146]

**Import Investigations; Certain Canape Makers, Issuance of Exclusion Order**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice is hereby given that the Commission has issued a general

exclusion order in the above-captioned investigation.

Authority: 19 U.S.C. 1337.

**SUPPLEMENTARY INFORMATION:** The presiding officer issued an initial determination on July 21, 1983, in which she determined that there has been a violation of section 337 in the unauthorized importation and sale of certain canape makers by reason of the infringement by said canape makers of U.S. Letters Patent Des. 268,318 owned by complainant LK Manufacturing Corp., the effect and tendency of which importation and sale was to substantially injure the relevant domestic industry.

On August 16, 1983, the Commission determined not to review the presiding officer's initial determination, thereby allowing it to become the Commission determination on violation of section 337. The Commission requested written submissions on the issues of remedy, the public interest, and bonding from the parties, other government agencies, and the public. Complainant and the Commission investigative attorney filed written submissions.

Copies of the Commission's Action and Order, its Opinion, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

**FOR FURTHER INFORMATION CONTACT:**  
Clarease E. Mitchell, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-3395.

By order of the Commission.

Issued: October 20, 1983.

Kenneth R. Mason,  
Secretary.

[FR Doc. 83-29143 Filed 10-25-83; 8:45 am]  
BILLING CODE 7020-02-M

[Investigation No. 731-TA-130; Final]

**Import Investigations; Chloropirrin From the People's Republic of China**

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

**ACTION:** In conference with the determination of the International Trade Administration of the Department of Commerce to amend its schedule for the conduct of the referenced investigation

(48 FR 45816, Oct. 7, 1983), the Commission hereby revises its schedule as follows: The prehearing conference will be held on January 24, 1984; the hearing will be held on February 9, 1984; and the Commission's final determination shall be issued on or before March 19, 1984.

**EFFECTIVE DATE:** October 17, 1983.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this final antidumping investigation effective September 19, 1983, and scheduled a hearing to be held in connection therewith for December 7, 1983 (48 FR 45480, Oct. 5, 1983). On October 7, 1983 (48 FR 45216), the Department of Commerce extended the investigation in response to a request from the China National Import and Export Corporation, the exporter of the subject merchandise in the People's Republic of China. The effect of the extension was to change the scheduled date for Commerce to make its final determination from November 28, 1983, to February 1, 1984. Accordingly, the Commission is revising its schedule in the investigation to conform with Commerce's new schedule.

The Commission's hearing, which was to have been held on December 7, 1983, has been rescheduled to begin at 10 a.m. on February 9, 1984, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW, Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on January 27, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10 a.m. on January 24, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is February 3, 1984. A public version of the prehearing staff report containing preliminary findings of fact in this investigation will be placed in the public record in January 24, 1984.

**FOR FURTHER INFORMATION CONTACT:** Larry Reavis (202-523-0296), Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436.

By order of the Commission,

Issued: October 17, 1983.

Kenneth R. Mason,  
Secretary.

[FR Doc. 83-29139 Filed 10-25-83; 8:45 am]

BILLING CODE 7020-02-M

[332-169]

**Import Investigations; Competitive Conditions Relating to the Importation of Industrial Molds Into the United States From Canada**

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

**ACTION:** This notice announces the hearing location in connection with the Commission's investigation on the competitive conditions relating to the importation of industrial molds into the United States from Canada.

**EFFECTIVE DATE:** October 21, 1983.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the public hearing in connection with the investigation will be held beginning at 10 a.m. on February 2, 1984, to be continued on February 3, 1984, if required, in the Westin Hotel, Marquette Room, Renaissance Center, Detroit, Michigan. Notice of the institution of the investigation was published in the Federal Register of September 21, 1983 (48 FR 43109).

**FOR FURTHER INFORMATION CONTACT:** David Slingerland (202-523-0263), Office of Industries, Machinery and Equipment Division, U.S. International Trade Commission, Washington, D.C. 20436.

By order of the Commission.

Issued: October 21, 1983.

Kenneth R. Mason,  
Secretary.

[FR Doc. 83-29142 Filed 10-25-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-144]

**Import Investigations; Certain Direct Current Brushless Axial Flow Fans, Commission Decision Not To Review Initial Determination Partially Terminating the Investigation**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** The Commission has determined not to review an initial determination (I.D.) (Order No. 7) terminating the above-captioned investigation as to U.S. Letters Patent Nos. 4,332,668 and 4,030,005. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983; to be codified at 19 CFR 210.53 (c) and (h).

**SUPPLEMENTARY INFORMATION:** The Commission, has received neither a petition for review of the I.D. nor comments from the public or other government agencies.

**FOR FURTHER INFORMATION CONTACT:** William E. Perry, Esq., Office of the General Counsel, telephone 202-523-0499.

By order of the Commission.

Issued: October 20, 1983.

Kenneth R. Mason,  
Secretary.

[FR Doc. 83-29144 Filed 10-26-83; 8:45 am]

BILLING CODE 7020-02-M

[332-162]

**Import Investigations; Foreign Industrial Targeting and Its Effects on U.S. Industries; Phase II, the European Community and Member States**

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

**ACTION:** This notice announces the start of the second phase of the Commission's investigation of foreign industrial targeting, investigation 332-162, and informs the public of the schedule of that phase, including the scheduling of a public hearing.

**EFFECTIVE DATE:** October 18, 1983.

**FOR FURTHER INFORMATION CONTACT:** Dr. John Suomela, Director, Office of Economics (202) 523-3771 or Dr. Henry McFarland (202) 523-1999.

**SUPPLEMENTARY INFORMATION:** The Commission instituted the present investigation on its own motion under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)) on April 19, 1983, at the request of the Subcommittee on Trade of the House Committee on Ways and Means. Notice of institution of the investigation and the schedule of the first phase of the investigation, which concerned industrial targeting by Japan, was published in the Federal Register of May 11, 1983, (48 FR 21210).

In the original notice of investigation, it was announced that the investigation would be divided into three phases: the first to consider Japanese industrial targeting, the second to consider the European Community's industrial targeting and the third to consider industrial targeting of other major U.S. trading partners.

Phase II will attempt to answer the following questions about EC and member states industrial targeting: (1) Which industries have the EC and member states targeted? (2) What specific practices have the EC and member states used to further the international competitiveness of these industries? (3) What have been the effects of these practices on the competitiveness of the targeted EC industries and their U.S. competitors?





**APPENDIX B**  
**CALENDAR OF PUBLIC HEARING**

# TENTATIVE CALENDAR OF PUBLIC HEARING

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

Subject : Chloropicrin from The People's  
Republic of China

Inv. No. : 731-TA-130 (Final)

Date and time: February 9, 1984 - 10:00 a.m.

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

## In support of the imposition of antidumping duties:

Sidley & Austin--Counsel  
Chicago, Illinois  
on behalf of

LCP Chemicals and Plastics, Inc. and Niklor  
Chemical Company, Inc.

Leo T. Belill, Director of Sales and Marketing,  
Industrial Chemicals Division, International  
Minerals & Chemical Corporation

Peter DeAngelis, CEP Association

Lowell D. Pals, Vice President - Sales and  
Marketing, ANGUS Chemical Company

Stephen C. Walter, Director of Business Develop-  
ment, LCP Chemicals & Plastics, Inc.

John M. Wilhelm, President, Niklor Chemical Co., Inc.

Stephen Wilhelm, Professor of Plant Pathology,  
University of California, Berkeley

Charles W. Douglas)  
Thomas F. Bush )--OF COUNSEL

In opposition to the imposition of antidumping duties:

Kirkland & Ellis--Counsel  
Washington, D.C.  
on behalf of

Great Lakes Chemical Corporation

David G. Norrell--OF COUNSEL

Graham & James--Counsel  
Washington, D.C.  
on behalf of

Toyomenka (America), Inc., an importer of chloropicrin  
from The People's Republic of China

Michael A. Hertzberg--OF COUNSEL

Ginsburg, Feldman and Bress--Counsel  
Washington, D.C.  
on behalf of

Trical, Inc.

Dean C. Storkan, Assistant Secretary

Harvey J. Shulman--OF COUNSEL



**APPENDIX C**

**COMMERCE'S NOTICE OF FINAL DETERMINATION**

shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 6th day of February 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board.

William T. Archey,

*Acting Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.*

John J. Da Ponte, Jr.,

*Executive Secretary.*

[FR Doc. 84-4312 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-DS-M

#### [Order No. 242]

**Resolution and Order Approving Application of Toledo-Lucas County Port Authority for a Foreign-Trade Subzone at Jeep Corporation Plant in Toledo, Ohio; Proceedings of the Foreign-Trade Zones Board, Washington, D.C.**

#### Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Toledo-Lucas County Port Authority, grantee of Foreign-Trade Zone 8, filed with the Foreign-Trade Zones Board (the Board) on June 6, 1983, requesting special-purpose subzone status for the vehicle manufacturing facilities of Jeep Corporation in Toledo, Ohio, within the Toledo Customs port of entry, the Board, finding that the

requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

**Grant of Authority To Establish a Foreign-Trade Subzone in Toledo, Ohio, Within the Toledo Customs Port of Entry**

Whereas, by an Act of Congress approved June 18, 1934, and Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Toledo-Lucas County Port Authority, grantee of Foreign-Trade Zone No. 8, Toledo, Ohio, has made application (filed June 6, 1983, Docket No. 20-83, 48 FR 27590) in due and proper form to the Board requesting a special-purpose subzone at the Jeep Corporation vehicle manufacturing facilities in Toledo, Ohio, within the Toledo Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, therefore, in accordance with the application filed June 6, 1983, the Board hereby authorizes the establishment of a subzone at Jeep's Toledo, Ohio plant, designated on the records of the Board as Foreign-Trade Subzone No. 8A at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to

the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 6th day of February 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board.

William T. Archey,

*Acting Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.*

John J. DaPonte, Jr.,

*Executive Secretary.*

[FR Doc. 84-4311 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-DS-M

#### International Trade Administration

[A-570-002]

**Final Determination of Sales at Less Than Fair Value: Chloropicrin From the People's Republic of China**

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We have determined that chloropicrin from the People's Republic of China (PRC) is being sold in the United States at less than fair value and that "critical circumstances" do not exist with respect to exports of chloropicrin from the PRC. The U.S. International Trade Commission (ITC) will determine, within 45 days of publication of this notice, whether these

imports are materially injuring, or are threatening to materially injure, a United States industry.

**EFFECTIVE DATE:** February 16, 1984.

**FOR FURTHER INFORMATION CONTACT:** Michael Ready, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-2613.

**SUPPLEMENTARY INFORMATION:**

#### Final Determination

We have determined that chloropicrin from the PRC is being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act).

We found that the foreign market value of chloropicrin from the PRC exceeded the United States price on 100 percent of sales. These margins ranged from 38 percent to 63 percent. The overall weighted-average margin on all sales compared is 58 percent *ad valorem*.

#### Case History

On April 6, 1983, we received a petition from counsel for LCP Chemicals & Plastics, Inc., and Niklor Chemical Company, Inc., filed on behalf of the United States chloropicrin industry. In accordance with the filing requirements of 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of chloropicrin from the PRC 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, and that these imports are materially injuring, or threaten to materially injure, a United States industry. The petitioners also alleged that critical circumstances exist with respect to imports of chloropicrin from the PRC. After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated the investigation on May 2, 1983 (48 FR 19765). On June 2, 1983, the ITC found that there is a reasonable indication that imports of chloropicrin are materially injuring a United States industry (48 FR 24798).

A questionnaire are presented to counsel for China National Chemicals Import and Export Corporation (SINOCHEM) on June 3, 1983. Responses were received on August 15 and October 7, 1983.

We published a preliminary determination of sales at less than fair value on September 19, 1983 (48 FR

41799). We published a Notice of Postponement of Final Antidumping Determination on October 7, 1983 (48 FR 45816). On December 3-19, we conducted verifications in the PRC of the responses submitted by SINOCHEM and in India of the data used to value the PRC factors of production. Our notice of the preliminary determination provided interested parties with an opportunity to submit views orally or in writing. On December 14, 1983, we held a public hearing.

As discussed under the "Foreign Market Value" section, we determined that the PRC is a state-controlled-economy country for the purposes of this investigation.

#### Scope of Investigation

The merchandise covered by this investigation is chloropicrin, also known as trichloronitromethane. A major use of the product is as a pre-plant soil fumigant. Chloropicrin is currently classifiable under item numbers 408.1600, 408.2900 and 425.5290 of the *Tariff Schedules of the United States Annotated (TSUSA)*.

This investigation covers the period from November 1, 1982, to April 30, 1983. SINOCHEM is the only known PRC exporter of chloropicrin to the United States. We examined 100 percent of SINOCHEM's sales to the United States made during the period of investigation.

#### Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

#### United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price based on the FOB Chinese port of CIF Hongkong price to unrelated purchasers. We made deductions for PRC inland freight and where applicable for ocean freight and marine insurance.

#### Foreign Market Value

In accordance with section 773 of the Act, and § 353.8(c) of the Commerce Regulations, we determined foreign market value by constructing a value for chloropicrin based on surrogate country costs. The petitioner alleged that the economy of the PRC is state-controlled to the extent that sales of the subject merchandise from that country do not

permit a determination of foreign market value under section 773(c) of the Act. After analyzing the PRC's economy and considering briefs submitted by the parties, we concluded that the PRC is a state-controlled economy country for purposes of this investigation. Among the factors involved in so determining were: (1) Output quotas for purchase by the state are set and prices are administered at least up to the quota level so that prices cannot be considered useful for the proper allocation of resources, (2) profits are misleading, and (3) there is not adequate representation of the costs of production.

As a result, section 773(c) of the Act requires us to use prices or the constructed value of such or similar merchandise in a "non-state-controlled economy" country. Section 353.8 of the Commerce Regulations establishes a preference for foreign market value based upon sales prices. The regulations further provide that, to the extent possible, we should determine sales prices on the basis of prices in a "non-state-controlled economy" country at a stage of economic development comparable to the country with the state-controlled economy.

Japan and France are the only non-state-controlled-economy-countries other than the United States which produce chloropicrin. Yet neither Japan or France is a suitable surrogate for purposes of this determination, because neither country is at a stage of economic development comparable to the PRC.

Therefore, pursuant to § 353.8(c) of the Commerce Regulations, we proceeded to construct a value based on specific components or factors of production in the PRC, valued on the basis of prices and costs in a non-state-controlled-economy country "reasonably comparable" in economic development to the PRC. After analyzing those non-state-controlled economies most similar to the PRC, we concluded that India was a comparable economy for valuation of the PRC factors of production. Valuation of the PRC raw materials, labor, energy and factory overhead was based on information obtained from several chemical companies in India. To these values we added amounts for general expenses and profit as required by section 773(e)(1)(B) of the Act, and the cost of all containers and coverings and other expenses, as required by section 773(e)(1)(C) of the Act.

#### Verification

In accordance with Section 776(a) of the Act, we verified data used in making this determination by using verification

procedures which included on-site inspection of manufacturer's facilities and examination of company records and selected original source documentation containing relevant information.

#### *Negative Determination of Critical Circumstances*

Counsel for petitioner alleged that imports of chloropicrin from the PRC present "critical circumstances." Under section 735(a)(3) of the Act, for the purposes of a final determination, critical circumstances exist when we find that: (1)(a) There is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value; and (2) there have been massive imports of the merchandise under investigation over a relatively short period.

For a preliminary determination under section 733(e)(1) of the Act, on the other hand, we determine only "whether there is a *reasonable basis to believe or suspect*" that such elements are present (emphasis added). The standard for a final affirmative determination is more stringent, since we must make an actual finding of whether the necessary elements exist.

In our preliminary determination in this case, we made an affirmative critical circumstances determination. We found a reasonable basis to believe or suspect that imports were massive over a relatively short period, and that importers knew or should have known that the exporter was selling chloropicrin at less than fair value. (We found no history of dumping.) The basis for our belief or suspicion regarding knowledge of dumping was solely the fact that prices on chloropicrin from the PRC were 25% less than prices for domestically produced chloropicrin. In the absence of U.S. imports from any other country, we felt that comparing PRC and U.S. prices was a reasonable basis for a belief or suspicion about knowledge of dumping. In reaching that affirmative preliminary determination, we resolved any doubts in favor of an affirmative determination in order to preserve our options for the final determination.

For purposes of this final determination, we still have found no history of dumping of chloropicrin, based on our review of: (1) Antidumping findings of the Department of the Treasury, (2) Department of Commerce antidumping duty orders, and (3)

antidumping actions of other countries made available to us through the Antidumping Code Committee established by the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade.

To determine finally whether the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise at less than fair value, we considered all information on the record. In investigations involving a product from a state-controlled economy country, it is more difficult to impute to importers knowledge of sales at less than fair value. We must make a determination on a case-by-case basis using the available information and drawing upon market conditions in the industry which is the subject of the investigation. In this case the only sources for chloropicrin in the United States are domestically produced product and chloropicrin from the PRC, since producers in other countries do not export this product to the United States. If chloropicrin were imported from third countries, importers might be able to use the price of such imports as a fair value benchmark to determine whether the PRC imports were sold at less than fair value. The absence of any third country imports significantly increases an importer's difficulty in making such a determination. Based upon the facts of the investigation, we therefore determine that the person by whom or for whose account the merchandise was imported did not know, and could not reasonably be expected to know, that the exporter was selling chloropicrin for export to the United States at less than its fair value.

Having made such a finding, we need not finally consider whether there have been massive imports of chloropicrin over a relatively short period.

For the above reasons, we determine that critical circumstances do not exist with respect to imports of chloropicrin from the PRC.

#### *Petitioner's Comments*

##### *Comment 1*

A constructed value under § 353.8(c) should not be used in this case because of the impossibility of accurately measuring the objective factors of production.

#### *DOC Position*

We conducted a verification of the factors of production for chloropicrin by applying our usual tests and other procedures, which included review and

analysis of financial statements and records, verification to source documents, and inspection of manufacturing facilities. These are the same tests and procedures which we use for the verification of cost-of-production data in non-state-controlled-economy countries. We found that financial statements and other underlying financial records support the data submitted by SINOCEM. We are satisfied that the quantities, adjusted when necessary, which SINOCEM used in the calculations of the factors of production were adequately verified.

#### *Comment 2*

The price of Japanese chloropicrin is the most appropriate basis for a foreign market value.

#### *DOC Position*

We agree that there is latitude within the Act and Regulations to base foreign market value on domestic prices in a non-state-controlled-economy country, such as Japan, at a higher level of economic development than the PRC. Such a methodology is provided for in § 353.8(b)(2) of the Regulations. However, § 353.8(b)(2) also requires that if such a method is employed then the prices in the surrogate country must be "suitably adjusted for known differences in the costs of material and labor". Due to the impracticality of making such adjustments in this case, we used the constructed value approach based on factors of production valued in a surrogate country at a comparable level of economic development.

#### *Comment 3*

The petitioners argue that India is not a proper choice as a surrogate country to provide fair market values for factors of production because: (1) The Indian dye intermediates industry is state-controlled and (2) Indian prices for dye intermediates, including chlorobenzene, are not suitable elements of a constructed value because they have been depressed by Chinese imports.

#### *Doc Position*

In past antidumping investigations involving products from India, the DOC has determined that "there is not sufficient government control to classify India's economy as state-controlled". While there is evidence of a degree of government involvement in the chemical dye intermediate industry, the government does not set prices within the industry. Furthermore, information concerning many of the factors of production which were valued in India<sup>48</sup> was obtainable from companies which



are not chemical dye intermediate producers. With regard to the petitioners' assertion that chlorobenzene prices in India are depressed by PRC imports, none of the Indian chlorobenzene producers which the Department contacted mentioned having any difficulty with imports from the PRC. Furthermore, these companies are profitable in their chlorobenzene business.

#### *Comment 4*

Chlorine from the Dalian plant's chlor-alkali facility is not a true waste product and should be fully valued.

#### *DOC Position*

We agree. The chlorine and the caustic soda were considered to be co-products and therefore chlorine was valued at its proportional share of the joint costs.

#### *Comment 5*

Costs of the land and buildings at the Dalian plant must be included in a constructed value.

#### *DOC Position*

We agree. The costs of land and buildings used by the Dalian plant are included in our constructed value calculation. The cost of the buildings was included as depreciation; the cost of land was included as financing charges.

#### *Comment 6*

The production of chloropicrin and intermediate products impose unavoidable costs of disposal of waste products.

#### *DOC Position*

Costs incurred for the disposal of waste products produced during the manufacturing process were included as part of the factory overhead.

#### *Comment 7*

No commercial value exists for spent sulfuric acid which is not purified.

#### *DOC Position*

The spent sulfuric acid resulting from the production of chloropicrin is recycled at the Dalian plant and either reused for production of chloropicrin or used in other manufacturing processes at the Dalian plant. A credit for the spent acid used in other manufacturing processes at the Dalian plant was included in the calculation of the costs of chloropicrin.

#### *Comment 8*

The petitioners argue that the general expenses and profits ordinarily reflected in the sale of specialty chemicals such as chloropicrin amount to at least 61.6%

of production costs. Therefore, in calculating constructed value, we should make an addition in this amount for general expenses and profit.

#### *DOC Position*

We have used the general expenses and profit incurred by a manufacturer of dyestuffs in India. General observations concerning the financial results of 13 U.S. companies involved to some degree in the production of "specialty chemicals" and possessing some foreign operations were submitted by the petitioners. However, since we selected India as a "surrogate" for the PRC and the data submitted by the petitioners was not relevant to India, did not appear to directly pertain to "specialty chemicals" only, and was not specific as to the type of costs included in the classifications of "general expense", we used for our determination information independently obtained in India during our investigation.

#### *Comment 9*

The costs of containers and other expenses incident to shipment must be included in a constructed value.

#### *DOC Position*

In the case of one of the two sales to the United States, the customer provided the containers. In this case no addition was made for packing in calculating constructed value. In the other sale, the seller provided the containers. In this case we valued the seller's factors of production for the packing in India and added the amounts so calculated to the constructed value. In both cases, labor hours associated with packing the merchandise for export to the United States were included in the factors of production.

#### *Comment 10*

Depreciation of the plant and equipment is a production cost, not a general expense.

#### *DOC Position*

We agree.

#### *Comment 11*

No adjustment should be made for excess labor used at the Dalian plant.

#### *DOC Position*

We agree.

#### *Comment 12*

No adjustments for the factors of production found in India should be made to the sources of fresh water and boiler fuel at the Dalian plant.

#### *DOC Position*

We agree.

### **Importer's Comments**

#### *Comment 1*

The importer argues that our preliminary affirmative determination with regard to critical circumstances was incorrect.

#### *DOC Position*

As noted above under "Negative Determination of Critical Circumstances," we have determined that critical circumstances do not exist with respect to chloropicrin from the PRC.

#### *Comment 2*

The importer argues that the DOC was incorrect in determining that the economy of the PRC is state-controlled to an extent sales of chloropicrin in the PRC do not permit a determination of foreign market value.

#### *DOC Position*

For the reasons noted above in the Foreign Market Value section of this notice, we have determined that the PRC is a state-controlled economy country for purposes of this investigation. No evidence has been presented which lessens the validity of our reasons for so determining. Furthermore, in an official statement dated November 30, 1983, submitted in conjunction with the countervailing duty investigation of textiles, apparel and related products from the PRC, a PRC Ministry of Foreign Economic Relations and Trade spokesman stated, among other things, that: "The People's Republic of China is a country with a planned economy. Import and export trade is carried out in compliance with the state plan and takes up only a small proportion of our gross national product." Further along in the statement, the spokesman said: "Export commodities are purchased at domestic prices and sold at prices prevailing on the international market. Import goods are bought at international prices and sold at domestic prices. There is no direct relation between the domestic and international prices of import and export commodities."

Our determination is not that the PRC chloropicrin is totally state-controlled. Rather, we have determined that the economy of the PRC is state-controlled to an extent that sales of such or similar merchandise in the PRC do not permit a determination of foreign market value.

#### *Comment 3*

#### *DOC Position*

The importers contend that for our preliminary determination, we should have used cost of production data submitted by SINOCEM and "the

statutory constructed value factors for general expenses and profit as the basis of foreign market value."

#### *DOC Position*

As noted above we determined that for the purposes of this investigation, the PRC is a state-controlled-economy country. The Act does not permit using constructed value based on a state-controlled-economy country's costs as the basis for foreign market value.

#### *Comment 4*

#### *DOC Position*

The importer argues that we should adjust the value of the chlorobenzene found in India downward because one of the two grades of chlorobenzene used by the PRC producer is of a lower grade than the Indian chlorobenzene.

#### *DOC Position*

No such adjustment is warranted. The India value used in an average value. No information is available as to the average grade of chlorobenzene sold in India.

#### *Comment 5*

The importer argues that the cost of Indian chlorine should be substantially reduced because the PRC producer uses chlorine that is an unavoidable by-product of other operations and that the actual cost of the chlorine is that of collecting it and piping it to the chloropicrin workshop.

#### *DOC Position*

We do not agree that chlorine is an unavoidable by-product. For this determination we have ascertained the factors of production of the chlorine used to produce chloropicrin and valued those factors based on information obtained in India.

#### *Comment 6*

The importer argues that the value of caustic soda should be proportionally adjusted if the concentration of the Indian caustic soda for which values were obtained was different from the concentration of the PRC caustic soda.

#### *DOC Position*

In this determination we have valued caustic soda at a market price. Rather, we have ascertained the factors of production of the caustic soda to produce chloropicrin and valued those factors.

#### *Comment 7*

The importer argues that the PRC factor of production for labor hours should be reduced if it is found that

wage rates in India are higher than in the PRC.

#### *DOC Position*

Inasmuch as the PRC has been determined to be a state-controlled economy country for the purposes of this investigation, the wage rates paid in the PRC are not a relevant item for consideration. For the valuation of the PRC factors of production, including labor hours, all that is required is to find values in a country at a comparable level of economic development, which we have done.

#### *Comment 8*

The importer argues that the wage rates we have obtained in India are too high and perhaps are daily, rather than hourly rates.

#### *DOC Position*

The hourly wage rates which are the subject of the comment were provided by a finance officer of a major Indian chemical company. Furthermore, when extrapolated to monthly rates, they are comparable to the monthly rates provided by two other companies in India. We are therefore satisfied that the wage rates used in our analysis are correct.

#### *Comment 9*

The importer argues that in calculating Indian values for the PRC raw material factors of production, we should not include the amounts of central excise duty applicable in India to such raw materials, because under certain circumstances, central excise duties paid on raw materials are rebated to producers upon the exportation of finished products incorporating such raw materials.

#### *DOC Position*

The DOC experience with the Indian statute relating to the rebate of central excise duties is that an exporter does not receive a full rebate for all of the excise duty he has paid on an exported product's raw material inputs. A different rate of rebate (drawback) is determined for each exported product. Chloropicrin is not produced and the exported from India. Therefore, to our knowledge, no drawback rate exists for chloropicrin. Since we have no reasonable way to ascertain what amount of excise duty rebate would be applicable to chloropicrin, we have included the full amount of such duty in our calculations of Indian values for PRC raw material factors of production.

#### *Continuation of Suspension of Liquidation*

We are directing the U.S. Customs service to continue to suspend liquidation of all entries of chloropicrin from the PRC subject to this investigation which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the preliminary determination in the Federal Register (September 19, 1983). Because we have determined that critical circumstances do not exist with respect to imports of chloropicrin from the PRC, liquidation is no longer suspended, nor are cash deposits or bonds required, with respect to chloropicrin from the PRC entered, or withdrawn from warehouse for consumption, prior to September 19, 1983. With respect to entries or withdrawals made on or after September 19, 1983, the Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The bond or cash deposit amount established in our preliminary determination of September 19, 1983, remains in effect with respect to entries or withdrawals made prior to the date of publication of this notice in the Federal Register. With respect to entries or withdrawals made on or after the publication of this notice, the bond or cash deposit amount required is 58 percent of the FOB China price.

#### *ITC Notification*

In accordance with section 735(j) of the Act, we will notify the ITC of our determination. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determination whether these imports are materially injuring, or threatening to materially injure, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to

assess an antidumping duty on chloropirrin from the FRC entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Dated: February 1, 1984.

William T. Archey,

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 84-4226 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-05-M

#### National Technical Information Service

##### Intent To Grant Exclusive Patent License; Pyott-Boone Electronics

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant Pyott-Boone Electronics, having a place of business at Tazewell, Virginia, an exclusive right to manufacture, use, and sell products embodied in the invention, "Sub-Micron Particle Detector," U.S. Patent 4,053,776. The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151. Douglas J. Campion, *Patent Licensing, Office of Government Inventions and Patents, U.S. Department of Commerce, National Technical Information Service.*

[FR Doc. 84-4226 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-04-M

##### Intent To Grant Exclusive Patent License; Selon Co.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Selon

Company, having a place of business at Newark, New Jersey, an exclusive right to manufacture, use, and sell products embodied in the invention, "Process for Producing Granular and Fibrous Collagen Dispersions," U.S. Patent No. 3,655,988. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151. Douglas J. Campion, *Patent Licensing, Office of Government Inventions and Patents, U.S. Department of Commerce, National Technical Information Service.*

[FR Doc. 84-4226 Filed 2-15-84; 8:45 am]

BILLING CODE 3510-04-M

#### COMMODITY FUTURES TRADING COMMISSION

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of request for approval.

Section 236 of the Futures Trading Act of 1982, Pub. L. No. 97-444, 96 Stat. 2294, 2300 (1983), requires that the Commodity Futures Trading Commission "... conduct a study of (A) the nature, extent, and effects of trading in representative futures markets by persons possessing material information not generally available to the public regarding present or anticipated cash or futures transactions. \* \* \* The Commission shall \* \* \* transmit \* \* \* a report describing the results of the study and including any recommendations for legislative action \* \* \* to Congress. As part of this study, the Commission intends to solicit from large commercial firms in livestock, grain, metal, energy and financial markets certain information concerning their policies regarding personal futures trading by directors, officers, and employees of the firm. This information will be collected through a one-time mail survey.

The Commission has submitted to the Director of the Office of Management

and Budget ("OMB"), pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. Ch. 35), an explanation and details of this information collection. Interested members of the public may obtain a complete copy of these information collection proposals by contacting Joseph Salazar at (202) 254-9735. Persons wishing to comment on the Paperwork Reduction Act implications of these proposals are asked to send a copy of their comments to Mr. Salazar at the Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, and to the OMB desk officer for the agency, Katy Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, (202) 395-7231. In this respect, persons wishing to comment on this matter should note that although OMB has 60 days upon which to act, the Commission has requested expedited approval of this information collection. 44 U.S.C. 3507 and 5 CFR 1320.12.

Issued in Washington, D.C. on February 10, 1984.

Jane K. Stuckey,  
*Secretary of the Commission.*

[FR Doc. 84-4153 Filed 2-15-84; 8:45 am]

BILLING CODE 8351-01-M

#### DEPARTMENT OF DEFENSE

##### Department of the Air Force

##### USAF Scientific Advisory Board Meeting

February 8, 1984.

The USAF Scientific Advisory Board Ad Hoc Committee on Strategic Reconnaissance Technologies will meet at the Pentagon, Washington, D.C. on March 8, 1984.

The purpose of the meeting will be to study the future of strategic reconnaissance technologies. The meeting will convene at 8:00 a.m. to 5:00 p.m.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

Winnibel F. Holmes,  
*Air Force Federal Register Liaison Officer.*

[FR Doc. 84-4152 Filed 2-15-84; 8:45 am]

BILLING CODE 3910-01-M



**APPENDIX D**  
**SUPPLEMENTARY STATISTICAL TABLES**

**Table D-1.--Chloropicrin: U.S. imports from China, by firms,  
January-December 1982 and January-December 1983**

\* \* \* \* \*

Table D-2.--Chloropicrin: U.S. producers' shipments, imports for consumption, exports of domestic merchandise, and apparent consumption, January-December 1982 and January-December 1983

Period	Pro- ducers' ship- ments	Imports			Pro- ducers' exports	Apparent consump- tion	Ratio of imports to consumption	
		From China	From other coun- tries	Total			From China	From all coun- tries
<hr/>							<hr/>	
1,000 pounds							Percent	
<hr/>							<hr/>	
1982:								
Jan.-Sept-----	***	***	***	***	***	***	***	***
Oct.-Dec-----	***	***	***	***	***	***	***	***
Total-----	***	***	***	***	***	***	***	***
1983:								
Jan.-Sept-----	***	***	***	***	***	***	***	***
Oct.-Dec-----	***	***	***	***	***	***	***	***
Total-----	***	***	***	***	***	***	***	***
<hr/>							<hr/>	

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

Table D-3.--Chloropicrin: U.S. production, practical capacity, and capacity utilization, by firm's, January-December 1982 and January-December 1983

Item and firm	1982			1983		
	Jan.- Sept.	Oct.- Dec.	Full year	Jan.- Sept.	Oct.- Dec.	Full year
Production:						
Niklor						
1,000 pounds--	***	***	***	***	***	***
IMC/LCP 1/						
do----	***	***	***	***	***	***
Total--do----	***	***	***	***	***	***
Practical capacity:						
Niklor 2/						
1,000 pounds--	***	***	***	***	***	***
IMC/LCP 1/						
do----	***	***	***	***	***	***
Total--do----	***	***	***	***	***	***
Ratio of produc-						
tion to capa-						
city:						
Niklor 2/						
percent--	***	***	***	***	***	***
IMC/LCP 1/						
do----	***	***	***	***	***	***
Total--do----	***	***	***	***	***	***

1/ Data for January-April 1982 are for IMC; subsequent data are for LCP.

2/ Niklor's capacity is based on a \* \* \* hour work week, and could be expanded by the addition of an extra work shift. LCP's capacity is based on a \* \* \* hour per day operation of its plants.

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



Table D-4.--Chloropicrin: U.S. producers' domestic shipments and exports of U.S. production, by firms, January-December 1982 and January-December 1983

Item and firm	1982			1983		
	Jan.-	Oct.-	Full	Jan.-	Oct.-	Full
	Sept.	Dec.	year	Sept.	Dec.	year
Quantity (1,000 pounds)						
Domestic ship-						
ments:						
Niklor-----	***	***	***	***	***	***
IMC/LCP 1/-----	***	***	***	***	***	***
Total-----	***	***	***	***	***	***
Exports:						
Niklor-----	***	***	***	***	***	***
IMC/LCP 1/-----	***	***	***	***	***	***
Total-----	***	***	***	***	***	***
Total-----	***	***	***	***	***	***
Value (1,000 dollars)						
Domestic ship-						
ments:						
Niklor-----	***	***	***	***	***	***
IMC/LCP 1/-----	***	***	***	***	***	***
Total-----	***	***	***	***	***	***
Exports:						
Niklor-----	***	***	***	***	***	***
IMC/LCP 1/-----	***	***	***	***	***	***
Total-----	***	***	***	***	***	***
Total-----	***	***	***	***	***	***

1/ Data for January-April 1982 are for IMC; subsequent data are for LCP.

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

Table D-5.--Chloropicrin: U.S. producers' inventories of U.S. production, by firms, as of Sept. 30, 1982, Dec. 31, 1982, Sept. 30, 1983 and Dec. 31, 1983

Item and firm	1982			1983		
	Sept. 30	Dec. 31	Dec. 31	Sept. 30	Dec. 31	Dec. 31
Inventories:						
Niklor						
1,000 pounds---	***	***	***	***	***	***
IMC/LCP---do-----	***	***	***	***	***	***
Total---do-----	***	***	***	***	***	***
Annualized ship-						
ments, based						
on January-						
September and						
October-Decem-						
ber data:						
Niklor						
1,000 pounds---	***	***	<u>1/</u> ***	***	***	<u>1/</u> ***
IMC/LCP <u>2/</u>						
do-----	***	***	<u>1/</u> ***	***	***	<u>1/</u> ***
Total-do-----	***	***	<u>1/</u> ***	***	***	<u>1/</u> ***
Ratio of inven-						
tories to						
annualized						
shipments						
during the						
preceding 9-						
month or 3-						
month period:						
Niklor						
percent---	***	***	<u>1/</u> ***	***	***	<u>1/</u> ***
IMC/LCP <u>2/</u>						
do-----	***	***	<u>1/</u> ***	***	***	<u>1/</u> ***
Total-do-----	***	***	<u>1/</u> ***	***	***	<u>1/</u> ***

1/ Based on actual shipments data for the full-calendar year.

2/ Data for January-April 1982 are for IMC; subsequent data are for LCP.

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

Table D-6.-- Income and loss experience of U.S. producers on their operations producing chloropicrin, by firms, January-December 1982 and January-December 1983

Item and firm	1982			1983		
	Jan.- Sept.	Oct.- Dec.	Full year	Jan.- Sept.	Oct.- Dec.	Full year
Net sales:						
Niklor						
1,000 dollars--	***	***	***	***	***	***
IMC/LCP 1/						
do-----	***	***	***	***	***	***
Total-----do-----	***	***	***	***	***	***
Operating income:						
Niklor						
1,000 dollars--	***	***	***	***	***	***
IMC/LCP 1/						
do-----	***	***	***	***	***	***
Total-----do-----	***	***	***	***	***	***
Net income or (loss):						
Niklor						
1,000 dollars--	***	***	***	***	***	***
IMC/LCP 1/						
do-----	***	***	***	***	***	***
Total-----do-----	***	***	***	***	***	***
Ratio of operating income or (loss) to net sales:						
Niklor						
percent--	***	***	***	***	***	***
IMC/LCP 1/						
do-----	***	***	***	***	***	***
Total-----do-----	***	***	***	***	***	***
Ratio of net income or (loss) to net sales:						
Niklor						
percent--	***	***	***	***	***	***
IMC/LCP 1/						
do-----	***	***	***	***	***	***
Total-----do-----	***	***	***	***	***	***

1/ Data for January-April 1982 are for IMC; subsequent data are for LCP.

2/ \* \* \*.

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



