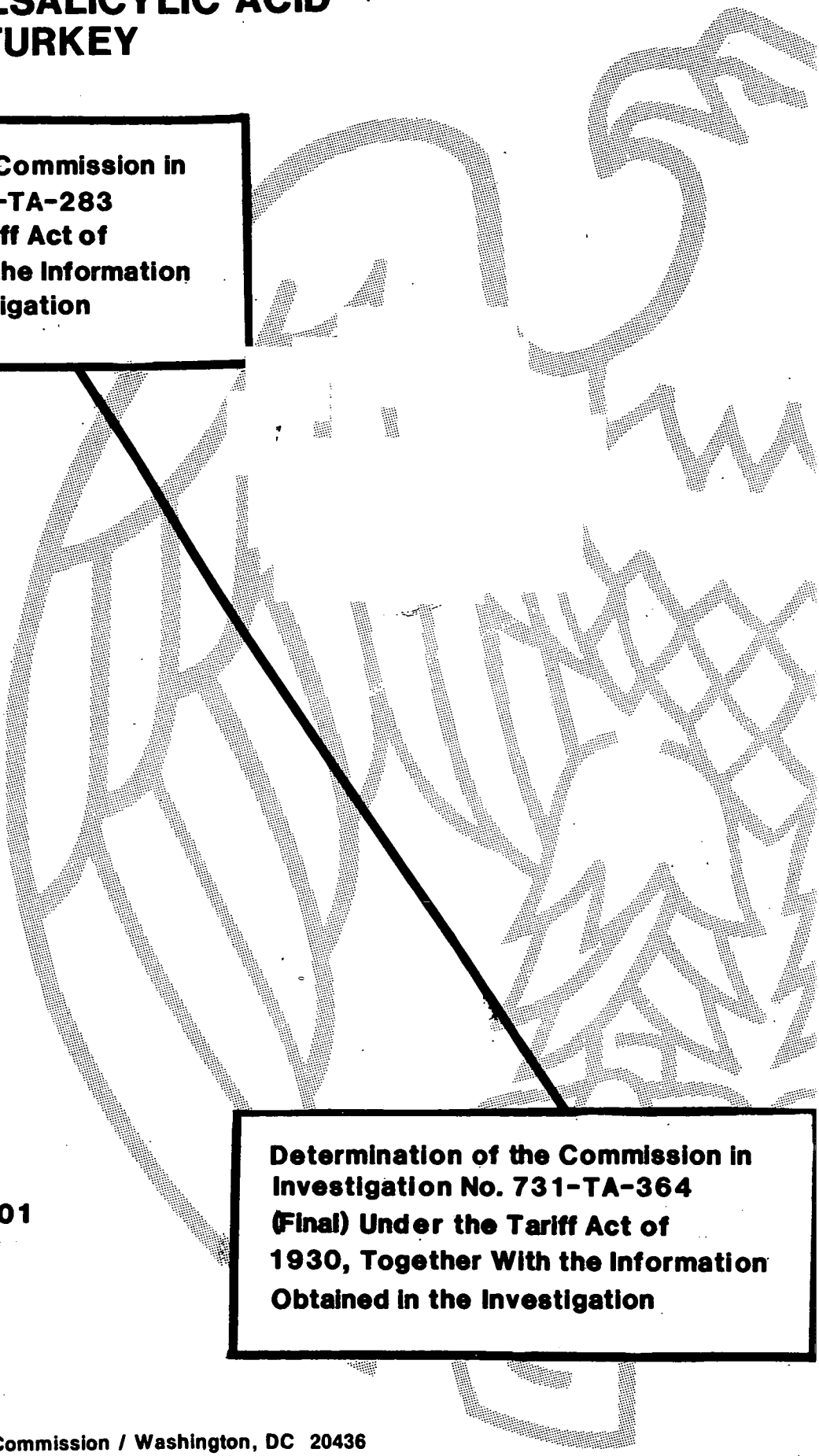
CERTAIN ACETYLSALICYLIC ACID (ASPIRIN) FROM TURKEY

Determination of the Commission in Investigation No. 701-TA-283 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation



Determination of the Commission in Investigation No. 731-TA-364 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 701-TA-283 and 731-TA-364 (Final)

ACETYLSALICYLIC ACID (ASPIRIN) FROM TURKEY

Determinations

On the basis of the record 1/ developed in the subject investigations, the Commission determines, 2/ pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)), that an industry in the United States is materially injured by reason of imports from Turkey of bulk acetylsalicylic acid, 3/ provided for in item 410.72 of the Tariff Schedules of the United States, that have been found by the Department of Commerce to be subsidized by the Government of Turkey. The Commission also determines, 2/ pursuant to section 735(b) of the Act (19 U.S.C. § 1673d(b)), that an industry in the United States is materially injured by reason of imports from Turkey of bulk acetylsalicylic acid that 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 investigation No. 701-TA-283 (Final) effective March 3, 1987, following a preliminary determination by the Department of Commerce that imports of the subject product from Turkey were being subsidized. Investigation No. 731-TA-364 (Final) was instituted effective

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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)).
2/ Chairman Liebeler and Vice Chairman Brunsdale dissenting; Commissioner Lodwick not participating.
3/ The product covered by these investigations is acetylsalicylic acid (aspirin), containing no additives other than inactive substances (such as starch, lactose, cellulose, or coloring material) and/or active substances in concentrations less than that specified for particular non-prescription drug combinations of aspirin and active substances as published in the Handbook of Non-Prescription Drugs, 8th edition, American Pharmaceutical Association, and is not in tablet, capsule, or similar forms for direct human consumption.

April 14, 1987, following a preliminary determination by the Department of Commerce that imports of the subject product from Turkey were being sold at LTFV.

Notice of the institutions of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the Federal Register of March 25, 1987 (52 F.R. 9552) and April 29, 1987 (52 F.R. 15565). The hearing was held in Washington, DC, on July 2, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF COMMISSIONER ECKES AND COMMISSIONER ROHR

We determine [1/] that an industry in the United States is materially injured by reason of imports from Turkey of acetylsalicylic acid (aspirin) that are being sold at less-than-fair-value (LTFV). We also determine [1/] that an industry in the United States is materially injured by reason of subsidized imports of acetylsalicylic acid (aspirin) from Turkey.

Our determination is based upon downward trends in the indicators of the domestic industry's condition such as capacity utilization, sales, and profitability, coupled with increasing market penetration by imports from Turkey and their depressive effects on domestic prices.

Like Product/Domestic Industry

Section 771(10) of the Tariff Act of 1930 defines "like product" as "[a] product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ." [2/] In its preliminary determinations in these investigations, the Commission found the like product to be bulk acetylsalicylic acid (aspirin) whether sold in crystal, compound, or

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1/ Commissioner Lodwick did not participate in these investigations.

2/ 19 U.S.C. § 1677(10).

pharmaceutical form. [3/] Petitioner has expressly accepted this like product definition, and respondent does not dispute it. [4/]

In these final investigations, we find no significant evidence to change that determination. We therefore determine that there is one like product consisting of bulk aspirin and that the domestic industry consists of the producers of this like product. [5/]

Condition of the Domestic Industry [6/]

To determine the condition of the domestic industry, the Commission considers, among other factors: domestic consumption, U.S. production, capacity, capacity utilization, shipments, inventories, employment and profitability. No single factor is determinative of material injury and, in each investigation, the Commission must take into account the particular

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3/ Certain Acetylsalicylic Acid (Aspirin) from Turkey, Invs. Nos. 701-TA-283 and 731-TA-364 (Preliminary), USITC Pub. No. 1926 (Dec. 1986) at 5-6.

4/ Petitioner's Prehearing Brief at 7; Transcript of the Hearing (Tr.) at 113; Respondent's Posthearing Brief at 4.

5/ In the preliminary determination, an issue was raised by Vice Chairman Brunsdale concerning whether the aspirin substitutes ibuprofen and acetaminophen should be included in the like product definition. We note that both of these analgesics differ in characteristics and uses from aspirin, are produced in different facilities and according to different processes from aspirin, and are two to five times as expensive as aspirin. Further, unlike ibuprofen and acetaminophen, aspirin may be of therapeutic value in the treatment of stress, certain cardiovascular problems, and inflammation. Report to the Commission (Report) at A-3, and A-21, 24; Transcript of the Hearing (Tr.) at 55.

6/ Because only a small number of firms comprise the domestic industry, much of the data are confidential and may only be discussed in general terms.

nature of the industry it is examining. 7/

The domestic bulk aspirin industry has experienced increasing difficulties over the period of investigation. Attempts to modernize, such as the construction of a new plant by Dow Chemical, U.S.A., have failed to boost the industry's performance in the face of declining sales, profitability, and demand.

Apparent domestic consumption of bulk aspirin declined 1.4 million pounds or by 4.9 percent in volume from 1984 to 1986, and fell roughly 650,000 pounds or by 9.2 percent comparing interim 1986 with interim 1987. 8/ We note that the value of U.S. consumption dropped much more sharply than quantity figures alone would suggest. Between 1984 and 1986 the total value of U.S apparent consumption declined $10.8 million or by 18.5 percent. Comparing interim 1986 with interim 1987, value declined $ 670,000 or by 5.5 percent. 9/

Domestic production of bulk aspirin declined from 29.7 million pounds in 1984 to 27.6 million pounds in 1986. Domestic capacity remained relatively

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7/ 19 U.S.C. § 1677(7)(C)(iii). We note that information has been gathered on the performance of both the domestic industry as a whole and the portion of the industry selling on the open market. We have examined both sets of data in making our determination.

8/ Report at A-23. In evaluating the data concerning domestic consumption, the Commission has taken into account evidence that decreases may be attributable in part to the availability of substitutes for aspirin, particularly acetaminophen and ibuprofen, and publicized data that has linked aspirin to Reye's Syndrome. These factors do not necessarily militate against an affirmative determination with respect to imports from Turkey, however, since an industry already weakened by such factors may be all the more vulnerable to unfairly traded imports. Further, we have been mindful of the prohibition against weighing causes in a title VII determination.

9/ Report at A-23.

constant during the period of investigation with a consequent decrease in capacity utilization from 69.5 percent in 1984 to 62.5 percent in 1986. Interim data collected by the Commission comparing January-March 1986 with the corresponding period in 1987 indicate that production and capacity increased but capacity utilization decreased. 10/ Throughout the period of investigation the value per pound of domestic shipments of bulk aspirin declined from 1984 through 1986, and continued to decline in interim 1987 as compared to interim 1986. 11/ Inventories for bulk aspirin sold on the open market increased steadily from 1984 to 1986 and were higher in interim 1987 than in any other period of the investigation. Inventories as a ratio of domestic shipments were substantial and trended sharply upward during the period of investigation. 12/

Employment for three of the four domestic producers declined from 1984 to 1986 and was virtually the same for interim 1986/87. For these three companies, the average number of hours worked by employees producing bulk aspirin exhibited the same trends. Overall productivity declined from 1984 to 1986. 13/

10/ Id. at A-5-6.

11/ Id. at A-7.

12/ Id. at A-8-9.

13/ Id. at A-8-10.

The financial indicators for the two firms [14/] that sell bulk aspirin on the open market further indicate that the industry is experiencing material injury. Net sales declined from 1984 to 1986 and declined further in interim 1986/87. The domestic industry's 1984 profit levels were substantially eroded during the period of investigation. Although the industry did not experience an overall loss during the period, the financial situation for 1985 was particularly poor, and despite some improvement in 1986, profit data for interim 1987 as compared with interim 1986 again declined sharply. [15/]

During the period of investigation, the domestic industry expended substantial sums of money on capital improvements and research and development in an effort to become more productive and competitive. The industry has not realized the expected return on these improvements. [16/]

Material injury by reason of unfairly traded imports

Section 771(7)(B) of the Tariff Act of 1930 directs the Commission to consider, among other factors, the volume of imports of the merchandise subject to investigation, the impact of imports on the domestic industry and the effect of imports on domestic prices in reaching a determination on

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14/ From 1984 to 1986, Dow and Monsanto accounted for virtually all of the domestic shipments of bulk aspirin.

15/ Id. at A-9, 12-17.

16/ Id. at A-18-19.

whether a domestic industry is materially injured "by reason of" imports. 17/

As apparent United States consumption declined, the volume and value of bulk aspirin imports from Turkey increased steadily and significantly from 1984 to 1986, as the imports from Turkey captured an increasing share of domestic consumption. 18/ Although the imports and their market penetration declined in interim 1987 over the corresponding period of 1986, 19/ this decline may be due in part to the institution of these investigations.

The Commission obtained weighted average prices for the three forms of domestically produced bulk aspirin—crystal, compound, and pharmaceutical. Domestic prices for all three forms decreased during the entire period of investigation. 20/ During this final investigation import prices were available for Turkish crystalline bulk aspirin. Import prices were at all times significantly below domestic prices for bulk aspirin in similar form. During the period of investigation prices of LTFV and subsidized aspirin from Turkey fluctuated but steadily declined from mid-1986 through the last quarter

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17/ 19 U.S.C. § 1677(7)(B).

18/ Id. at A-22-23. We looked at all imports from Turkey in this antidumping investigation, and all imports except those of Proses Kimya Sanayi ve Ticaret A.S. in this countervailing duty investigation, because that company was exempted from the coverage of the Commerce Department's final countervailing duty determination. 52 F.R. 24494 (July 1, 1987). As a result, much of the import data are confidential and are discussed here only in general terms.

19/ Report at A-22-23.

20/ Id. at A-28.

that data were available. 21/ 22/ The Commission confirmed several instances in which the domestic industry lost sales to imports from Turkey. 23/

We conclude that the domestic industry producing bulk aspirin is materially injured by reason of subsidized and dumped imports from the Republic of Turkey.

21/ Id. at A-29-30.

22/ Commissioner Eckes notes that based on the advice of the Office of Economics in a memorandum to the Commission (EC-K-300, dated July 28, 1987) and in responses to questions raised at the meeting of the Commission on August 3, 1987, he does not base his determinations in these investigations on estimates of domestic and import demand and supply elasticities for bulk aspirin. In memorandum EC-K-300, the Commission economist notes that "the estimated coefficients for both import and domestic demand and supply are quite imprecise, with relatively large standard errors . . . this means that the particular elasticities should be regarded not as truth, but rather as the central point in a fairly wide range in which the true value may fall." At the Commission meeting, in response to questions concerning these elasticities, the economist further stated that " . . . the reliability of the estimate is somewhat in doubt" and that "I don't think we can ever expect any kind of statistical estimate to yield the truth."

One other noteworthy point was discussed during the Commission meeting that may have implications beyond these particular investigations. In response to a statement that "under ordinary circumstances it would be very difficult to develop a reliable elasticity estimate on three years of data" the staff economist replied " . . . yes, I think if you're talking about estimating a demand-supply system using twelve observations, I would think any estimates that you get would have a lot of imprecision in them." Because the Commission generally examines quarterly data and uses three-year periods for its investigations, twelve observations would be the norm for estimating a demand-supply system. This Commissioner is, therefore, hesitant to rely on estimates that, under ordinary circumstances, would have considerable imprecision in them.

23/ Id. at A-32-33.

DISSENTING VIEWS OF CHAIRMAN LIEBELER

Aspirin
from Turkey
Invs. No. 731-TA-364, 701-TA-283(Final)

August 13, 1987

I determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of bulk aspirin from Turkey which the Department of Commerce (Commerce) has determined is being sold at less than fair value and which Commerce has determined is being subsidized.[1]

I concur with Vice Chairman Brunsdale in her dicsussion of the condition of the industry. My views on the definitions of like product and domestic industry and on causation are provided below.

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[1] Since there is an established domestic industry producing bulk aspirin, material retardation was not an issue in these investigations and will not be discussed further.

Like product and domestic industry

Before proceeding to a discussion of the condition of the industry, I must define the like product and identify the relevant domestic industry. "Like product" is defined 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."[2] The imported article subject to investigation is bulk aspirin. It is clear from the record that domestically produced aspirin and imported Turkish aspirin are substitutable. Therefore, I define the like product as aspirin. I recognize that Vice Chairman Brunsdale raised the issue during the preliminary investigations[3] that the like product definition might include acetaminophen and ibuprofin which, in some applications, are substitutes for aspirin. While there are persuasive arguments for including those and perhaps other subsitutes for aspirin in the like product definition,[4] I decline to do so for two reasons. First, the decision to include or exclude ibuprophen and acetaminophen from the like product definition does not affect my determinations in these investigations. Second, the

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2 19 U.S.C. § 1677 (10).

3 See Aspirin from Turkey, Invs. Nos. 731-TA-364, 701-TA-283 (Preliminary) USITC Pub. 1926 at 13, (Views of Vice Chairman Brunsdale).

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information which the Commission obtained during these investigations is not adequate to determine the condition of an industry producing a like product encompassing aspirin and its close subsitutes.[5]

Accordingly, I determine that the like product is aspirin and the domestic industry consists of all producers of the like product.

Material Injury by Reason of Imports

In order for a domestic industry to prevail in a final investigation, the Commission must determine that the dumped or subsidized imports cause or threaten to cause material injury to the domestic industry producing the like product. Only if the Commission finds both injury and causation, will it make an affirmative determination in the investigation.

Before analyzing the data, however, the first question is whether the statute is clear or whether one

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[5] For example, the Commission did not request financial data of domestic firms which produce acetaminophen and ibuprofen. Note also, that in these investigations, I assume arguendo that the domestic industry is materially injured.

must resort to the legislative history in order to interpret the relevant sections of the import relief law. In general, the accepted rule of statutory construction is that a statute, clear and unambiguous on its face, need not and cannot be interpreted using secondary sources. Only statutes that are of doubtful meaning are subject to such statutory interpretation.[6]

The statutory language on causation, "by reason of," lends itself to no easy interpretation, and has been the subject of much debate by past and present commissioners. Clearly, well-informed persons may differ as to the interpretation of the causation section of Title VII. Therefore, the legislative history becomes helpful in interpreting Title VII.

The ambiguity arises in part because it is clear that the presence in the United States of additional foreign supply will always make the domestic industry worse off. Any time a foreign producer exports products to the United States, the increase in supply, ceteris paribus, must result in a lower price of the product than would

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[6] C. Sands, Sutherland Statutory Construction § 45.02 (4th ed., 1985.).

otherwise prevail. If a downward effect on price, accompanied by a Department of Commerce dumping or subsidy finding and a Commission finding that financial indicators were down were all that were required for an affirmative determination, there would be no need to inquire further into causation.

But the legislative history shows that the mere presence of LTFV imports is not sufficient to establish causation. In the legislative history to the Trade Agreements Acts of 1979, Congress stated:

> [T]he ITC will consider information which indicates that harm is caused by factors other than the less-than-fair-value imports.[7]

The Finance Committee emphasized the need for an exhaustive causation analysis, stating, "the Commission must satisfy itself that, in light of all the information presented, there is a sufficient causal link between the less-than-fair-value imports and the requisite injury."[8]

The Senate Finance Committee acknowledged that the causation analysis would not be easy: "The determination

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[7] Report on the Trade Agreements Act of 1979, S. Rep. No. 249, 96th Cong. 1st Sess. 75 (1979).

[8] Id.

of the ITC with respect to causation, is under current law, and will be, under section 735, complex and difficult, and is a matter for the judgment of the ITC."[9] Since the domestic industry is no doubt worse off by the presence of any imports (whether LTFV or fairly traded) and Congress has directed that this is not enough upon which to base an affirmative determination, the Commission must delve further to find what condition Congress has attempted to remedy.

In the legislative history to the 1974 Act, the Senate Finance Committee stated:

> This Act is not a 'protectionist' statute designed to bar or restrict U.S. imports; rather, it is a statute designed to free U.S. imports from unfair price discrimination practices. * * * The Antidumping Act is designed to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a United States industry.[10]

Thus, the focus of the analysis must be on what constitutes unfair price discrimination and what harm results therefrom:

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[9] Id.

[10] Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

> [T]he Antidumping Act does not proscribe transactions which involve selling an imported product at a price which is not lower than that needed to make the product competitive in the U.S. market, even though the price of the imported product is lower than its home market price.[11]

This "complex and difficult" judgment by the Commission is aided greatly by the use of economic and financial analysis. One of the most important assumptions of traditional microeconomic theory is that firms attempt to maximize profits.[12] Congress was obviously familiar with the economist's tools: "[I]mporters as prudent businessmen dealing fairly would be interested in maximizing profits by selling at prices as high as the U.S. market would bear."[13]

An assertion of unfair price discrimination should be accompanied by a factual record that can support such a conclusion. In accord with economic theory and the legislative history, foreign firms should be presumed to

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11 Id.

12 See, e.g., P. Samuelson & W. Nordhaus, Economics 42-45 (12th ed. 1985); W. Nicholson, Intermediate Microeconomics and Its Application 7 (3d ed. 1983).

13 Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

behave rationally. Therefore, if the factual setting in which the unfair imports occur does not support any gain to be had by unfair price discrimination, it is reasonable to conclude that any injury or threat of injury to the domestic industry is not "by reason of" such imports.

In many cases unfair price discrimination by a competitor would be irrational. In general, it is not rational to charge a price below that necessary to sell one's product. In certain circumstances, a firm may try to capture a sufficient market share to be able to raise its price in the future. To move from a position where the firm has no market power to a position where the firm has such power, the firm may lower its price below that which is necessary to meet competition. It is this condition which Congress must have meant when it charged us "to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a United States industry."[14]

In Certain Red Raspberries from Canada, I set forth a framework for examining what factual setting would merit

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14 Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

an affirmative finding under the law interpreted in light of the legislative history discussed above.[15]

> The stronger the evidence of the following . . . the more likely that an affirmative determination will be made: (1) large and increasing market share, (2) high dumping margins, (3) homogeneous products, (4) declining prices and (5) barriers to entry to other foreign producers (low elasticity of supply of other imports).[16]

The statute requires the Commission to examine the volume of imports, the effect of imports on prices, and the general impact of imports on domestic producers.[17] The legislative history provides some guidance for applying these criteria. The factors incorporate both the statutory criteria and the guidance provided by the legislative history. Each of these factors is evaluated in turn.

Condition of the Industry

I concur with Vice Chairman Brunsdale's views on the condition of the domestic industry. Like the Vice

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15 Inv. No. 731-TA-196 (Final), USITC Pub. 1680, at 11-19 (1985) (Additional Views of Vice Chairman Liebeler).

16 Id. at 16.

17 19 U.S.C. § 1677(7)(B)-(C) (1980 & cum. supp. 1985).

Chairman, I am unable to conclude that the domestic industry is materially injured. However, for purposes of argument, I assume the domestic industry is materially injured and consider the issue of causation.

Causation analysis

Examining import penetration is important because unfair price discrimination has as its goal, and cannot take place in the absence of, market power. The market penetration of imports subject to investigation increased from 0.8 percent in 1984 to 3.9 percent in 1985, and to 4.8 percent in 1986.[18] Import penetration was 1.7 percent of apparent U.S. consumption in the first quarter of 1987 compared to 6.1 percent in the corresponding period of the previous year. Thus, imports represent a small market share. This factor is consistent with a negative determination.

The second factor is a high margin of dumping or subsidy. The higher the margin, ceteris paribus, the more

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[18] Report at A-30. For purposes of the countervailing duty investigation, the 1986 figure is slightly smaller since imports from Proses, which has been excluded from Commerce's countervailing duty determination are excluded. The exact figure is confidential. Id.

likely it is that the product is being sold below the competitive price[19] and the more likely it is that the domestic producers will be adversely affected. In these investigations, the Department of Commerce has found dumping margins of 27.35 percent for Atabay, 38.60 percent for Proses and 32.98 percent for all other manufacturers in Turkey.[20] Commerce estimated a net subsidy of 19.54 percent ad valorem (a duty deposit rate of 6.54 percent) for Atabay and all other manufacturers.[21] These margins are moderate and are consistent with a negative determination.

The third factor is the homogeneity of the products. The more homogeneous the products, the greater will be the effect of any allegedly unfair practice on domestic producers. Information in the record indicates that purchasers find the quality of the domestic and imported products to be similar.[22] Quality considerations include lot-to-lot consistency, purity, color and the ability to meet United States Pharmacopoeia (USP)

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19 See text accompanying note 11, supra.

20 Report at A-2.

21 Id.

22 Report at A-27.

standards. While these characteristics may vary between batches and among domestic and foreign producers, most firms responding to Commission questionnaires and familiar with the Turkish product have found it to be acceptable for most uses, to meet regularly USP standards.[23] I find that the the domestic and imported product are close substitutes.

As to the fourth factor, evidence of declining domestic prices, ceteris paribus, might indicate that domestic producers were lowering their prices to maintain market share.[24] Prices for 100 percent crystalline and bulk aspirin with 10 percent starch, whether sold to processors or distributors, followed the same trend -- they generally rose in 1984 before declining in the first quarter of 1985[25] then remained fairly stable for the

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23 Report at A-27.

24 The Commission collected price information for sales to processors and distributors for 100 percent crystalline and 10 percent starch and sales of 100 percent Pharmaceutical grade aspirin to processors. These products are believed to be representative of the domestic industry's sales.

25 Depending on which market is examined, prices fell between 11 and 18 percent during the first quarter of 1985. Report at A-28 (Table 16).

remainder of 1985.[26] Domestic weighted average net f.o.b. prices of aspirin have declined since 1985.[27] Overall, the prices of bulk aspirin sold to processors declined 11 percent from the first quarter of 1984 to the first quarter of 1987. The price of bulk aspirin sold to distributors fell 4 percent for the 100 percent crystalline and less than 10 percent for the bulk aspirin with 10 percent starch during the same period.[28] This factor is consistent with an affirmative determination.

The fifth factor is foreign supply elasticity (barriers to entry). If there is low foreign elasticity of supply (or barriers to entry), it is more likely that a producer can gain market power. Aspirin from countries other than Turkey accounted for 10.5 percent of domestic consumption in 1986.[29] I conclude that barriers to entry are low. This factor is consistent with a negative determination.

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[26] In the first quarter of 1987, prices for these products showed small increases.

[27] Report at A-28 (Table 16).

[28] Report at A-41.

[29] Report at A-23 Table 14.

These factors must be considered in each case to reach a sound determination. The domestic and imported products are substitutable and domestic prices have declined. However, barriers to entry are low, market share is very low, and the dumping and subsidy margins are moderate. These factors favor a negative determination.

Threat of Material Injury

Together, Bayer Turkey, Atabay and Proses were operating at 74.1 percent of capacity in 1984 and 76.6 percent of capacity in 1985.[30] This indicates that the Turkish producers may have the potential to increase their capacity utilization and import more aspirin to the U.S. market. Even if I were willing to make such a speculative assumption, and if I were willing to assume that the entire increase in production were diverted to the U.S. market, Turkish imports of aspirin would still not reach injurious levels. Further, there is no evidence in the record of these investigations which indicates that the Turkish producers intend to increase their capacity. In 1985, the United States accounted for 63 percent of total

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[30] Report at A-21.

exports of aspirin from Turkey,[31] indicating that Turkish producers could divert exports from other markets to the United States. However, there is no information in the record which would indicate that they intend to do so. Therefore, I determine that the domestic industry producing bulk aspirin is not threatened with material injury by reason of subsidized or dumped imports of aspirin from Turkey.

Conclusion

Therefore, I determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of bulk aspirin from Turkey which Commerce has determined are being sold at less than fair value. I also determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of bulk aspirin from Turkey which the Department of Commerce has determined are receiving benefit of subsidy.

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[31] Id.

DISSENTING VIEWS OF VICE CHAIRMAN ANNE E. BRUNSDALE

Bulk Acetylsalicylic Acid (Aspirin) from Turkey
Investigation 701-TA-283 (Final) and 731-TA-364 (Final)

August 11, 1987

I determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of bulk acetylsalicylic acid (aspirin) from Turkey that are either subsidized or sold at less than fair value (LTFV).[1]

Like Product and Domestic Industry

I concur, with reservation, in Commissioners Eckes and Rohr's view that the like product in these investigations is aspirin. My reservation stems from the considerable evidence in the record showing that two other pain relievers, acetaminophen and ibuprofen, are very close substitutes for aspirin.[2] Close

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[1] Material retardation is not an issue in this investigation and will not be discussed further.

[2] I raised this issue in my preliminary determination. See Certain Acetylsalicylic Acid (Aspirin) from Turkey, Inv. 701-TA-283 and 731-TA-364 (Preliminary), USITC Pub. 1926

(Footnote continued on next page)

substitutability argues for broadening the like product to include these two pain relievers. However, since my determination in these final investigations does not depend on which like product definition I adopt[3] and since the data we have in this case are more complete for aspirin,[4] I proceed in this opinion by using the narrower definition. Accordingly, the appropriate domestic industry consists of the four domestic producers of aspirin.

Condition of the Domestic Industry

The data gathered over the period of this investigation suggest that the domestic aspirin business, though relatively stable, has experienced some weakness since 1984. But it is not clear that this weakness is sufficient to constitute material injury.[5]

Over the longer term, domestic production of aspirin has been relatively stable. Indeed, in the fourteen years since 1973

(Footnote continued from previous page)
(December 1986) (Additional Views of Vice Chairman Anne E. Brunsdale), at 14-16.

3 That is, I would have reached a negative determination in either case.

4 For example, we have no data about the financial performance of domestic firms that produce acetaminophen and ibuprofen.

5 Most of the data for the domestic industry are confidential so my discussion here must be confined to general trends.

it generally changed very little from year to year, ending up in 1986 only modestly lower than in 1973.[6]

In the 1984-86 years, some indicators deteriorated, with the extent of the declines varying from rather mild to more serious,[7] while others showed some improvement. Production, shipments (in quantity and value), and capacity utilization declined in 1985 and then recovered partially in 1986. Industry capacity was virtually constant throughout the period.[8] Gross profits and operating incomes for two of the industry's leading firms followed the same trend as the production indicators,[9] but both firms were profitable throughout the period. Employment, hours worked, and total compensation increased steadily.[10] Finally, the trends were also positive for expenditures on new plant and equipment and on research and

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6 Staff Report at A-26 (Figure 1).

7 Id. at A-6 (Table 1) and A-7 (Table 2).

8 Id. at A-6 (Table 1).

9 Id. at A-17 (Table 10).

10 Id. at A-10 (Table 4) and A-11 (Table 5). These data are for production and related workers. Note, however, the compensation per hour rose from 1984 to 1985, then fell from 1985 to 1986. Also note that the data on total employment of production and related workers are affected by the fact that one company was closing one plant and opening a new one in 1986. Id. at A-11 (Table 5).

development.[11]

Overall, these performance indicators paint a picture of an industry that has experienced some problems in recent years. However, I am unable to conclude that the industry is materially injured. Assuming arguendo that the industry is materially injured, I proceed to consider the issue of causation.

Subsidized or Dumped Imports Are Not a Cause of Material Injury. The deterioration in the fortunes of domestic aspirin producers in recent years is due, in large part, to the decline in the demand for aspirin. This decline has adversely affected the domestic industry, which encompasses two firms that produce aspirin for their own captive consumption and two firms that supply the merchant market.[12]

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[11] Note, in particular, that capital expenditures increased dramatically from 1984 to 1985, then fell in 1986. Id. at A-18.

[12] Petitioner in this case apparently invites the Commission to examine the effects of unfairly traded imports on the merchant market alone. Transcript (Tr.) at 75. I do not believe that this is appropriate. To do so implicitly assumes that the captive market and the merchant market are completely insulated from each other, that there are no interrelationships or linkages between the two. It further assumes that captive producers are immune from the effects of unfair imports. This is not true, as revealed by the fact that one of the captive

(Footnote continued on next page)

The decline in demand was sharpest in 1985. In that year apparent domestic consumption fell from 28.5 million pounds to 25.9 million, or by 9.0 percent, at the same time that the average price in the market also fell.[13] The reasons for this decline in demand are not hard to find. Two factors were at work.

The first is the 1984 announcement of the Federal Center for Disease Control associating aspirin with the development of Reye's Syndrome in children.[14] This led to the requirement that warning labels be placed on all aspirin bottles in early 1985. While children account for only 7 percent of aspirin consumption,[15] it is likely that the labeling had a chilling effect on adult use of aspirin as well. Petitioner alleges that

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(Footnote continued from previous page)
producers, Norwich-Eaton, made some sales to the merchant market in late 1986 after one of its customers switched to Turkish suppliers. Tr. at 21. While that transaction could have been a temporary aberration, it nonetheless suggests that captive producers follow developments in the merchant market closely. Indeed, it is clearly in the interest of captive producers to pay close attention to the market price of aspirin in the merchant market, both to determine the correct internal transfer price of their aspirin and to monitor the health and viability of their aspirin operations.

13 Staff Report at A-23 (Table 14) for apparent consumption. Data on prices are confidential.

14 Id. at A-21.

15 The 7 percent estimate is the petitioner's. Id. at A-21.

the 1985 price decline is attributable to the sharp increase in Turkish imports between 1984 and 1985.[16] I am persuaded, however, that this decline was caused mainly by the Reye's Syndrome scare. The sequence of events is convincing. The Center for Disease Control announced its finding in late 1984, warning labels were attached in early 1985, and prices declined swiftly in the first quarter of 1985.

The second reason for the decline in aspirin demand is increased competition from other pain relievers, in particular acetaminophen (which includes Tylenol) and the newer ibuprofen. Over the past fourteen years, domestic production of bulk aspirin has edged downward while production of acetaminophen increased more than five fold.[17] Ibuprofen first entered the U.S. market in 1983 and sales expanded rapidly. Between 1984 and 1986 not only did U.S. demand for aspirin decline, but aspirin's share of the total pain reliever market also declined, from 52.1 percent to 43.4 percent (on a quantity basis).[18] Contrary to the

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16 Id. at A-28 (Table 16), at A-23 (Table 14), and Tr. at 34. Import penetration for Turkey rose from 0.5 percent in 1984 to 2.6 percent in 1985 (on a value basis).

17 Id. at A-26 (Figure 1).

18 Id. at A-24 (Table 15).

position advanced by petitioner,[19] acetaminophen and ibuprofen have raised a serious challenge to domestic aspirin producers.[20]

In addition, ITC staff found that the two newer pain relievers are very close substitutes for aspirin. According to econometric estimates from the Office of Economics, each 1 percent decline in the relative price of aspirin substitutes causes the demand for domestically produced aspirin to decline by 2.2 percent.[21] Thus if the prices of acetaminophen and ibuprofen fall by 10 percent and the price of aspirin is unchanged, the demand for aspirin will contract by 22 percent. This points to a very high price sensitivity between the newer pain relievers and domestic aspirin. In contrast, the econometric evidence suggests that imported aspirin probably has a relatively weak impact on domestically produced aspirin. It appears that each 1 percent decrease in the price of imports

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19 Tr. at 34.

20 See Prehearing Brief on Behalf of the Government of Turkey, June 29, 1987, at annex 7 ("A Bitter Pill for Aspirin Makers," Business Week, July 5, 1982, p. 78); Chemicals Profiles, July 1, 1984, (Salicylic Acid, "Aspirin, salicylic's primary outlet, has been hurt significantly by competitive pain relievers such as acetaminophen.").

21 Memorandum from the Office of Economics, EC-K-300, July 28, 1987 (Subsequently "Memo EC-K-300"). This estimate is for the cross price effect of aspirin substitutes on the demand for aspirin. The estimate is statistically significant.

causes the demand for domestic aspirin to decrease by only 0.14 percent.[22]

These econometric results corroborate other evidence[23] suggesting that competition from aspirin substitutes has had an important effect on domestic aspirin producers in recent years. They also suggest that aspirin imports from all sources have played a relatively minor role. However, I must continue on to examine the effects of Turkish imports and determine whether these effects are material.

In order for subsidized or dumped imports to be a cause of material injury, it is necessary to establish that they have an effect on the domestic industry that is "not inconsequential, immaterial, or unimportant."[24] Unfairly traded imports from Turkey do not pass this test for the simple reason that, in the context of the domestic aspirin industry, they are too small. On a quantity basis, the import penetration ratio was 0.8 percent in

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22 Note that this estimate was not statistically different from zero. In other words, the effect of import price on domestic aspirin could very well be zero. This is not entirely surprising, given that imported aspirin (from all countries) accounted for only 10 to 14 percent of domestic aspirin consumption (by value). See Memorandum from Office of Economics, EC-J-010 (January 7, 1986), at 30.

23 See note 20 supra.

24 19 U.S.C. sec. 1677(7)(A).

1984, 3.9 percent in 1985, 4.8 percent in 1986,[25] and 1.7 percent in the interim period January-to-March 1987.[26] On a value basis, the ratio was 0.5 percent in 1984, 2.6 percent in 1985, 3.5 percent in 1986,[27] and 1.2 percent in the interim period.[28]

In order for such small import penetration ratios to support a finding of material injury, the market for aspirin would have to be highly price-sensitive so that even small amounts of imports would cause disproportionately large effects on domestic prices. This is not the case here. Aspirin is not a highly price-sensitive market primarily because, given the price of its primary input, salicylic acid, the domestic supply curve of aspirin is virtually horizontal.[29] That is, other things

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25 Staff Report at A-23 (Table 14).

26 Id.

27 Id.

28 Id. These import penetration ratios are for total imports from Turkey. The Commerce Department found that all imports were sold at less than fair value. However, in the subsidy investigation, Commerce found that one Turkish firm, which only exported aspirin to the United States in 1986, did not receive benefit of the subsidy. Excluding this firm's shipments would lower the import penetration ratio in 1986 (the exact value is confidential).

29 Memo EC-K-300, at 6.

remaining the same, no matter whether the demand for domestically made aspirin is high or low, the price that domestic firms can get for their product changes very little. As subsidized or dumped imports increase, they will generally take some business from domestic firms -- whose sales will contract. (As discussed below, how much business will in fact be taken is much less than the increase in subsidized or dumped imports.)[30]

To isolate the effects of subsidized and dumped imports on the domestic industry and to determine the upper bound or maximum size of those effects, I use here a method of analysis employed earlier in Cold-Rolled Carbon Steel Plates and Sheets from Argentina.[31] The first step is to consider the subsidy and dumping margins reported by the Department of Commerce. The final net subsidy margin was 6.54 percent,[32] and the final

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30 That is, the demand curve facing domestic producers will contract or shift to the left. But since the domestic industry's supply curve is virtually flat there will be almost no effect on the price domestic firms will charge.

31 Cold-Rolled Carbon Steel Plates and Sheets from Argentina, Inv. 731-TA-175 (Final) (Remand), USITC Pub. 1967 (1987), at 25-31.

32 Staff Report at A-2, note 2.

weighted average dumping margin was 32.98 percent.[33] The precise extent to which this 32.98 percent margin lowered the import price, i.e., made it lower than "fair" import price, is not known. But at a maximum it would have been 32.98 percent, meaning that at a maximum the "fair" import price would have been 32.98 percent higher than the prices in fact reported in this case. It is likely that there would have been many fewer Turkish imports if they had had to enter the United States at a "fair" price.[34] At the extreme, they would have fallen away to zero.

What would have happened to the business that went to Turkish producers? Some of it would have gone to other foreign suppliers (e.g., France, Spain, and West Germany), and the rest

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33 Id. at A-2. When there is both a countervailing duty (and an export subsidy) and an antidumping duty in a case, the amount of bond equals the dumping duty (assuming it exceeds the CVD duty). See Final Determination of Sales at Less Than Fair Value; Acetylsalicylic Acid (Aspirin) from Turkey, 52 Fed. Reg. 17,126 (ITA) 1987).

34 Whether that large a rise in Turkish prices would have severely curbed imports is not known. What we do know is that if the prices of all aspirin imports had been 32.98 percent higher there probably would have been a dramatic cutback in all imports, possibly to zero. This is because import demand for aspirin from all countries appears to be very sensitive to price. According to econometric estimates from the Office of Economics, the elasticity of demand for all imports is -3.02. This suggests that if import prices increase by 32.98 percent, the contraction in quantity of imports would be -3.02 times 32.98, which equals -99.60 percent. See Memo EC-K-300, at 5.

to U.S. producers. In order to determine the upper bound for the effects on domestic firms, let us suppose that all of this business went to U.S. firms. In that event, in 1984, with imports from Turkey at 238,000 pounds,[35] domestic shipments by U.S. firms would have increased by 1.0 percent. In 1985, with Turkey's imports at 1.0 million pounds,[36] total domestic shipments by U.S. firms would have increased by 4.6 percent. In 1986, with Turkey's imports at 1.3 million pounds,[37] total domestic shipments by U.S. firms would have increased by 5.7 percent.

Since the domestic supply curve for aspirin is essentially flat, subsidized or dumped imports would not have caused price suppression in this case. So we can conclude that the above percentage changes in domestic shipments by U.S. firms would also correspond to the maximum effects on domestic revenues. That is, the maximum adverse effect on domestic revenues was 1.0 percent in 1984, 4.6 percent in 1985, and 5.7 percent in 1986.

Although these computed shipment and revenue losses for 1985 and 1986 are within a range I might find to be material, they are

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35 Report at A-23 (Table 14).

36 Id.

37 Id.

significantly overstated because they ignore the presence of other foreign aspirin sellers in the market. That is, these maximum adverse effects on the domestic industry need to be qualified because it would have been most unlikely for U.S. firms to obtain all or even a large proportion of the Turkish business. During the period of investigation, U.S. purchasers also obtained supplies of aspirin from many other countries, including in particular France, Spain, and West Germany. Several large purchasers of aspirin, which is a relatively fungible product, frequently change suppliers and are very sensitive to the price terms quoted by different sources.[38] Furthermore, as they themselves acknowledged, Dow and Monsanto have lost business to foreign suppliers other than Turkey.[39] Therefore, it is unlikely that U.S. firms would capture all or even the bulk of the business that went to Turkey. As a consequence, I would not expect the adverse effects on the domestic industry due to subsidized or dumped imports from Turkey to be significant. Accordingly, I conclude that subsidized or dumped imports of aspirin from Turkey are not a cause of material injury.

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[38] Memorandum from the Office of Economics, EC-K-311, July 31, 1987, at 3.

[39] Staff Report, at A-32,33.

Subsidized or Dumped Imports Are Not a Threat of Material Injury. Although imports from Turkey rose by 320 percent in 1985 and continued to grow by 31 percent in 1986, I do not find any indication that Turkish producers are poised to ship sufficient quantities of aspirin to threaten the domestic industry.[40] The United States is already the major market for Turkish exporters so that the prospect of a substantial diversion of product from other customers to U.S. importers is unlikely.[41] Moreover, inventories of Turkish product have declined sharply to the point where there is no large stockpile of foreign product to work off. Furthermore, it does not appear that capacity has changed, that significant excess capacity exists, or that major capacity expansions are in the offing.[42] Finally, Turkey lost its eligibility under the U.S. Generalized System of Preferences on July 1, 1987 and now faces a duty of 10.2 percent ad valorem on

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40 Id. at A-22 (Table 13).

41 Much of the data on the Turkish industry is confidential, so the discussion will largely be in general terms. Id. at A-20, in particular note 1, and A-21 (Table 12).

42 As discussed in the previous section, there is little prospect that Turkish imports have or could have a significant depressing or suppressing effect on domestic prices of aspirin.

its shipments of aspirin.[43] This action will make it more expensive for Turkish firms to export to the United States and will encourage them to look to other markets. For these reasons, I conclude that there is no real threat of material injury and that actual injury is not imminent.[44]

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[43] Id. at A-4. I further note that the net subsidy in this case was an export subsidy. But the rate was only 6.54 percent, which is smaller than the 10.2 percent duty that Turkey now faces as a result of its graduation from G.S.P.

[44] 19 U.S.C. sec. 1677(7)(F)(i).

INFORMATION OBTAINED IN THE INVESTIGATIONS

Introduction

On October 31, 1986, petitions were filed with the U.S. International Trade Commission and U.S. Department of Commerce on behalf of Monsanto Company, St. Louis, MO, alleging that subsidized and less-than-fair value (LTFV) imports of bulk acetylsalicylic acid (aspirin) from Turkey are being sold in the United States and that an industry in the United States is materially injured and threatened with material injury by reason of such imports.

Accordingly, effective October 31, 1986, the Commission instituted countervailing duty investigation No. 701-TA-283 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) and antidumping investigation No. 731-TA-364 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of such imports.

On December 10, 1986, the Commission determined 1/ that there was a reasonable indication that an industry in the United States is materially injured by reason of the alleged subsidized imports from Turkey. It also determined 2/ that there was a reasonable indication that an industry in the United States is materially injured by reason of the alleged LTFV imports from Turkey. Commerce, therefore, continued its investigations into the questions of the alleged subsidized and LTFV imports. On March 3, 1987, it published an affirmative preliminary determination with regard to the alleged subsidized imports in the Federal Register (52 F.R. 6367). On the basis of Commerce's preliminary determination, the Commission instituted a final countervailing duty investigation effective the same date. Notice of the institution of this investigation was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of March 25, 1987 (52 F.R. 9552). 3/ Commerce published an affirmative final subsidy determination in the Federal Register of July 1, 1987 (52 F.R. 24494). 4/ On April 15, 1987, Commerce published an affirmative preliminary determination with regard to the alleged LTFV imports in the Federal Register (52 F.R. 12222). On the basis of Commerce's preliminary determination, the Commission instituted a final antidumping investigation. Notice of the institution of this investigation and of a hearing to be held in connection with both the antidumping and countervailing duty investigations was given by posting copies of the notice in the Federal Register of April 29, 1987 (52 F.R. 15565). 5/ Commerce published an affirmative final LTFV determination in the Federal Register of July 1, 1987 (52 F.R. 24492). 6/

1/ Chairman Liebeler dissenting; Commissioner Lodwick not participating.
2/ Ibid.
3/ A copy of the Commission's notice of institution of a final countervailing duty investigation is presented in app. A.
4/ A copy of Commerce's final subsidy determination is presented in app. B.
5/ A copy of the Commission's notice of institution of a final antidumping investigation and of a hearing to be held in connection with both the antidumping and countervailing duty investigations is presented in app. A.
6/ A copy of Commerce's final LTFV determination is presented in app. B.

The Commission is conducting both investigations concurrently and is scheduled to make its final injury determinations by August 11, 1987. The hearing was held on July 2, 1987, 1/ and the briefing and votes were held on August 3, 1987.

Bulk acetylsalicylic acid (aspirin) has not been the subject of any other investigation conducted by the Commission.

Nature and Extent of Subsidies and Sales at LTFV

In its final determination, Commerce estimated a net subsidy of 19.54 percent ad valorem 2/ for Atabay Kimya Sanayi Ticaret A.S. (Atabay) and all other manufacturers, producers, or exporters of aspirin in Turkey except Proses Kimya Sanayi ve Ticaret (Proses), which is excluded from the determination. Other Turkish firms known to have produced bulk aspirin are Bayer Turk Kimya Sanayi ve Ticaret A.S. (Bayer Turkey) and Ilkim Kimya Maddler Sanayi ve Ticaret A.S. (Ilkim). Only the former is believed to have exported to the United States. The specific benefits and programs that Commerce found to constitute subsidies include export tax and supplemental tax rebates, a resource utilization support fund, and export revenue tax deductions. All of the above are export subsidies; however, the first two were eliminated before Commerce's preliminary determination and therefore are not included in the duty deposit rate. The programs are discussed in detail in Commerce's notice of final countervailing duty determination (see app. B).

Commerce's final LTFV determination was based on an examination of bulk aspirin exported to the United States by Atabay and Proses during May 1--October 31, 1986. These two firms accounted for most of Turkey's exports of bulk aspirin to the United States. For the purpose of determining whether these exports were, or were likely to be, sold at LTFV, Commerce compared the U.S. purchase price with a foreign market value based on home-market prices in Turkey. U.S. purchase prices were used since U.S. customers are unrelated to Turkish manufacturers, and home-market prices were used since bulk aspirin is sold in Turkey in sufficient quantities to provide a basis for comparison. Using these criteria Commerce found dumping margins on sales of both firms examined. 3/ Of the total value of sales compared for Atabay ***, *** percent were found to be at LTFV. The weighted-average margins are as follows (in percent):

	Margin
Atabay	27.35
Proses	38.60
All others	32.98

1/ A list of witnesses appearing at the hearing is presented in app. C.
2/ The duty deposit rate is 6.54 percent ad valorem, which reflects changes in subsidy programs prior to Commerce's preliminary determination.
3/ Because Proses did not respond to Commerce's questionnaire, Commerce used the best information available for Proses, which was that contained in the petition.

The Product

Description and uses

The product subject to the petitioner's complaint—bulk acetylsalicylic acid (aspirin)—is aspirin 1/ which contains no active additives 2/ in quantities to be of any therapeutic value and which is not in tablet, capsule, or similar forms for direct human consumption. According to the Encyclopedia of Chemical Technology, 3rd edition, aspirin is the most widely used therapeutic drug in the world, used principally for the relief of mild to moderate pain, such as that associated with headaches, arthritis, and tooth aches. In the light of recent scientific findings, it has also been used in treating stress and certain cardiovascular problems.

To produce bulk aspirin, salicylic acid is mixed with acetic anhydride, yielding, after various proprietary processes, a liquid consisting of water, acetic acid, and aspirin. The acetic acid, removed by centrifuge, is either returned to acetic anhydride producers for credit or sold, and the water is removed by drying. Bulk aspirin, in the form of white crystals, remains. At this point the aspirin can be packaged and sold. Usually, however, it is screened and packaged according to granular size. Four standard "mesh" sizes are available: 20, 40, 60, and 80. There are no uses for which a specific mesh size is absolutely required; however, most buyers prefer consistency in granular size to facilitate processing and thus specify mesh size, or at least a range in size, when purchasing. Alternatively to being screened for granular size, bulk aspirin may be ground into a fine powder (pharmaceutical form) or combined with small amounts of inactive substances (compound form) such as starch, lactose, cellulose, or coloring materials, which facilitate further processing by buyers. (The addition of starch, for example, imparts a cohesive factor to the aspirin, which makes it easier to process into tablets). Different concentrations of each of these additives are available. Because of the additional processing, both the pharmaceutical form and the compound form of bulk aspirin sell at a premium price, although the pharmaceutical form has not been sold in the United States in large quantities. The crystalline form accounts for about *** percent of the bulk aspirin sold by U.S. producers in the United States and for well over half that imported from Turkey. Most of the remaining product, from both U.S. and Turkish producers, is compounded with a 10 percent concentration of starch.

At least two products, ibuprofen and acetaminophen, can be used in place of aspirin for the relief of mild to moderate pain. These products are produced in separate facilities in the United States by means of processes and equipment that are not interchangeable with those for aspirin. Prices for acetaminophen and ibuprofen, moreover, are generally 2 to 5 times higher than those for aspirin. Despite the price differential, these three drugs generally compete for pain-relief applications, at least at the consumer level, and data compiled by the Commission indicate that consumption of acetaminophen and ibuprofen in recent years has increased relative to aspirin. For a further discussion of U.S. consumption of these drugs, see the section of this report entitled "U.S. consumption and market penetration."

1/ Aspirin is a white, odorless, crystalline powder of organic derivation, having the formula $C_2H_3O_2C_6H_4CO_2H$.

2/ Active additives are additives which have a medicinal or therapeutic effect.

U.S. tariff treatment

Bulk aspirin is currently provided for in item 410.72 of the Tariff Schedules of the United States (TSUS), a classification which has been in effect since July 1, 1980, and which includes all aspirin, regardless of form or type of additive. The column 1 (most-favored-nation) rate of duty for this item, applicable to imports from Turkey as of July 1 of this year, is 10.2 percent ad valorem, the last in a series of duty reductions granted in the Tokyo round of the Multilateral Trade Negotiations. 1/ The special duty rate, applicable to imports from Turkey from January 3, 1976, through June 30, 1987, under the Generalized System of Preferences (GSP), is free. 2/ Turkey was graduated from GSP eligibility for aspirin on July 1, 1987, pursuant to a decision announced by the United States Trade Representative (USTR) on April 2, 1987.

U.S. Channels of Distribution

Most bulk aspirin sold in the United States by U.S. and foreign producers is sold either to unrelated chemical-products distributors or directly to pharmaceutical processors, which convert it into tablet or capsule form, add other active ingredients in some cases, and/or otherwise prepare it for human consumption. Aspirin is not consumed in bulk form. Customers of pharmaceutical processors include 1) retail distributors, which serve pharmacies, drugstores, and supermarkets, and 2) hospitals and other large health-related institutions.

U.S. Producers

In addition to the petitioner, which produces bulk aspirin at a single plant in St. Louis, MO, three other firms manufacture bulk aspirin in the United States: Dow Chemical, U.S.A. (Dow), at a single plant in Midland, MI; Norwich-Eaton, at a single plant in Norwich, NY; and Sterling Drug, at a

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1/ The rates of duty in col. 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(d) of the TSUS. The People's Republic of China, Hungary, Poland, Romania, and Yugoslavia are the only Communist countries eligible for MFN treatment. However, MFN rates would not apply if preferential tariff treatment is sought and granted to products of developing countries under the Generalized System of Preferences (GSP) or the Caribbean Basin Economic Recovery Act (CBERA), or to products of Israel or of least developed developing countries (LDDC's) as provided under the special rates of duty column.

2/ The GSP affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 and renewed in the Trade and Tariff Act of 1984, applies to merchandise imported on or after Jan. 1, 1976, and before July 4, 1993. It provides duty-free entry to eligible articles imported directly from designated beneficiary developing countries.

single plant in Trenton, NJ. 1/ Dow's plant, which became fully operational early this year, replaces its older plant, which was shut down on March 11, 1987. The petitioner and Dow account for about *** percent of U.S. production and virtually all open-market sales in the last 4 years. Norwich-Eaton and Sterling Drug processed nearly all of the material they produced into forms for direct human consumption. Over 100 firms, in addition to Norwich-Eaton and Sterling Drug, process bulk aspirin into forms for direct human consumption. All of the above named firms are large multinational corporations and manufacture many chemical products other than aspirin, although not with the same equipment used to produce bulk aspirin. From the point at which salicylic acid is mixed with acetic anhydride to the point at which bulk aspirin is packaged, each producer's plant is devoted exclusively to the subject product. None of these firms produces acetic anhydride and only Monsanto, Dow, and Sterling Drug produce salicylic acid.

U.S. Importers

At least a dozen firms, located mainly in New York and New Jersey, have imported bulk aspirin from Turkey since 1984. The largest are ***, together accounting for about *** percent of imports in 1983-86. *** are large chemical distributors serving most of the United States. All *** companies also import bulk aspirin from countries other than Turkey.

Consideration of Alleged Material Injury

The following sections, compiled from responses to the Commission's questionnaire by all four producers of bulk aspirin in the United States, represent 100 percent of domestic production during the period for which data were collected.

U.S. production, capacity, and capacity utilization

U.S. producers' capacity, utilized exclusively for bulk aspirin production, remained at 42.7 million pounds annually from 1984 through 1986 and then increased to 43.9 million pounds annually in January-March 1987 when Dow's new plant, designed to replace its old plant, became fully operational (table 1). Although the new plant produced substantial quantities of bulk aspirin during the last quarter of 1986, ***. For this reason Dow's old plant was kept in full operation and production for 1986 was ***. The new plant was not considered fully operational until January 1987 when ***. Dow continued to operate its old plant until March 11, 1987, ***. Total production for January-March 1987, therefore, was also ***. The capacity of its new plant is about *** percent higher than that of the old plant.

After declining by 21.2 percent from 1984 to 1985, U.S. production increased in 1986, but to a level still 6.8 percent below that in 1984. From January-March 1986 to January-March 1987 production increased 13.8 percent, largely as a result of ***. Correspondingly, capacity utilization fell from 69.5 percent in 1984 to 54.7 percent in 1985 and then rose to 62.5 percent in 1986. It fell to 54.7 percent in January-March 1987 (compared to 60.9 percent

1/ Dow and Norwich-Eaton are in support of the petition. Sterling Drug is taking no position with regard to these investigations.

Table 1
Bulk aspirin: U.S. production, average practical capacity, and capacity utilization, by firms, 1984-86, January-March 1986, and January-March 1987

Item and firm	1984	1985	1986	January-March 1986	January-March 1987
Production:					
Monsanto....1,000 pounds..	***	***	***	***	***
Dow.....do....	***	***	1/ ***	***	2/ ***
Sterling Drug.....do....	***	***	***	***	***
Norwich-Eaton 3/....do....	***	***	***	***	***
Total.....do....	29,660	23,365	27,628	6,501	7,400
Average capacity:					
Monsanto 4/.1,000 pounds..	***	***	***	***	***
Dow 4/.....do....	***	***	5/ ***	***	6/ ***
Sterling Drug 7/....do....	***	***	***	***	***
Norwich-Eaton 8/....do....	***	***	***	***	***
Total.....do....	42,700	42,700	42,700	10,675	10,975
Ratio of production to capacity:					
Monsanto.....percent..	***	***	***	***	***
Dow.....do....	***	***	9/ ***	***	10/ ***
Sterling Drug.....do....	***	***	***	***	***
Norwich-Eaton.....do....	***	***	***	***	***
Average.....do....	69.5	54.7	9/ 62.5	60.9	10/ 54.7

1/ This figure includes *** pounds produced in the last quarter of 1986 at Dow's new plant of which ***. Because of quality problems, Dow's new plant was not considered fully operational until January 1987.

2/ Dow's new plant, intended as a replacement for its old plant, became fully operational in January 1987. Its old plant, however, continued to operate until Mar. 11, 1987, ***. About half (*** pounds) of Dow's January-March 1987 production is attributable to its old plant.

3/ Estimated on the basis of fiscal year data.

4/ Capacity based on operating the firm's facilities 168 hours per week, 52 weeks per year.

5/ This figure does not include the capacity of Dow's new plant, which, although producing over *** pounds in the last quarter of 1986 ***, did not become fully operational until early 1987.

6/ This figure reflects the capacity of Dow's new plant only (*** pounds annually), which is about *** percent higher than that of the old plant it replaces (*** pounds annually). The old plant was shut down on Mar. 11, 1987.

7/ Capacity based on operating the firm's facilities 40 hours per week, 48 weeks per year.

8/ Capacity based on operating the firm's facilities 126 hours per week, 50 weeks per year.

9/ Does not include the production (*** pounds) or capacity of Dow's new plant, which did not become fully operational until 1987.

10/ This figure reflects the production and capacity of Dow's new plant only.

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

in January-March 1986). ***. None of the other producers reported any unusual circumstances which might have resulted in a loss in production.

About 17 percent of U.S. production is converted to pharmaceutical form, 41 percent to compound form (mostly with starch) and the remainder, or about 42 percent, remains in crystalline form. As a share of production, each form has not changed appreciably in recent years. Of the bulk aspirin that is converted into the pharmaceutical form, less than 2 percent is sold on the open market. The remainder, ***, is internally consumed in the production of tablets.

U.S. producers' intracompany consumption, domestic shipments, and exports

From 1984 to 1986, about *** of U.S. producers' bulk aspirin production—i.e., ***—was internally consumed in the production of tablets. The remainder was either sold domestically to unrelated purchasers or exported, mostly to foreign subsidiaries. From 1984 to 1986, U.S. producers' domestic shipments declined irregularly from *** pounds, valued at ***, to *** pounds, valued at ***, or by *** percent in terms of quantity (table 2). From

Table 2
Bulk aspirin: U.S. producers' intracompany consumption, domestic shipments, and exports, by firm, 1984-86, January-March 1986, and January-March 1987

Item and firm	1984	1985	1986	January-March— 1986	January-March— 1987
	Quantity (1,000 pounds)				
Intracompany consumption:					
Sterling Drug	***	***	***	***	***
Norwich-Eaton	***	***	***	***	***
Total	***	***	***	***	***
Domestic shipments:					
Monsanto	***	***	***	***	***
Dow	***	***	***	***	***
Total	***	***	***	***	***
Exports:					
*** 2/	***	***	***	***	***
*** 3/	***	***	***	***	***
***	***	***	***	***	***
Total	***	***	***	***	***
	Value (1,000 dollars)				
Domestic shipments:					
Monsanto	***	***	***	***	***
Dow	***	***	***	***	***
Total	***	***	***	***	***
Exports:					
*** 2/	***	***	***	***	***
*** 3/	***	***	***	***	***
***	***	***	***	***	***
Total	***	***	***	***	***

See footnotes at end of table

Table 2
Bulk aspirin: U.S. producers' intracompany consumption, domestic shipments, and exports, by firm, 1984-86, January-March 1986, and January-March 1987--Continued

Item and firm	1984	1985	1986	January-March 1986	January-March 1987
	Unit value (per pound)				
Domestic shipments:					
Monsanto	***	***	***	***	***
Dow	***	***	***	***	***
Average	***	***	***	***	***
Exports:					
*** 2/	***	***	***	***	***
*** 3/	***	***	***	***	***
***	***	***	***	***	***
Average	***	***	***	***	***

1/ Estimate.
2/ ***.
3/ ***.

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

January-March 1986 to January-March 1987, domestic shipments further declined by *** percent. In an effort to penetrate the open market, Norwich-Eaton began selling *** quantities to domestic buyers in September 1986. ***. Export shipments, which increased from *** percent of total shipments in 1984 to *** percent in 1986, increased by 0.5 percent from 1984 to 1986 and then declined by 7.7 percent from January-March 1986 to January-March 1987. Unit sales values per pound, also shown in table 2, declined after 1984.

Inventories

From 1984 to 1985, U.S. open-market producers' end-of-period inventories increased from *** pounds, or *** percent of total shipments, to *** pounds, or *** percent of total shipments (table 3). From 1985 to 1986, the trend ***. The net result was a *** percent increase in inventories and an *** percentage-point rise in the ratio of inventories to shipments from 1984 levels. The overall trend continued in January-March 1987, ***.

Employment

The average number of production and related workers producing bulk aspirin in the United States increased by 10.1 percent from 1984 to 1986, largely as a result of the hiring for Dow's new plant (table 4). Hours worked by these workers increased correspondingly. From January-March 1986 to January-March 1987, employment remained relatively stable. Most of the

Table 3
Bulk aspirin: U.S. open-market producers' end-of-period inventories, by firm, 1984-86, January-March 1986, and January-March 1987

Item and firm	1984	1985	1986	January-March 1986	January-March 1987
Inventories:					
Monsanto....1,000 pounds..	***	***	***	***	***
Dow.....do....	***	***	***	***	***
Total.....do....	***	***	***	***	***
Ratio of inventories to total shipments during the preceding period:					
Monsanto.....percent..	***	***	***	***	***
Dow.....do....	***	***	***	***	***
Average.....do....	***	***	***	***	***

1/ Annualized.

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

workers at Dow's older plant have now either been reassigned to the new plant or to other plants (non-aspirin) in the company's system. Workers at bulk aspirin plants are not engaged in producing any other product. 1/ Because of declining production and/or increasing hours worked, productivity, in terms of output per hour worked, declined for U.S. producers from 1984 to 1986. From January-March 1986 to January-March 1987, the overall trend improved, as shown in table 4. For the most part, total compensation and hourly compensation paid to production and related workers producing bulk aspirin have increased in recent periods, as shown in table 5. Unit labor costs rose from 1984 to 1985 and declined thereafter.

Financial experience of U.S. producers

Monsanto's and Dow's plants accounted for *** percent of U.S. production of bulk aspirin in 1986 and for virtually all domestic shipments of bulk aspirin. Bulk aspirin accounts for the preponderance of sales at Monsanto's plant and for virtually all sales at Dow's plant. Acetic acid, a by-product of bulk aspirin production, accounts for most of these plants' remaining sales. The operations of these two firms are discussed below.

Operations of Monsanto.--Establishment net sales decreased by *** percent from *** in 1984 to *** in 1985 (table 6). In 1986 net sales were ***, an increase of *** percent from 1985. Operating income was *** in 1984, *** in 1985, and *** in 1986. Operating income margins, as a percent of sales, were *** in 1984, *** in 1985, and *** in 1986.

1/ As previously stated, acetic acid is a by-product of bulk-aspirin production.

Table 4
Average number of production and related workers producing bulk aspirin in U.S. establishments, hours worked by such workers, and output per hour worked, by firm, 1984-86, January-March 1986, and January-March 1987

Item and firm	1984	1985	1986	January-March— 1986	1987
Average number of production and related workers producing bulk aspirin:					
Monsanto	***	***	***	***	***
Dow	***	***	***	***	***
Sterling Drug	***	***	***	***	***
Norwich-Eaton 2/	***	***	***	***	***
Total	***	***	***	***	***
Hours worked by production and related workers producing bulk aspirin:					
Monsanto.....1,000 hours	***	***	***	***	***
Dow.....do	***	***	***	***	***
Sterling Drug.....do	***	***	***	***	***
Norwich-Eaton 2/....do	***	***	***	***	***
Total.....do	***	***	***	***	***
Output (production) of bulk aspirin per hour worked:					
Monsanto.....pounds	***	***	***	***	***
Dow.....do	***	***	***	***	***
Sterling Drug.....do	***	***	***	***	***
Norwich-Eaton 2/....do	***	***	***	***	***
Average.....do	***	***	***	***	***

1/ Estimate.
2/ Company estimate.

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

Table 5
Total compensation and average hourly compensation paid to production and related workers producing bulk aspirin in U.S. establishments other than Norwich-Eaton's 1/ and unit labor cost of such production, by firm, 1984-86, January-March 1986, and January-March 1987

Item and firm	1984	1985	1986	January-March 1986	January-March 1987
Total compensation paid to production and related workers producing bulk aspirin:					
Monsanto...1,000 dollars..	***	***	***	***	***
Dow.....do....	***	***	***	***	***
Sterling Drug.....do....	***	***	***	***	***
Total.....do....	***	***	***	***	***
Hourly compensation paid to production and related workers producing bulk aspirin:					
Monsanto.....	***	***	***	***	***
Dow.....	***	***	***	***	***
Sterling Drug.....	***	***	***	***	***
Average.....	***	***	***	***	***
Unit labor cost of producing bulk aspirin:					
Monsanto.....per pound..	***	***	***	***	***
Dow.....do....	***	***	***	***	***
Sterling Drug.....do....	***	***	***	***	***
Average.....do....	***	***	***	***	***

1/ Norwich-Eaton, which accounted for *** percent of production in 1986, was unable to provide usable data.
2/ Estimate.

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

Table 6
Income-and-loss experience of Monsanto on its overall establishment operations, accounting years 1984-86, and interim periods ended March 31, 1986, and March 31, 1987

Item	1984	1985	1986	Interim period ended March 31— 1986	1987
Net sales.....1,000 dollars..	***	***	***	***	***
Cost of goods sold.....do....	***	***	***	***	***
Gross profit.....do....	***	***	***	***	***
General, selling, and administrative expenses 1,000 dollars..	***	***	***	***	***
Operating income 1,000 dollars..	***	***	***	***	***
Interest expense.....do....	***	***	***	***	***
Other income (expense) 1,000 dollars..	***	***	***	***	***
Net income or (loss) before income taxes..1,000 dollars..	***	***	***	***	***
Depreciation and amortization expense.....1,000 dollars..	***	***	***	***	***
Cash flow from operations 1,000 dollars..	***	***	***	***	***
Ratio to net sales of:					
Cost of goods sold..percent..	***	***	***	***	***
Gross profit.....do....	***	***	***	***	***
General, selling, and administrative expenses percent..	***	***	***	***	***
Operating income....percent..	***	***	***	***	***
Net income before income taxes.....percent..	***	***	***	***	***

1/ ***.
2/ ***.
3/ ***.

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

For the interim period ended March 31, 1987, net sales were ***, an increase of *** percent from *** in the corresponding 1986 period. Operating income was *** in interim 1986 and *** in interim 1987. Operating income margins were *** percent in interim 1986 and *** percent in interim 1987.

The petitioner's submissions and testimony for the Commission's final investigations indicate that Monsanto *** in 1985 and 1986. This is true if sales of acetic acid, a by-product of aspirin production, are excluded from its plant's overall sales. Monsanto's bulk aspirin sales accounted for *** percent of its plant's overall sales in 1986. In any case Monsanto's profitability declined sharply after 1984. A summary of Monsanto's operating results, showing bulk aspirin operations separately, is presented in table 7.

Operations of Dow.--Separate income-and-loss information for Dow's old and new plants is shown in table 8. Information for both plants combined is shown in table 9. 1/ Net sales declined *** percent from *** in 1984 to *** in 1985. Sales increased *** percent to *** in 1986. Operating income was *** in 1984, *** in 1985 and *** in 1986. Operating income ratios, as a percent of sales, were *** in 1984, *** in 1985 and *** in 1986. Interim 1986 sales were *** but interim 1987 sales declined to ***. Operating income was *** in interim 1986, but *** in interim 1987. Operating income or (loss) ratios, as a percent of sales, were *** in interim 1986 and *** in interim 1987. 2/3/

The combined operations of Dow and Monsanto are presented in table 10. ***. Profit margins subsequent to 1984 were in general substantially below the 1983 and 1984 levels. These lower profit margins are primarily associated with the decline in unit value per pound (see table 2).

Supplementary data.--The Commission asked Monsanto and Dow to provide financial data for April-June 1987. Dow provided an estimated summary of the first half operations of its aspirin business. ***. Dow's statement is provided below:

Aspirin Business Performance Estimate First Half 1987

* * * * * * *

1/ "While Dow's new plant was ready for production in 1986, the delay awaiting customer qualification delayed the startup of commercial production until Mar. 11, 1987." Statement by Teri Lebeau, Dow Chemical, transcript of the hearing, p. 41.
2/ ***.
3/ ***.

Table 7
Income-and-loss experience of Monsanto on its operations producing bulk aspirin and other products, accounting years 1984-86, and interim periods ended March 31, 1986, and March 31, 1987

Item	1984	1985	1986	Interim period ended March 31— 1986	1987
Net sales:					
Bulk aspirin...1,000 dollars..	***	***	***	***	***
Other 1/.....do....	***	***	***	***	***
Total establishment...do....	***	***	***	***	***
Operating income or (loss):					
Bulk aspirin.....do....	***	***	***	***	***
Other 1/.....do....	***	***	***	***	***
Total establishment...do....	***	***	***	***	***
Ratio of operating income or (loss) to net sales:					
Bulk aspirin.....percent..	***	***	***	***	***
Other 1/.....do....	***	***	***	***	***
Total establishment...do....	***	***	***	***	***

1/ The difference between total establishment and bulk aspirin.

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

Table 8
Income-and-loss experience of Dow on its operations producing bulk aspirin, old and new plants, accounting years 1984-86, and interim periods ended March 31, 1986, and March 31, 1987

(In thousands of dollars)

Item	1984	1985	1986	Interim period ended March 31— 1986	1987
Net sales:					
Old plant	***	***	***	***	***
New plant	***	***	***	***	***
Total	***	***	***	***	***
Cost of goods sold:					
Old plant	***	***	***	***	***
New plant	***	***	***	***	***
Total	***	***	***	***	***
Gross profit (loss):					
Old plant	***	***	***	***	***
New plant	***	***	***	***	***
Total	***	***	***	***	***
General, selling, and administrative expenses:					
Old plant	***	***	***	***	***
New plant	***	***	***	***	***
Total	***	***	***	***	***
Operating income (loss):					
Old plant	***	***	***	***	***
New plant	***	***	***	***	***
Total	***	***	***	***	***
Interest expense:					
Old plant	***	***	***	***	***
New plant	***	***	***	***	***
Total	***	***	***	***	***
Net income (loss) before income taxes:					
Old plant	***	***	***	***	***
New plant	***	***	***	***	***
Total	***	***	***	***	***
Depreciation:					
Old plant	***	***	***	***	***
New plant	***	***	***	***	***
Total	***	***	***	***	***

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

Table 9
Income-and-loss experience of Dow on its operations producing bulk aspirin, 1/ accounting years 1984-86, and interim periods ended March 31, 1986, and March 31, 1987

Item	1984	1985	1986	Interim period ended March 31— 1986	1987
Net sales.....1,000 dollars..	***	***	***	***	***
Cost of goods sold.....do....	***	***	***	***	***
Gross profit or (loss)..do....	***	***	***	***	***
General, selling, and administrative expenses..do....	***	***	***	***	***
Operating income or (loss) do....	***	***	***	***	***
Interest expense.....	***	***	***	***	***
Start-up expense 2/.....	***	***	***	***	***
Shut-down expense.....	***	***	***	***	***
Net income or (loss) before income before taxes.....	***	***	***	***	***
Ratio to net sales of—					
Cost of goods sold.. percent..	***	***	***	***	***
Gross profit or (loss) percent..	***	***	***	***	***
General, selling, and administrative expense percent..	***	***	***	***	***
Operating income or (loss) percent..	***	***	***	***	***
Net income or (loss) before income taxes....percent..	***	***	***	***	***

1/ ***.
2/ ***.
3/ ***.
4/ ***.
5/ ***.
6/ ***.

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

Table 10
Income-and-loss experience of Dow and Monsanto on their operations producing bulk aspirin, accounting years 1984-86, and interim periods ended March 31, 1986, and March 31, 1987

Item	1984	1985	1986	Interim period ended March 31— 1986	1987
	Value (1,000 dollars)				
Net sales:					
Dow	***	***	***	***	***
Monsanto	***	***	***	***	***
Total	***	***	***	***	***
Gross profit:					
Dow	***	***	***	***	***
Monsanto	***	***	***	***	***
Total	***	***	***	***	***
Operating income (loss):					
Dow	***	***	***	***	***
Monsanto	***	***	***	***	***
Total	***	***	***	***	***
	Percent of net sales				
Gross profit:					
Dow	***	***	***	***	***
Monsanto	***	***	***	***	***
Weighted-average	***	***	***	***	***
Operating income or (loss):					
Dow	***	***	***	***	***
Monsanto	***	***	***	***	***
Weighted-average	***	***	***	***	***

1/ ***.
2/ ***.
3/ ***.
4/ ***.

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

Monsanto provided income-and-loss data for January-May 1987 bulk aspirin operations and an estimate to include June 1987 operations. Its submission, after staff adjustments, is shown below:

* * * * * * *

Investment in productive facilities.—The investment in productive facilities employed in the production of bulk aspirin is shown in table 11. The investment in such facilities, valued at cost, which was *** as of the end of 1984, increased sharply to *** at the end of 1985, and to *** at the end of 1986. Dow's investment in its new plant accounted for ***. The book value of such assets was *** as of December 31, 1986.

Table 11
Bulk aspirin: U.S. producers' end-of-period valuation of fixed assets, by firm, accounting years 1984-86, and interim periods ended March 31, 1986, and March 31, 1987

(In thousands of dollars)

Item	1984	1985	1986	Interim period ended March 31— 1986	1987
Original cost:					
Dow	***	***	***	***	***
Monsanto	***	***	***	***	***
Total	***	***	***	***	***
Book value:					
Dow	***	***	***	***	***
Monsanto	***	***	***	***	***
Total	***	***	***	***	***

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

Capital expenditures.—Spending for facilities used in the production of bulk aspirin rose sharply from *** in 1984 to *** in 1985. ***. Total expenditures were *** in 1986. Capital expenditures for interim 1987 were *** compared with *** in interim 1986. Capital expenditures are shown in the following tabulation (in thousands of dollars):

Period	Capital expenditures Dow	Monsanto	Total
1984	***	***	***
1985	***	***	***
1986	***	***	***
January-March—			
1986	***	***	***
1987	***	***	***

Research and development expenses.—Research and development (R & D) expenses for the two producers combined rose from *** in 1984 to *** in 1986. During the interim periods of 1986 and 1987, R & D expenses decreased from *** to ***, respectively. These data are shown in the following tabulation (in thousands of dollars):

	Research and development expenses		
Period	Dow	Monsanto	Total
1984	***	***	***
1985	***	***	***
1986	***	***	***
January-March—			
1986	***	***	***
1987	***	***	***

Capital and investment.—The companies were asked to describe and explain the potential negative effects, if any, of imports of bulk aspirin from Turkey on their firm's growth, investment, and ability to raise capital. Excerpts from their responses are shown below.

Dow

* * * * * * *

Monsanto

* * * * * * *

Consideration of Alleged Threat of Material Injury

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 nature of the subsidy, the rate of increase of imports and market penetration of such imports, probable suppression and/or depression of U.S. producers' prices, the capacity of producers in the exporting country to generate exports (including the existence of underutilized capacity and the availability of export markets other than the United States), the potential for product shifting by foreign producers, and U.S. importers' inventories. Import, price, and market penetration trends for bulk aspirin are discussed in the sections immediately following. Information on the nature of the subsidies is presented in the section entitled, "Nature and Extent of Subsidies and Sales at LTFV." A discussion of importers' inventories and foreign capacity and exports, to the extent such information is available, is presented below.

Data received from U.S. importers, which account for over 80 percent of the imports from Turkey, show that most bulk aspirin imported from Turkey has either been shipped or processed shortly after importation. After increasing from *** pounds in 1983 to *** pounds in 1986, inventories declined from *** pounds as of March 31, 1986, to *** pounds as of March 31, 1987.

According to counsel for the Republic of Turkey, all of the bulk aspirin Turkey exports to the United States is produced by Bayer Turkey, Atabay, and Proses. The capacity, production, and exports of these firms for 1983, 1984, and 1985 are shown in table 12. 1/ Together, their capacity to produce bulk aspirin remained unchanged at 3.1 million pounds throughout the period. Production, however, increased from 1.7 million pounds, or 54.3 percent of capacity, in 1983 to 2.4 million pounds, or 76.6 percent of capacity, in 1985. As a share of production, exports increased from 54.6 percent to 97.8 percent in this period, while the U.S. share of these exports increased from 14.5 percent to 63.1 percent. ***.

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

U.S. imports

From 1984 to 1985, total U.S. imports of bulk aspirin increased by 17.9 percent from 3.6 million pounds, valued at $5.7 million, to 4.2 million pounds, valued at $6.4 million. Imports then declined slightly by 1.1 percent in 1986. The downward trend continued in January-March 1987 when imports declined by 60.9 percent from January-March 1986 (table 13). Imports from Turkey increased from 238,000 pounds, or 6.7 percent of imports, in 1984 to 1.3 million pounds, or 31.5 percent of imports, in 1986, 2/ and then, in keeping with the trend for the aggregate, declined from 429,000 pounds, or 32.4 percent of imports, in January-March 1986 to 111,000 pounds, or 21.4 percent of imports, in January-March 1987. Other large and/or increasing sources of imports in recent periods were West Germany, Spain, and China. Unit values per pound, also shown in table 13, are lowest for China, Yugoslavia, Romania, and Turkey.

1/ As of the time of distribution of this report, efforts by the Commission to update this information through 1986 have been unsuccessful. Updated information for one Turkish producer—Bayer Turkey—has been provided by counsel for the Government of Turkey (letter to the Commission dated July 17, 1987). The data show that Bayer Turkey's annual production is between *** and *** pounds, that its exports are ***, and that its domestic sales declined by *** percent from 1984 to 1986. ***.

2/ Or to about *** pounds, or *** percent of imports, in 1986 if imports from Proses, which has been excluded from Commerce's countervailing duty determination, are excluded. ***.

Table 12
Bulk aspirin: Bayer Turkey's, Atabay's, and Proses' capacity, production, and exports, 1983-85

Item	1983	1984	1985
Capacity.....1,000 pounds..	3,090	3,090	3,090
Production 1/.....do....	1,679	2,290	2,368
Capacity utilization.....percent..	54.3	74.1	76.6
Exports to—			
United States.....1,000 pounds..	133	249	1,463
All other.....do....	783	1,302	854
Total.....do....	916	1,551	2,317
Share of production that was exported.....percent..	54.6	67.7	97.8
Share of total exports to—			
United States.....percent..	14.5	16.1	63.1
All other.....do....	85.5	83.9	36.9
Total.....do....	100.0	100.0	100.0

1/ Based on figures reported for capacity utilization.

Source: Compiled from data submitted to the Commission by counsel for the Republic of Turkey (letter to the Commission dated Nov. 26, 1986).

U.S. consumption and market penetration

From 1984 to 1986, U.S. consumption of bulk aspirin declined irregularly by 4.9 percent (table 14). Several sources agree that aspirin has lost sales volume to products containing ibuprofen and acetaminophen, which, like aspirin, are also used by health-related institutions and consumers for the relief of pain. Unlike aspirin, neither of these products has an irritating effect on the lining of the stomach. Data compiled from official statistics of the U.S. Department of Commerce and data reported in the Commission's Synthetic Organic Chemicals summary indicate that the overall "market" for these three drugs in bulk form, computed by adding total domestic production 1/ and imports of each, increased by 14.8 percent from 1984 to 1986 (table 15). As a share of this market, ibuprofen and acetaminophen increased in this period from 5.7 percent to 11.1 percent and from 42.2 percent to 45.5 percent, respectively, while aspirin declined from 52.1 percent to 43.4 percent. Some of the decline in aspirin consumption may also be attributed to information published by the Federal Center for Disease Control in late 1984 and in other publications which associated aspirin with the development of Reye's Syndrome in children between the ages of 5 and 16 who were ill with chicken pox or flu. Warning labels were required on bottles of aspirin in early 1985. 2/ According to the petitioner, however, children only account for about 7 percent of the total market for aspirin. Other factors may be beneficial to aspirin consumption. There have been recent findings that aspirin, unlike other pain-relieving drugs, may be of therapeutic value in the treatment of

1/ U.S. producers' domestic shipments and intracompany consumption of ibuprofen and acetaminophen are unavailable.
2/ ***.

Table 13
Bulk aspirin: U.S. imports, by source, 1984-86, January-March 1986, and January-March 1987

Source	1984	1985	1986	January-March 1986	January-March 1987
	Quantity (1,000 pounds)				
Turkey	238	1,001	1/ 1,311	429	111
West Germany	1,251	1,481	1,171	325	80
China	379	148	775	463	0
Spain	1	330	599	30	99
Yugoslavia	105	86	80	40	29
France	1,239	941	75	0	37
Romania	138	144	40	40	35
Belgium and Luxembourg	0	0	0	0	79
All other 2/	215	74	108	0	48
Total 2/	3,566	4,205	4,159	1,326	518
	Value (1,000 dollars) 3/				
Turkey	293	1,228	1,649	532	143
West Germany	2,215	2,563	2,160	559	147
China	489	186	528	320	-
Spain	2	541	912	51	125
Yugoslavia	140	97	86	38	23
France	2,030	1,541	126	-	60
Romania	176	180	44	44	37
Belgium and Luxembourg	-	-	-	-	145
All other 2/	397	82	178	-	78
Total 2/	5,742	6,417	5,681	1,544	758
	Unit value (per pound)				
Turkey	$1.23	$1.23	$1.25	$1.24	$1.28
West Germany	1.77	1.73	1.85	1.72	1.83
China	1.29	1.26	.68	.69	-
Spain	1.76	1.64	1.52	1.69	1.26
Yugoslavia	1.33	1.13	1.07	.95	.80
France	1.64	1.64	1.67	-	1.59
Romania	1.27	1.25	1.10	1.10	1.04
Belgium and Luxembourg	-	-	-	-	1.83
All other 2/	1.84	1.09	1.67	-	1.67
Average 2/	1.61	1.53	1.37	1.16	1.46

1/ This figure becomes *** if imports from Proses, which has been excluded from Commerce's countervailing duty determination, are excluded. ***.
2/ Does not include Sweden, Japan (except for 1986 and Jan.-Mar. 1987), United Kingdom (except for 1984), Dominican Republic, Italy (except 1984), Denmark, Singapore, Jamaica, and Mexico, all of which exported to the United States aspirin in other than bulk form.
3/ C.i.f. value, i.e. landed cost at the point of importation, plus duties.

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

Note.--Numbers may not add to totals shown due to rounding.

Table 14
Bulk aspirin: Apparent U.S. consumption and ratio of imports to consumption, 1984-86, January-March 1986, and January-March 1987

Period	Apparent U.S. consumption 1/	Ratio (percent) of imports to consumption— For Turkey	For all other countries	Total	Apparent U.S. open-market consumption 2/	Ratio (percent) of imports to consumption— For Turkey	For all other countries	Total
	Quantity (1,000 pounds)							
1984	28,510	0.8	11.7	12.5	***	***	***	***
1985	25,931	3.9	12.3	16.2	***	***	***	***
1986	27,107	3/ 4.8	10.5	15.3	4/ ***	***	***	***
Jan.-Mar—								
1986	7,051	6.1	12.7	18.8	***	***	***	***
1987	6,400	1.7	6.4	8.1	***	***	***	***
	Value (1,000 dollars) 5/							
1984	58,440	0.4	9.3	9.8	***	***	***	***
1985	46,553	2.6	11.1	13.8	***	***	***	***
1986	47,625	3.5	8.5	11.9	***	***	***	***
Jan.-Mar—								
1986	12,148	4.4	8.3	12.7	***	***	***	***
1987	11,477	1.2	5.4	6.6	***	***	***	***

1/ Total imports plus U.S. producers' domestic shipments and intracompany consumption. Intracompany consumption valued on the basis of average unit value for domestic shipments.
2/ Total imports plus U.S. producers' domestic shipments.
3/ This figure becomes *** if imports from Proses, which has been excluded from Commerce's countervailing duty determination, are excluded. ***.
4/ This figure become *** if imports from Proses, which has been excluded from Commerce's countervailing duty determination, are excluded. ***.
5/ C.i.f. duty-paid value with respect to imports.

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

Table 15
Bulk aspirin, acetaminophen, and ibuprofen: Apparent U.S. consumption, 1/ 1984-86

Item	1984	1985	1986
	Quantity (1,000 pounds)		
Bulk aspirin	***	***	***
Acetaminophen	***	***	***
Ibuprofen	***	***	***
Total	***	***	***
	Share of total (percent)		
Bulk aspirin	52.1	44.8	43.4
Acetaminophen	42.2	45.8	45.5
Ibuprofen	5.7	9.4	11.1
Total	100.0	100.0	100.0

1/ Domestic production plus imports. U.S. producers' domestic shipments and intracompany consumption of ibuprofen and acetaminophen are unavailable.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission, from data reported in the Commission's Synthetic Organic Chemicals summary, and from official statistics of the U.S. Department of Commerce.

stress and certain cardiovascular problems. 1/ The use of aspirin in this and/or other contexts may help to improve aspirin consumption, 2/ which continued to decline by 9.2 percent from January-March 1986 to January-March 1987.

1/ Monsanto has testified that medical studies will not have conclusive evidence about the connection between aspirin consumption and the incidence of heart attack/stroke for another 3 to 5 years (testimony of Terence Stewart, representing Monsanto Company at the public hearing on the President's List of Articles Which May Be Designated or Modified as Eligible Articles for Purposes of the U.S. Generalized System of Preferences, investigations Nos. TA-503(a)-13 and 332-238, Sept. 29-30, 1986, tr. at 60).
2/ Mr. Terry Kelly, the director of information for Sterling Drug, detailed an advertising program to capitalize on this use for aspirin. He informed the staff that the Food and Drug Administration had recently given approval to Sterling to launch two television advertisements aimed at educating the public on the value of aspirin in the treatment of certain cardiovascular problems. Mr. Kelly pointed out that these advertisements could only emphasize the use of aspirin and not the brand of the firm." The first of these advertisements emphasized the recent studies in support of using aspirin to help prevent heart attacks and was aired on a cable channel that is marketed to physicians. The second commercial message was aimed at educating the public and aired this month on public television stations. This message urged people in high risk categories to consult with their doctors concerning aspirin's value in reducing the risk of a second heart attack.

As a share of apparent consumption, imports of aspirin increased from 12.5 percent in 1984 to 16.2 percent in 1985, and then fell to 15.3 percent in 1986, during a period of both declining imports (largely from West Germany and France) and increasing U.S. production (table 14). During the same period, imports from Turkey increased from 0.8 percent of consumption to 4.8 percent. The ratio of imports to consumption for Turkey and all countries combined declined precipitously from January-March 1986 to January-March 1987. As a share of open-market consumption, the trend in imports was similar, as shown in table 14.

Prices

The price data collected in the investigation show domestic prices declining throughout the period of investigation. This movement may result in part from a number of interrelated factors including changes in the availability of substitutes, changes in the demand for aspirin, and changes in the nature of competition in the aspirin, acetaminophen, and ibuprofen markets. 1/

As discussed earlier in the report, the presence of aspirin substitutes in the market has increased over time as production and sales of acetaminophen and ibuprofen have risen. Figures 1 and 2 show the long-term trends in production of aspirin, acetaminophen, and ibuprofen and more recent sales trends for these three products. The data in figure 1 show that aspirin production tended to remain above *** pounds per year until 1981; after that, production exceeded *** pounds only in 1983. The production of acetaminophen showed a rising trend between 1973 and 1983, when production rose in nearly every year for which data are available. From 1983 to 1985 acetaminophen production was flat, before rising over 13 percent in 1986. The production of ibuprofen increased slightly from *** pounds in 1983, when it first entered the market, to *** pounds in 1985. Production of ibuprofen *** in 1986 over that in 1985. 2/ Figure 2 compares U.S. market sales of domestically produced analgesics, and shows that sales of aspirin declined fairly consistently from 1980 to 1985 before rising in 1986, whereas sales of acetaminophen and ibuprofen rose throughout the 1980-86 period.

The growing acceptability of these substitutes to consumers is shown by the shifting market shares of aspirin and aspirin substitutes. Data for 1984 through 1986 show that aspirin's share of the analgesics market has declined by nearly 9 percentage points to 43 percent (table 15), while the shares

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1/ The petitioner believes that the effect acetaminophen and ibuprofen have had on bulk aspirin prices has been minimal since 1) consumers are relatively unresponsive to price differences between pain relieving drugs and 2) bulk acetaminophen and ibuprofen are from 2 to 5 times more expensive than bulk aspirin.

2/ Monsanto is the only producer of both aspirin and acetaminophen. Monsanto's production data for aspirin and acetaminophen are presented for the period 1980-86 in figure 3. These data show that from 1980 to 1986 Monsanto's production of aspirin trended downward from *** to *** pounds per year, while its production of acetaminophen trended upward from *** to *** pounds.

Figures 1, 2, and 3 contain business confidential information

captured by acetaminophen and ibuprofen have risen accordingly. 1/ By 1986, 56.6 percent of analgesic consumption was devoted to aspirin substitutes. As discussed earlier, part of the decline in consumption of aspirin also may be a result of publicity surrounding Reye's Syndrome, beginning in 1984. This reduced demand for aspirin may have exerted a downward influence on price, at least through 1985.

The domestic merchant market for bulk aspirin also may be undergoing a change due to the entry of Norwich-Eaton into the market. However, ***.

In addition to gathering pricing data, Commission questionnaires also requested that producers and importers comment on the quality and substitutability of bulk aspirin. The questionnaire responses indicate that the quality of bulk aspirin is judged most commonly on its purity, color, and lot-to-lot consistency. Bulk aspirin, whether of domestic or foreign origin, must meet United States Pharmacopoeia (USP) standards in order for it to be used in products for human consumption. Although these characteristics will vary between batches and among producers, most firms familiar with the Turkish product have found it to be acceptable for most uses and that it regularly meets USP standards.

Petitioners have argued that the quality of imported aspirin is widely accepted, with the exception of imports from China, Yugoslavia, and Romania. *** reported importing aspirin from both China and Romania, and *** informed the staff that these imports were quite acceptable for their uses. Although the price for imports from these countries was very low, *** stated that his firm would switch to a source that could deliver in a more timely matter. He also told the staff that he received a shipment from Romania that he had to return, and returns to these countries were very difficult.

As mentioned in the product section of this report, bulk aspirin in crystalline form is sold in a variety of granule (mesh) sizes, and buyers tend to prefer certain mesh sizes even though the various sizes can be substituted for one another. The questionnaire data tend to corroborate this. Most responses indicate that users have preferences among mesh sizes, and some report that processing would be slowed if they had to use less preferred mesh sizes, but that these other sizes could be used if necessary. Users' different preferences for mesh size are not reflected in pricing, however, as all mesh sizes of crystalline bulk aspirin sell for the same price.

Questionnaire data.--There are four domestic producers of bulk aspirin; one produces entirely for its own consumption, one produces primarily for its own consumption but has also sold sample quantities to the merchant market, and two sell exclusively to the merchant market. Importers of the subject product are either distributors that resell the bulk aspirin to pharmaceutical manufacturers, or they are pharmaceutical manufacturers that process the bulk product into forms for direct human consumption.

1/ Import and export data for acetaminophen and ibuprofen are not available for years prior to 1984, therefore consumption can only be calculated for 1984-86.

The Commission gathered pricing data on three different types of aspirin products for the period January 1984 through March 1987. Domestic producers were requested to provide f.o.b. and delivered selling prices to three large customers per quarter for 100 percent crystalline bulk aspirin, bulk aspirin containing 10 percent starch, and pharmaceutical grade 100 percent bulk aspirin. The Commission requested that sales to distributors and processors be reported separately. Importers were requested to provide prices for the same three products. For those importers which simply resell the bulk aspirin, the Commission requested that they provide their selling prices; for those importers who are themselves pharmaceutical manufacturers, the Commission requested that they provide their purchase prices.

Domestic prices.—The following table (table 16) presents the weighted-average prices for the three different domestic products sold to distributors and processors. Both producers selling bulk aspirin to the merchant market reported prices for these three products. Selling prices for 100 percent crystalline and bulk aspirin with 10 percent starch sold to distributors and processors followed similar trends. Prices generally rose in 1984 before a swift decline in January-March 1985. Depending upon the market, domestic prices fell between 11 and 18 percent during the first quarter of 1985. Prices remained fairly stable during the remainder of 1985. In 1986 prices for the 100 percent crystalline and the bulk aspirin with 10 percent

Table 16
Bulk aspirin: U.S. producers' f.o.b. selling prices, by form and by quarters, January 1984-March 1987

(Per pound)

Period	100% crystalline		10% starch		100% Pharmaceutical grade
	Processors	Distributors	Processors	Distributors	Processors
1984:					
Jan.-Mar....	***	***	***	***	***
Apr.-June...	***	***	***	***	***
July-Sept...	***	***	***	***	***
Oct.-Dec....	***	***	***	***	***
1985:					
Jan.-Mar....	***	***	***	***	***
Apr.-June...	***	***	***	***	***
July-Sept...	***	***	***	***	***
Oct.-Dec....	***	***	***	***	***
1986:					
Jan.-Mar....	***	***	***	***	***
Apr.-June...	***	***	***	***	***
July-Sept...	***	***	***	***	***
Oct.-Dec....	***	***	***	***	***
1987:					
Jan.-Mar....	***	***	***	***	***

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

starch sold to processors declined again compared with prices in 1985. Distributor prices for these two products were generally at the same level in 1986 as in 1985. In January-March 1987 prices for these four product categories showed small increases. Overall, the prices of bulk aspirin sold to processors declined 11 percent from January-March 1984 to January-March 1987. The price of bulk aspirin sold to distributors fell 4 percent for the 100 percent crystalline and *** percent for the bulk aspirin with 10 percent starch during the same period.

Prices to distributors were usually below the prices to processors during 1984 and 1985. However, this situation reversed itself during 1986 and January-March 1987 when distributor prices firmed in 1986 and processor prices continued to decline.

The price of pharmaceutical grade aspirin sold to processors was *** to *** cents per pound higher than that of 100 percent crystalline aspirin. It also declined irregularly throughout the period under investigation. The price for pharmaceutical grade rose from January-March through July-September 1984, and then began to decline in October-December 1984. The decline generally continued through April-June 1986. The price recovered somewhat in July-September 1986 and remained at that level through March 1987. Overall, the price of pharmaceutical grade aspirin declined *** percent from January-March 1984 to January-March 1987.

Import prices.--Importers of Turkish bulk aspirin reported prices for both 100 percent crystalline aspirin and aspirin containing 10 percent starch. However, because of the lack of data points, price comparisons are possible for only the 100 percent crystalline product sold to processors. The price of the Turkish product varied over the period of investigation (table 17). 1/ During 1984 it showed a net increase, followed by declines in 1985. During the end of 1986 and January-March 1987 the price of the Turkish aspirin fell dramatically. Most of the declines were the result of extremely low prices reported by ***. ***, president of that firm, stated that he had imported a large quantity of aspirin in ***, and that he made a few sales in ***. The prices charged for these sales were at cost and a very large sale in *** of *** container loads was sold below cost in order for his firm to ***.

The Turkish product was lower-priced than the domestic product in every quarter, although the margin of underselling declined between 1984 and 1986, due to the price of domestic aspirin declining more rapidly than the price of the imported material. During 1984 the price of Turkish 100 percent crystalline aspirin was *** to *** percent lower than the price of the domestic material. In 1985 this margin eroded to between *** and *** percent. By 1986, the Turkish product was priced *** to *** percent lower than the domestic product. In the first quarter of 1987 the Turkish price was *** percent below the domestic price; however, as discussed earlier, the Turkish price during this period may not fully reflect market trends.

1/ Importers that provided pricing data accounted for 70 percent of imports of bulk aspirin from Turkey in 1986. Prices reported for Turkish aspirin in table 17 represent 52 percent of imports from Turkey in 1986, 49 percent in 1985, and nearly 100 percent in 1984.

Table 17
Bulk aspirin: Domestic producers' and importers' f.o.b. prices for U.S.-produced and Turkish 100 percent crystalline bulk aspirin, by quarters, January 1984-March 1987

(Per pound)

Period	Domestic	Turkish	Margins of underselling
			Percent
1984:			
Jan.-Mar.	***	***	***
Apr.-June	***	***	***
July-Sept.	***	***	***
Oct.-Dec.	***	***	***
1985:			
Jan.-Mar.	***	***	***
Apr.-June	***	***	***
July-Sept.	***	***	***
Oct.-Dec.	***	***	***
1986:			
Jan.-Mar.	***	***	***
Apr.-June	***	***	***
July-Sept.	***	***	***
Oct.-Dec.	***	***	***
1987:			
Jan.-Mar.	***	2/***	***

1/ Only one observation reported.
2/ See discussion of this price in the text.

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

Transportation costs.--Bulk aspirin is packaged in drums, and inland shipping takes place by truck. All the producers and importers responding to Commission questionnaires reported that shipping charges are minimal, amounting to less than 5 percent of the total delivered price of the product. Practice varies as to whether the producer/importer or the customer pays the shipping charges.

Exchange rates.--Quarterly data reported by the International Monetary Fund indicate that during January 1984 through March 1987 the nominal value of the Turkish lira depreciated relative to the U.S. dollar in every consecutive interval, or by a total of 59.4 percent (table 18). 1/ However, significantly higher levels of inflation in Turkey relative to those in the United States over the 13-quarter period for which data were collected essentially eliminated the export price advantage gained through currency depreciation.

1/ International Financial Statistics, May 1987.

Table 18
U.S.-Turkish exchange rates: 1/ Nominal-exchange-rate equivalents of the Turkish lira in U.S. dollars, real-exchange-rate equivalents, and producer price indicators in the United States and Turkey, 2/ indexed by quarters, January 1984-March 1987

Period	U.S. Producer Price Index	Turkish Producer Price Index	Nominal-exchange-rate index	Real-exchange-rate index 3/
			—US dollars per lira—	
1984:				
January-March.....	100.0	100.0	100.0	100.0
April-June.....	100.7	111.6	89.1	98.7
July-September.....	100.4	119.7	80.0	95.4
October-December....	100.2	133.8	73.5	98.2
1985:				
January-March.....	100.0	147.6	65.9	97.2
April-June.....	100.1	158.7	59.8	94.7
July-September.....	99.4	167.1	57.5	96.6
October-December....	100.0	181.2	55.4	100.4
1986:				
January-March.....	98.5	193.3	51.4	100.8
April-June.....	96.6	201.2	46.1	95.9
July-September.....	96.2	209.6	45.4	98.8
October-December....	96.5	231.2	42.0	100.7
1987: January-March 4/.....	97.7	250.7	40.6	104.2

1/ Exchange rates expressed in U.S. dollars per Turkish lira.
2/ Producer price indicators—intended to measure final product prices—are based on average quarterly indexes presented in line 63 of the International Financial Statistics.
3/ The indexed real exchange rate represents the nominal exchange rate adjusted for the relative economic movement of each currency as measured here by the Producer Price Index in the United States and Turkey. Producer prices in the United States decreased 2.3 percent during the period January 1984 through March 1987. In contrast, producer prices in Turkey increased 150.7 percent during the period under investigation.
4/ The real Turkish exchange rate for January-March 1987, the last quarter of the interval under investigation, is derived from the Turkish Producer Price Index reported for January only.

Source: International Monetary Fund, International Financial Statistics, May 1987.

Note.—January-March 1984=100.0.

The value of the Turkish lira adjusted for differences in relative inflation rates fluctuated downward during January 1984 through June 1985 and then increased from July-September 1985 through January-March 1987. By January-March 1987 the real Turkish exchange rate had achieved a level that was 4.2 percent above its January-March 1984 level.

Lost sales and lost revenues

Monsanto and Dow alleged lost sales totaling *** pounds of bulk aspirin, valued at ***, to imports from Turkey from January 1985 through May 1986. Two firms—***—are alleged to account for about 85 percent of these alleged sales. Two others—***—account for the remainder. All four of these firms are large processors of pharmaceutical and chemical products, and all but *** could be reached in connection with the allegations.

Monsanto and Dow alleged lost sales to *** and *** of *** pounds, valued at ***, and *** pounds, valued at ***, respectively. Included in each company's allegations for 1986 is a sale of ***. *** informed the staff that both companies had alleged the same lost sale. *** reported that it typically requests bids on bulk aspirin from both domestic producers and importers, and that it does business with a variety of sources. Although *** did not deny that the ***-pound sale had been lost to the domestic industry to imports from Turkey, the company indicated that the price at which Monsanto and Dow believed *** had purchased the Turkish material understated the actual price paid.

***. *** estimates that it purchased approximately *** pounds of bulk aspirin from Turkey in 1985, about *** percent of its purchases of imports that year. *** also estimates that these Turkish imports were valued, on average, at *** per pound. Interim trade data for 1986 show that *** estimates it purchased *** pounds of crystalline bulk aspirin from Turkey in ***, at an average unit value of *** per pound.

Monsanto alleged two lost sales, one of *** pounds in 1985 and one of *** pounds in 1986, to ***. The staff contacted *** to discuss the allegations, but was informed that *** does not purchase imported bulk aspirin.

Monsanto also alleged that it had lost sales and revenues to other import sources besides Turkey, but that those transactions were based on the price of Turkish bulk aspirin. The staff contacted *** in this regard, but the representative of *** did not recall purchasing bulk aspirin from any source at the "Turkish" price alleged by Monsanto.

Dow and Monsanto both alleged lost sales to *** in 1985 and 1986. Dow alleged it had lost a sale of *** pounds of bulk aspirin to Turkish aspirin in *** 1985. *** reported that at that time it was shopping for prices for its annual requirement, and that it made no commitment to any source to buy at any quoted price. In addition, *** did not purchase the *** pounds from any single source. Monsanto alleged lost sales of *** pounds each (valued at ***) in 1985 and 1986 to ***, but *** indicated it did not buy Turkish material in either case.

Monsanto also alleged lost revenues on three transactions with ***, one each in 1984, 1985, and 1986. The staff attempted to contact the company, but was unable to get a response.

Dow and Monsanto, as supplements to their questionnaire responses, submitted 34 additional allegations of lost sales and revenues involving 16 firms. However, 20 of the 34 allegations in this submission detailed sales and revenues lost either to countries not subject to this investigation or to other U.S. producers. The staff contacted four purchasers regarding 6 of the remaining 14 allegations.

Monsanto alleged that it lost sales of *** pounds a year to *** during 1984-86 because it was unable to meet the price of the Turkish imports. *** of *** denied the lost sale; he stated that most Turkish aspirin is unacceptable for his uses. Because *** produces prescription medicine that contains aspirin, all of its chemical suppliers must have a Drug Master File certification at the FDA. Although he acknowledges that he purchases imported aspirin from ***, he insists on a West German manufacturer that has a Drug Master File.

*** of *** confirmed that Monsanto and Dow had lost a large sale to Turkish aspirin in 1986. In early 1986, *** purchased approximately *** pounds of Turkish aspirin on a long-term contract basis. This quantity represented a year's supply of aspirin for ***, and the total volume commitment has recently been fulfilled. *** further stated that *** will now be looking to obtain alternative suppliers.

Monsanto alleged that it lost two sales to *** in 1986 because of import competition. *** of *** confirms that they were buying imports during 1986 from a distributor. When the dumping case was filed, their supplier refused to divulge the country of origin of the aspirin that they were buying. *** has since sought out alternative sources and is presently purchasing aspirin from ***. *** also added that *** has never purchased domestic aspirin because their purchases are too small to receive any discounts.

*** of *** denied an allegation by Monsanto that his firm purchased *** pounds of aspirin a year from Turkish importers during 1985-87. He stated that his firm uses very little aspirin at all and to his knowledge none of it came from Turkey.

APPENDIX A
COMMISSION'S FEDERAL REGISTER NOTICES

[Investigation No. 701-TA-283 (Final)]

Certain Acetylsalicylic Acid (Aspirin) From Turkey

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701-TA-283 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(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 from Turkey of acetylsalicylic acid,[1] provided for in item 410.72 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Turkey.

Pursuant to a request from petitioner under section 705(a)(1) of the Act (19 U.S.C. 1671d(a)(1)), commerce has extended the date for its final determination in this investigation to coincide with the date of its final determination in an ongoing antidumping investigation on bulk acetylsalicylic acid from Turkey. Accordingly, the Commission will not establish a schedule for the conduct of the countervailing duty investigation until Commerce makes a preliminary determination in the antidumping investigation (currently scheduled for April 9, 1987).

For further information concerning the conduct of this 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), and Part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: March 3, 1987.

FOR FURTHER INFORMATION CONTACT: Lynn Featherstone (202-523-0242), Office of Investigations, U.S.

[1] The product covered by this investigation is acetylsalicylic acid (aspirin) imported in bulk, containing no additives other than inactive substances (such as starch, lactose, cellulose, or coloring material) and/or active substances in concentrations less than that specified for particular non-prescription drug combinations of aspirin and active substances as published in the *Handbook of Non-Prescription Drugs*, 8th edition, American Pharmaceutical Association, and put in tablet, capsule, or similar forms for direct human consumption.

International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the commission's TDD terminal on 202-724-0002. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-523-0161.

SUPPLEMENTARY INFORMATION:

Background—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Turkey of bulk acetylsalicylic acid. The investigation was requested in a petition filed on October 31, 1986, by Monsanto Company, St. Louis, MO. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (51 FR 46942, December 24, 1986).

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 (19 CFR 201.11), not later than twenty-one (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 will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the 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.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: March 19, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-6464 Filed 3-24-87; 8:45 am]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-283 (Final) and 731-TA-364 (Final)]

Certain Acetylsalicylic Acid (Aspirin) From Turkey

AGENCY: International Trade Commission.

ACTION: Institution of a final antidumping investigation, scheduling of a hearing to be held in connection with the investigation and with countervailing duty investigation No. 701-TA-283 (Final), and clarification of the notice of institution of investigation No. 701-TA-283 (Final).

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-364 (Final) under section 735(b) of the Tariff Act of 1930 (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 from Turkey of acetylsalicylic acid,[1] provided for in item 410.72 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). The Commission also hereby gives notice of a conforming change to the notice of institution of investigation No. 701-TA-283 (Final) to clarify that the product covered by that investigation is as described in footnote 1 of this notice. This clarifies but does not substantively change the scope of that investigation. The Commission also gives notice of the scheduling of a hearing in connection with this investigation and with countervailing duty investigation No. 701-TA-283 (Final), Certain Acetylsalicylic Acid (Aspirin) from Turkey, which the Commission instituted effective March 3, 1987 (52 FR 9552, March 25, 1987). The schedules for investigation No. 701-TA-283 (Final) and for the subject antidumping investigation will be identical, pursuant to Commerce's extension of its final countervailing duty determination (52 FR 10788, April 3, 1987). Commerce will make its final LTFV determination and its final countervailing duty determination in these cases on or before June 23, 1987. Accordingly, the Commission will make its final injury determinations by August 11, 1987 (see sections 705(a) and 705(b) and sections 735(a) and 735(b) of the act (19 U.S.C. 1671d(a) and 1671d(b) and 19 U.S.C. 1673d(a) and 1673d(b))).

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

EFFECTIVE DATE: April 14, 1986.

FOR FUTHER INFORMATION CONTACT: Larry Reavis (202-523-0296), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002. Persons with mobility impairment who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-523-0161.

SUPPLEMENTARY INFORMATION:

Background

The subject antidumping investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce (52 FR 12222, April 15, 1987) that imports of acetylsalicylic acid (aspirin) from Turkey are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). This investigation and the corresponding countervailing duty investigation were requested in petitions filed on October 31, 1986, by the Monsanto Co., St. Louis, MO. In response to those petitions, the Commission conducted preliminary investigations and, on the basis of information developed during the course of those investigations, determined that there was a reasonable indication that an industry in the United States was materially injured, by reason of imports of the subject merchandise (51 FR 46942, Dec. 29, 1986).

Participation in the Investigations

Persons wishing to participate in the antidumping 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 (19 CFR 201.11), not later than twenty-one (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 will determine whether to accept the late entry for good cause shown by the person desiring to file the entry. (Persons wishing to participate in investigation No. 701-TA-283 (Final) should have already filed an entry of appearance, pursuant to the Commission's notice of institution of this investigation in the Federal Register of March 25, 1987.)

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the subject antidumping investigation upon the

[1] The product covered by this investigation and by investigation No. 701-TA-283 (Final) is acetylsalicylic acid (aspirin) containing no additives other than inactive substances (such as starch, lactose, cellulose, or coloring material) and/or active substances in concentrations less than that specified for particular non-prescription drug combinations of aspirin and active substances as published in the *Handbook of Non-Prescription Drugs*, 8th edition, American Pharmaceutical Association, and is not in tablet, capsule, or similar forms for direct human consumption.

expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the 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.

Staff Report

A public version of the prehearing staff report for the subject antidumping investigation and for investigation No. 701-TA-283 (Final) will be placed in the public record on June 19, 1987, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with the subject antidumping investigation and with investigation No. 701-TA-283 (Final) beginning at 9:30 a.m. on July 2, 1987, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. 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 June 19, 1987. 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 9:30 a.m. on June 25, 1987, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is June 29, 1987.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). 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. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR § 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on July 9, 1987. In addition, any person who has not entered an appearance as a party to these investigations may submit a written statement of information pertinent to the subject of the investigations on or before July 9, 1987.

A signed original and fourteen (14) 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 must 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).

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20)

Issued: April 24, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-9701 Filed 4-28-87; 8:45 am]

BILLING CODE 7020-02-M

APPENDIX B
COMMERCE'S FEDERAL REGISTER NOTICES

International Trade Administration

[A-489-602]

Final Determination of Sales at Less Than Fair Value: Acetylsalicylic Acid (Aspirin) From Turkey

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

ACTION: Notice.

SUMMARY: We have determined that acetylsalicylic acid (aspirin) from Turkey is being, or is likely to be, sold in the United States at less than fair value.

EFFECTIVE DATE: July 1, 1987.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel (202-377-3530) or John R. Brinkmann (202-377-3965), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that aspirin from Turkey is being, or is likely to be, sold in the United States at less than fair value as provided in section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act). We sent questionnaires to two companies which comprise at least 60 percent of all exports of the merchandise to the United States. One of those companies did not respond. We made fair value comparisons for the period of investigation, May 1 to October 31, 1986. Comparisons were based on United States price and foreign market value. The margin of sales at less than fair value is shown in the "Suspension of Liquidation" section of this notice. On April 9, 1987, we made an affirmative preliminary determination (52 FR 12222, April 15, 1987). Since then, as required by the Act, we afforded interested parties an opportunity to submit oral and written comments addressing the issues arising in this investigation. On May 7, 1987, we held a public hearing to allow the parties to address the issues.

Scope of Investigation

The product covered by this investigation is acetylsalicylic acid (aspirin), containing no additives, other than inactive substances (such as starch, lactose, cellulose, or coloring material), and/or active substances in concentrations less than that specified for particular non-prescription drug combinations of aspirin and active substances as published in the Handbook of Non-Prescription Drugs, 8th edition, American Pharmaceutical Association, and is not in tablet, capsule or similar forms for direct human consumption. This product is currently classified under item 410.72 of the *Tariff Schedules of the United States* (TSUS).

Fair Value Comparisons

Because Atabay Kimya Sanayi ve Ticaret (Atabay) and Proses Kimya Sanayi ve Ticaret (Proses) accounted for at least sixty percent of all exports of the subject merchandise from Turkey, we limited our investigation to them. 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 to the foreign market value. Since Proses did not respond, we made comparisons only on the sales of Atabay. For Proses we used the best information available which was the information contained in the petition.

United States Price

As provided in section 772(b) of the Act, we based the United States price on purchase price because the merchandise was sold to unrelated purchasers prior to the date of importation in the United States. In this case the merchandise was sold to a trading company in Turkey. At the time of sale to the trading company, Atabay was aware that the merchandise was destined for shipment to the United States. Terms of sale to the trading company were C & F United States port.

From the total C & F price we made deductions for ocean freight, brokerage and handling, foreign inland freight and bank charges.

Foreign Market Value

In accordance with section 773(a)(1)(B) of the Act, we determined that there were sufficient home market sales of such or similar merchandise to be used as a basis for determining foreign market value for aspirin. Therefore, in accordance with section 773(a)(1)(A) of the Act, we based foreign market value for aspirin on sales to unrelated customers in the home market. We made deductions from the home market C & F prices for inland freight. The value added tax was not included in the price of the aspirin in either market, therefore, we did not adjust for it. We made adjustments to account for differences in the credit expenses for the merchandise in each market in accordance with § 353.15 of the Commerce Regulations. Since we could not tie U.S. sales to any specific loans, we used the average compounded interest rate on short-term loans in Turkish lira in order to calculate a credit cost in each market.

Normally, we use certified daily exchange rates furnished by the Federal Reserve Bank of New York as the official exchange rates, but no certified rates were available for Turkey. Therefore, in place of the official certified rates, we used the rates published by the International Monetary Fund, as the best information available.

Verification

As provided in section 776(a) of the Act, we verified all information provided by Atabay in making this determination using standard verification procedures, including examination of relevant information on selected sales.

Petitioner's Comments

Comment 1: Petitioner contends that the Department should base United States price on the price charged to the U.S. customer by the trading company, rather than the price Atabay charges the trading company because the trading company is merely Atabay's agent. In using the price between the trading company and the U.S. customer, adjustments, including the trading company's selling expenses, should be made because the trading company is engaged in middleman dumping.

If the Department decides to use the price to the trading company, the petitioner argues that the Department should ignore the second payment Atabay received from the trading company because the payment represents a tax rebate and export subsidy.

Finally, the petitioner questions the differing manner in which this payment has been treated in the antidumping and countervailing duty investigations. In the antidumping case, the Department has reduced dumping margins by adding the subsidies to United States price. In the countervailing duty investigation, the Department has reduced the deposit rate by subtracting those subsidies which were terminated after the period of investigation. To be consistent, the Department should either not add the subsidies to the U.S. price in the antidumping investigation, or not reduce the deposit rate in the countervailing duty investigation.

DOC Position: We disagree that we should base United States price on the price being charged by the middleman to the U.S. customer. When the producer is unrelated to the middleman, it is our longstanding practice to use the price the producer charges the middleman when, as here, the producer knows that the good is destined for the United States (*Elemental Sulphur from Canada* 48 FR 53592 (1983); *Fuel Ethanol from Brazil*, 51 FR 5572 (1986)). There is nothing in the record to indicate that the middleman is an agent of the exporter.

With respect to the petitioner's charge of middleman dumping, petitioner has not provided adequate information to support this allegation.

The Department has also continued to include the second payment Atabay receives from the middleman in calculating United States price. This payment is part of Atabay's return on its U.S. sales and, hence, is properly accounted for in comparing home market and U.S. prices. Moreover, Atabay's contract with this unrelated middleman to sell aspirin to the United States was entered into at arms length. It specified that payment would be in two parts. The second part of the payment was to be received after the middleman received export tax rebates from the Turkish government for its resales of this merchandise to the U.S. customer. Since the contract was between two unrelated parties and made at arms length, we have rejected petitioner's request to exclude the second payment in the determination of the United States Price.

Finally, our treatment of this payment in the companion countervailing duty investigation is consistent with our practice of taking into account program-wide changes. If the elimination of the subsidy has resulted in increased dumping by Atabay, then it will be captured in any 751 review.

Comment 2: Petitioner contends that the adjustment for differences in credit costs should be calculated on the basis of the weighted average short-term cost of all credit to Atabay and not merely those loans denominated in Turkish lira.

DOC Position: We disagree. While it is our general policy to average the interest rates on all short-term loans, we do not average rates on loans in different currencies since nominal interest rates in different currencies cannot reasonably be compared unless account is taken of costs incurred as a result of changes in the exchange rate during the period the loan is outstanding. When we have loans in different currencies, we generally will use only those loans denominated in the domestic currency. Since we could not tie loans to any specific sales, and most of Atabay's operations are in Turkish lira, we believe the lira interest rate is the most appropriate rate to use for credit expenses.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to continue to suspend liquidation of all entries of aspirin from Turkey that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register.

The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated amount by which the foreign market value of the merchandise subject to this investigation exceeded the United States price, as shown in the table below. The margins are listed below.

Article VI.5 of the General Agreement on Tariffs and Trade provides that "[n]o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act, which prohibits assessing dumping duties in the portion of the margin attributable to export

subsidies. We made an affirmative determination in the final countervailing duty determination on aspirin from Turkey. Therefore, the bonding rate will be reduced by the amount of the export subsidies found in that determination.

Manufacturer/seller/exporter	Weighted-average margin percentage
Atabay Kimya Sanayi ve Ticaret	27.35
Proses Kimya Sanayi ve Ticaret	38.60
All others	32.98

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

June 23, 1987.

[FR Doc. 87-14824 Filed 6-30-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-489-603]

Final Affirmative Countervailing Duty Determination: Acetylsalicylic Acid (Aspirin) From Turkey

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to producers or exporters in Turkey of acetylsalicylic acid (aspirin) as described in the "Scope of Investigation" section of this notice. The estimated net subsidy for the review period is 19.54 percent *ad valorem* for all producers or exporters in Turkey of aspirin. However, consistent with our stated policy of taking into account program-wide changes that occur before our preliminary determination, we are adjusting the duty deposit rate to reflect changes in the Export Tax Rebate Program, the Supplemental Tax Rebate Program, the Resource Utilization Support Fund and the Export Revenue Tax Deduction Program. Accordingly, the duty deposit rate is 6.54 percent *ad valorem* for all producers or exporters in Turkey of aspirin, except for Proses Kimya Sanayi ve Ticaret A.S. (Proses) which is excluded from this determination.

We have notified the U.S. International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of aspirin from Turkey, except that produced and exported by Proses, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond on entries of this product in the amount equal to the duty deposit rate as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: July 1, 1987.

FOR FURTHER INFORMATION CONTACT: Roy Malmrose or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2815 or 377-2438.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Turkey of aspirin. For purposes of this investigation, the following programs are found to confer subsidies:

- Export Tax Rebate and Supplemental Tax Rebate;
- Payments to Exporters from the Resource Utilization Support Fund; and
- Export Revenue Tax Deduction.

Case History

Since the last Federal Register publication pertaining to this case [the notice of extension of the deadline date for this final determination (52 FR 10788, April 3, 1987)], the following events have occurred. We conducted verification in Turkey between April 9 and 16, 1987. We verified the Government of Turkey questionnaire response and the questionnaire responses of Atabay Kimya Sanayi ve Ticaret A.S. (Atabay) and Proses. We did not verify any information from other producers or exporters of aspirin in Turkey because we either did not receive a response to our questionnaire or we received an inadequate response. In addition to Atabay, according to Government of Turkey export statistics, the following companies exported aspirin in 1985 or 1986: Birlesik Alman Ilac Fabrikarlari (Birlesik), Temel Pazaralama Ithalat Ihracat A.S. (Temel), Eksel Dis Ticaret A.S. (Eksel), and Fepas Dis Ticaret A.S. (Fepas). Furthermore, we obtained information at verification which indicates that Bayer Turk Kimya Sanayi Ltd. Sirketi (Bayer) is also a producer of aspirin in Turkey.

At the request of petitioner and the Government of Turkey, a public hearing was held on May 22, 1987, to afford interested parties an opportunity to present views orally, in accordance with section 355.35 of our regulations.

Scope of Investigation

The product covered by this investigation is acetylsalicylic acid (aspirin), containing no additives other than inactive substances (such as starch, lactose, cellulose, or coloring material), and/or active substances in concentrations less than that specified for particular non-prescription drug combinations of aspirin and active substances as published in the *Handbook of Non-Prescription Drugs*, 8th edition, American Pharmaceutical Association, and is not in tablet, capsule or similar forms for direct human consumption. This product is currently classified under item 410.72 of the *Tariff Schedule of the United States* (TSUS).

Analysis of Programs

Throughout this notice we refer to certain general principles applied to the facts of the current investigation. These general principles are described in the "Subsidies Appendix" attached to the notice of *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order* (49 FR 18006, April 26, 1984).

It is the Department's policy to take into account program-wide changes when they are implemented after the review period, but before the preliminary determination and when the effect of the change in terms of the benefits bestowed on current exports to the United States is verifiable. Where this condition is met, the rate for duty deposit or bonding purposes is raised or lowered as appropriate. This policy is desirable because it promotes the expeditious elimination or curtailment of subsidies and permits the Department to adjust the duty deposit rate to correspond as nearly as possible to the eventual duty liability.

In this investigation, we verified that subsequent to the review period, but prior to the preliminary determination, a number of programs were either eliminated or altered in such a way as to result in a fundamental change in the bestowal of benefits. Description of these program-wide changes, and of our treatment of them, follow in the description of the programs.

For purposes of this final determination, the period for which we

are measuring subsidization ("the review period") is calendar year 1985. Based upon our analysis of the petition, the responses to our questionnaires, verification, the public hearing, and comments filed by petitioner and the Government of Turkey, we determine the following:

I. Programs Determined To Confer Subsidies

We determine that subsidies are being provided to producers or exporters in Turkey of aspirin under the following programs:

A. Export Tax Rebate and Supplemental Tax Rebate

The Government of Turkey provides tax rebates to exporters of certain products, pursuant to Law number 261 of July 1983, and Decree number 7/10624 of September 16, 1975, as amended by Decree numbers 8/2625 (April 23, 1981), 8/4397 (April 22, 1982) and 83/7542 (December 29, 1983).

In 1975, Turkey's State Planning Organization conducted a study of the tax incidence on exported products. The government obtained information on the costs of production and tax incidence from producers on a product-by-product basis. The competitive position of a product in international markets, and thus its need for a rebate, was also taken into account. Rates of rebate were not to exceed the tax incidence on the product and could be lower where the full amount of the rebate was not necessary to make a product internationally competitive. The taxes intended to be rebated, which are set out in List A in Decree number 75/10624, are primarily indirect taxes, although several direct taxes are also included. The nominal rate of rebate for aspirin during the review period was 17.5 percent. However, this rebate was paid only on the amount of foreign currency repatriated.

In order to determine whether export payments, purportedly operating as a rebate of indirect taxes, are in fact a bona fide rebate of indirect taxes the Department examines whether: (1) The program operates for the purpose of rebating indirect taxes; (2) there is a clear link between eligibility for export payments and indirect taxes paid; and (3) the government has reasonably calculated and documented the actual indirect tax incidence borne by the product concerned and has demonstrated a clear link between such tax incidence and the rebate amount paid on export.

Where these conditions are met, the Department considers that the rebate system does not confer a subsidy to the extent that it rebates prior stage indirect taxes on inputs that are physically incorporated in the exported products and indirect taxes levied at the final stage. To the extent that the rebates exceed the payment of such indirect taxes, we would find that a countervailable benefit is being provided.

In *Certain Welded and Carbon Steel Pipe and Tube Products from Turkey: Final Affirmative Countervailing Duty Determinations* (51 FR 1268, January 10, 1986), we determined that this program was a bona fide rebate of indirect taxes. Therefore, in this investigation we focused on whether the rebate accurately reflects the indirect tax incidence for aspirin.

At verification, we found that the rebate is no longer linked to the actual indirect tax incidence because the Government of Turkey has changed its system of indirect taxes since the 1975 study was conducted and no new study has been prepared. With the introduction in Turkey on January 1, 1985, of the value-added tax, most or all indirect taxes on inputs physically incorporated into aspirin (except import duties, from which exporters are largely exempt) and indirect taxes on the final stage of production have been abolished while the export tax rebates remained unchanged. Therefore, we determine that the second part of our test is not met and that the full amount of the rebate is an export subsidy under section 771(5)(A) of the Act.

In addition to basic export tax rebates described above, the Government of Turkey also provides supplemental tax rebates to exporters that have annual exports of more than $2 million. The rates of supplemental rebates increase as the value of a company's annual exports increases. Because eligibility for this program is also contingent upon export performance, we determine that it is an export subsidy under section 771(5)(A) of the Act.

To calculate the benefit for Atabay and Proses, we divided the value of the companies' rebates received on exports of aspirin to the United States by the value of the companies' exports of aspirin to the United States. For the non-respondents, we used as the best information available the nominal percentage rebate and assumed that all foreign currency earned was repatriated. We then weight-averaged the *ad valorem* benefits of Atabay, Proses and the non-responding companies by each company's proportion of the value of Turkish exports of aspirin to the United States. On this basis, we calculated an estimated net subsidy of 12.49 percent *ad valorem*.

However, we verified that Communique No. 87/5 eliminated all export tax rebates and supplemental tax rebates on exports of aspirin to the United States exported after February 7, 1987. Accordingly, we have taken this elimination into account by not including the program in the duty deposit rate.

B. Payments to Exporters from the Resource Utilization Support Fund (RUSF)

The RUSF was created by Decree number 84/8860 which was published in the Official Journal on December 15, 1984, and became effective January 1, 1985. This fund provides direct payments to exporters. During the review period, exporters were eligible to receive payments in the amount of four percent of that part of the FOB value of the exported goods which is repatriated into Turkish lira. (Two other programs under RUSF are described below under the "Programs Determined Not To Be Used" section of this notice.) Because this program provides for payments on the basis of export performance, we determine that it is an export subsidy under section 771(5)(A) of the Act.

To calculate the benefit for Atabay and Proses, we divided the amount of the payments received by the companies for exports of aspirin to the United States by the value of the companies' aspirin exports to the United States. For the non-responding companies, we used as the best information available the nominal percentage payment and assumed that all foreign currency earned was repatriated. We then weight-averaged the ad valorem benefits of Atabay, Proses and the non-responding companies by each company's proportion of the value of Turkish exports of aspirin to the United States. On this basis, we calculated an estimated net subsidy of 3.41 percent *ad valorem*.

However, we verified that pursuant to Decree 85/11085, direct payments to exporters from the RUSF have been eliminated for goods exported after November 1, 1986. Accordingly, we have taken this elimination into account by not including the program in the duty deposit rate.

C. Export Revenue Tax Deduction

Section 8 of Law No. 5422, as amended by Section 6 of Law No. 2362, permits producers that export industrial products valued in excess of $250,000 annually to deduct 20 percent of their export revenues from taxable corporate income. A five percent deduction is allowed for exporters that are not

producers. Thus, for products exported through a trading company, a total of 25 percent of the value of the exports could be used as a deduction.

However, under Article 94 of the Turkish Income Tax Law, as amended by Law No. 2772, tax deductions are also taxed, but at a lower rate than the standard corporate tax rate. In tax year 1984, if the savings from the export revenue deduction were distributed to shareholders, the deduction was taxed at the rate of 25 percent; if the income was retained, it was taxed at the rate of 20 percent. Given that the corporate tax rate in tax year 1984 was 40 percent, the effective tax rate on deductions was either 15 percent or 20 percent, depending on whether the savings from the deduction were distributed to shareholders or retained by the company.

We determine that this program is countervailable as an export subsidy because it provides a benefit which is contingent upon export performance. The benefit is the amount of tax savings realized by using the deduction. Further, our tax methodology is based on a cash flow basis which for countervailing duty purposes means that the subsidy occurs when the benefit is effectively realized. Therefore, we focus on the tax return filed during the review period, which will normally cover the company's previous tax year.

With respect to Proses, we verified that the company was not able to use the deduction under the program. The tax return of Proses for 1984, which was filed during the review period, shows that the company did not have sufficient income to benefit from the program. Furthermore, the tax return of Proses for 1985 demonstrates that the company continued to have insufficient income to benefit from the program. Therefore, no benefit is attributed to Proses for this program in either the estimated net subsidy or duty deposit rate.

For the remaining companies, we did not receive in the responses information concerning the tax returns filed during the review period. In the absence of information on the utilization of this program during the review period, we are assuming that all the producers and exporters of aspirin exported, directly or indirectly, more than $250,000 annually, paid corporate tax at the rate of 40 percent, paid a tax of 20 percent on their tax deductions, and were profitable to the extent that they were able to use the full amount of the deduction permitted under the program.

We verified that during the review period Atabay exported aspirin directly to the United States and that Proses exported aspirin to the United States using two trading companies, Temel and Eksel. We assume, based on information available to us and in the absence of verified information to the contrary, that Bayer exported its aspirin to the United States through Birlesik.

We calculated the tax savings realized by each company during the review period by subtracting the amount of tax the company would have paid using the deduction for export revenues from the amount the company would have paid if it did not use the program. For each producer, except for Proses, we assumed that the company utilized the full amount of the 20 percent deduction. For each trading company, we assumed that the entire five percent deduction was taken. In the case of Bayer and Birlesik, we aggregated the benefits received by both companies. We then weight-averaged the *ad valorem* benefit of all the companies by each company's proportion of the value of Turkish exports of aspirin to the United States. On this basis, we calculated an estimated net subsidy of 3.64 percent.

However, we verified that the corporate tax has risen to 46 percent since the review period but prior to our preliminary determination. Moreover, pursuant to Decree No. 86/10415, effective March 7, 1986, the rate at which deductions are taxed has decreased to 10 percent. These tax law modifications have resulted in a fundamental change in the bestowal of benefits under this program. We verified that for tax year 1985, Atabay's tax liability was calculated according to these changes. Since the changes went into effect with respect to tax returns filed after the review period but prior to our preliminary determination, we are able to measure adequately the effect on current exports to the United States. Accordingly, we have adjusted the duty deposit rate to reflect the changes in the tax rates.

Taking into account the modifications in the tax laws, we used the same methodology and made the same assumptions described above to calculate the benefit for duty deposit purposes. We then weight-averaged the *ad valorem* benefit using the same calculation described above. On this basis, we calculated a duty deposit rate of 6.54 percent *ad valorem* for all producers and exporters of aspirin in Turkey, except for Proses.

II. Programs Determined Not To Confer Subsidies

We determine that subsidies are not being provided to producers or exporters in Turkey of aspirin under the following programs

A. Accelerated Depreciation

Petitioner alleges that under the General Incentive Program (GIP), the Government of Turkey allows a higher rate of depreciation for particular industries. The ceiling on such depreciation, according to petitioner, is 50 percent and may reach twice the rate normally permitted.

We verified that special depreciation rules in Turkey are not included under GIP. General Communique on Tax Procedural Law No. 153 specifies the various rates and methods of depreciation allowable in Turkey. The general rule is that an asset may be depreciated 25 percent per year over four years. Further, we verified that all companies are free to depreciate assets at the rate of 50 percent using the declining balance method. Since the 50 percent rate is not limited to a specific enterprise or industry or group of enterprises or industries, we determine that this program is not countervailable.

B. Revaluation of Fixed Assets

Petitioner alleges that under GIP certain companies may revalue their depreciable fixed assets at the end of each calendar year. The tax depreciation is then calculated on the newly assessed values.

We verified that the ability to revalue fixed assets does not exist as a special benefit under GIP. Pursuant to Law No. 3094, companies in Turkey may revalue the undepreciated value of their assets by the increase in the wholesale price index, published by the State Statistical Institute, less 10 percent. We verified that all companies may revalue assets. Since the ability to revalue fixed assets is not limited to a specific enterprise or industry or group of enterprises or industries, we determine that the program is not countervailable.

III. Programs Determined Not To Be Used

We verified that the programs described below were not used by the producers or exporters of aspirin in Turkey.

A. General Incentives Program

GIP is designed to implement the targets of Turkey's five-year development plan and annual development programs. The goals of GIP are to remove development disparities among different regions, to assure economically efficient investments by region and by sector, and to direct savings to the most economically suitable investment areas.

GIP is administered by the State Planning Organization (SPO) which

establishes the policies for incentives under GIP and has the power to approve or deny applications. Upon approval for GIP benefits, SPO issues an investment incentive certificate. This certificate describes the nature of the investment, lists the GIP sub-programs for which the holder is eligible and states the duration of the certificate. We verified that none of the producers or exporters in Turkey of aspirin received an investment incentive certificate for the production or exportation of the subject merchandise. Communique 85/1 and Communique 86/1 describe the various GIP programs and eligibility criteria for 1985 and 1986, respectively.

Petitioner alleged a number of programs under GIP. Based on the government questionnaire response and verification, the following programs existed under GIP for 1985 and 1986.

1. Exemptions from Customs Duties

Holders of investment incentive certificates may be entitled to the duty-free import of capital goods and raw materials necessary to realize qualified investments.

2. Investment Allowance

At the initiation of this investigation this program was alleged by petitioners as the "Income and Corporate Tax Allowance". The investment allowance permits an eligible company to deduct from taxable income 30 to 100 percent of the cost of approved investments, depending on the sector and region in which the investment is made.

3. Employee Tax Exemption

Under this program, employees of eligible certificate holding companies located in priority development regions are exempt from the payment of personal income tax.

4. Investment Financing Fund

Eligible certificate holding companies can deposit their profits in the Investment Financing Fund of the Central Bank and postpone the payment of taxes on those monies for one year.

5. Building Construction Licensing Charge Immunity

Eligible certificate holding companies are exempt from the payment of municipal construction licensing charges for the construction of factories, mills, shipbuilding yards, etc. At the initiation of this investigation, this program was alleged by petitioner under the general heading "Other Tax Exemptions".

6. Tax, Duty and Charge Exemptions

At the initiation of this investigation, petitioner alleged this program as "Exemption on Loan Fees". Since 1985, this is the only benefit in GIP that still requires an export commitment. Exemptions are provided for various charges on both domestic and foreign sourced credits taken out to finance the approved investment.

7. Foreign Exchange Allocation

Under the terms of this program, certificate holders are permitted to purchase foreign currency necessary to carry out the proposed investment.

8. Other Tax, Duty and Charge Exemptions

Eligible certificate holders are exempt from payment of various loan fees and charges on loans for building construction in priority development regions.

9. Interest Spread Return

Certificate holders may be eligible for two benefits under this program: short-term credits for export and medium- or long-term credits for investment. Companies apply for rebates through commercial banks, which in turn apply for rediscounts through the Central Bank. This program was terminated as of January 1, 1985 by Decree No. 84/8860, although loans outstanding will continue to receive rebates until maturity. Pursuant to Communique 86/1 five other programs were created under GIP for 1986.

1. *Deferment of Value-Added Tax.* An eligible certificate holder under this program can defer the payment of the value-added tax on machinery and equipment until the end of the investment period.

2. *Incentive Premium on Domestically Obtained Goods.* Under this program an eligible certificate holder can obtain a 15 percent rebate on the fixed assets purchased domestically which are listed on the certificate.

3. *Incentive Credit for Investment Goods Manufacturers.* To qualify for this program a company must obtain an "Investment Goods Manufacturer's Certificate of Qualification" from SPO. Successful exporting applications may provide "seller's credit" to their customers through the use of the Investment Goods Incentive Fund or rediscount resources of the Central Bank. Certificate of Qualification holders are also eligible for an exemption from customs duties up to 25 percent of the cost of inputs into the production process.

4. *Wharfage Exemption.* Eligible certificate holders are exempt from the normal wharfage fees for unloading goods at Turkish ports.

5. *Authorization to Seek Foreign Financing.* Although not a separate GIP program *per se*, pursuant to Communique 86/1, eligible certificate holders can obtain foreign credits. Interest rates and other expenses pertaining to the foreign credits are freely determined by the parties concerned.

B. Resource Utilization Support Fund (RUSF)—Reimbursement for Investments and Rebates on Investment Credits

In addition to direct payments of four percent on exports, benefits provided under RUSF also include partial reimbursement for certain investments in excess of 600 million Turkish lira, and investment credit rebates of seven percent for investments under 600 million Turkish lira.

Only those companies holding investment incentive certificates under GIP are eligible for these RUSF benefits. We verified that none of the producers or exporters in Turkey of aspirin received investment incentive certificates for the production or exportation of the subject merchandise.

Depending on their regional location, companies may be eligible for partial reimbursement for investments at rates of seven to 20 percent. At the initiation of this investigation petitioner alleged this program as "Premium to Support Investment". Investment credit rebates are provided to banks loaning money to certificate holders at prescribed rates of interest.

C. Export Credits

Under Communique No. 1, effective December 1, 1986, certain exporters are eligible for export credits at below market interest rates. Eligibility for benefits under this program is limited to exporters who have shipped at least five million dollars in exports over the past three years, with no single year's export value less than one million dollars. We verified that this program was not used by the producers or exporters of aspirin in Turkey.

D. Export Promotion Program

Under Decree No. 85/10183, exporters can apply to SPO for an export incentive certificate. The certificate can provide the exporter with a customs duty exemption on raw materials used in the production of goods to be exported. In addition, the certificate can provide for an allocation of foreign exchange. We verified that none of the producers or exporters in Turkey of aspirin benefited from this program for the production or

exportation of aspirin during the review period.

IV. Programs Determined To Be Terminated

We verified that the programs described below have been terminated.

A. Customs Duty Deferrals

Petitioner alleges that, during 1980, the Government of Turkey permitted delayed payment of up to six months of duties and fees on imported materials. We verified that deferrals ended after 1984 and were not part of GIP under Communique 85/1 or Communique 86/1.

B. Preferential Export Financing

Petitioner alleges that the Government of Turkey, through the Interest Equalization Fund of the Central Bank, provided short-term export credits at preferential rates. We verified that this program was terminated by Decree No. 84/8861 on December 15, 1984. Thus, any benefits provided are no longer accruing to current exports to the United States.

V. Programs Determined Not To Exist

We verified that the programs described below never existed.

A. Credit for Operational Requirements

Petitioner alleged that investors with incentive certificates are eligible to receive credit with a maturity of five years for their operational requirements on terms inconsistent with commercial considerations.

B. Preferential Interest Rates on Loans of Foreign Origin

Petitioner alleged that the Government of Turkey sets the interest rate on loans of foreign origin with a maturity of eight years and a three-year grace period at rates inconsistent with commercial considerations.

C. Exemptions from Taxes on Payments to Foreign Suppliers

Petitioner alleged that holders of incentive certificates are exempted from payment of taxes or other charges normally assessed against payments made to foreign suppliers for imported goods.

Petitioner's Comments

Comment 1: Petitioner points out that verification of the Atabay response revealed a lower level of aspirin exports to the United States than had been reported, and argues that the Department should re-calculate the *ad valorem* rate based on the verified export total.

DOC Position: We agree. For purposes of the export and supplement tax rebate programs and RUSF payments, we used the information verified at Atabay as the basis for our estimated net subsidy calculations.

Comment 2: Petitioner argues that the Department's treatment of the termination of the Export Tax Rebate and Supplemental Tax Rebate programs for exports of aspirin to the United States as a "program-wide change" is incorrect. Petitioner contends that termination affects exports to the U.S. only, and therefore should not be considered program-wide. Further, petitioner asserts that, because exports to third countries may continue to receive benefits, producers of aspirin in Turkey receive countervailable benefits to the extent that the rebates reduce overall production costs.

DOC Position: We disagree. We consider the termination of rebates on aspirin exports to the United States to be a program-wide change. Consistent with Department practice, we have determined the changes in certain programs to be program-wide changes because they have resulted in a fundamental change in the bestowal of benefits, are government-mandated, were not company-specific, and occurred after the review period but prior to the preliminary determination. With respect to petitioner's second point, it is the Department's policy not to include export subsidies that are specifically tied to exports to countries other than the United States in our subsidy determination [See *Industrial Nitrocellulose from France; Final Results of Countervailing Duty Administrative Review* (52 FR 833, January 9, 1987)]. Moreover, we note that the Government of Turkey has entered into a bilateral agreement with the Government of United States in which it agreed to eliminate the tax rebate programs in their entirety by the end of 1988.

Comment 3: Petitioner speculates that residual benefits from the rebate and RUSF programs earned prior to the termination of the programs may possibly be received by exporters of aspirin after the termination of the programs. Accordingly, petitioner argues that the full amount of the benefit calculated for the review period should be included in the duty deposit rate.

DOC Position: We disagree. We verified that benefits under the terminated programs cannot accrue to exports made after termination. We have consistently held that where a subsidy program has been terminated prior to the preliminary determination and the program can no longer benefit exports of the merchandise which are subject to suspension, the benefits under the program should not be included in the duty deposit rate [See *Final Affirmative Countervailing Duty Determinations and Orders: Certain Textile Mill Products and Apparel from Peru* (50 FR 9871, March 12, 1985)].

Comment 4: Petitioner questions whether termination of the tax rebate programs for exports to the United States necessarily applies to products routed through third countries that are destined for the United States market.

DOC Position: At verification, we thoroughly examined the customs documentation used by Turkish customs officials. In cases of transshipments ultimately destined for the United States, the customs declaration forms clearly specified the United States as the country of final destination. Further, we note that the government treats such transshipments as exports to the United States for statistical reporting. Therefore, we believe that the customs declaration forms, which must be presented to apply for benefits, will be used to deny benefits related to all shipments of aspirin exported, directly or indirectly, to the United States. However, the use of this program will be examined in the section 751 administrative review, if one is requested.

Comment 5: Petitioner argues that based on company financial statements the total amount of tax rebates received by producers and exporters of aspirin during the review period was significantly higher than reported in company responses.

DOC Position: As is normal Department practice, we verified the specific level of benefits related to exports of the subject merchandise to the United States. When this can be done, it is not relevant if the actual total amount of benefits on all products exported to all countries is higher than the benefits reported.

Comment 6: Petitioner argues that direct payments to exporters from RUSF should be treated as grants and that the benefit should be allocated over time rather than expensed in the year of receipt.

DOC Position: We disagree. The RUSF program of direct payments to exporters was established as a recurring benefit program under which companies could expect to receive payments year after year provided they continued to export. Therefore, although RUSF was terminated after only two years of operation, the benefits received by companies during its existence cannot be considered "one time, shot-in-the-arm" grants. As is Department practice with respect to recurring benefits, we

allocated these grants to the year of receipt.

Comment 7: Petitioner argues that, as a result of the Export Incentive Certificates issued by the Government of Turkey to Atabay, the company received import duty exemptions on raw materials used in the production of aspirin which was never exported. Furthermore, petitioner asserts that Atabay may have received a port charge exemption under the certificates.

DOC Position: Subsequent to the review period, Atabay received two Export Incentive Certificates relating to the importation of raw materials for the production of aspirin. The terms of the first certificate were changed to allow for the importation of non-aspirin raw materials and the exportation of a non-aspirin product. Atabay also obtained a change in the terms of the second certificate. Nonetheless, even under the changed terms of the second certificate the company was still obligated to export the final product produced from the raw materials. With respect to port charges, we verified that the company did not receive any port charge exemptions by examining the regulatory authority and the terms of Atabay's certificates.

Comment 8: Petitioner argues that the Department should reject as untimely information received from Proses during verification which corrects information submitted in the company's response and assume that it received the maximum level of rebates allowable.

DOC Position: We disagree. Although the verification of the Proses questionnaire response disclosed certain minor discrepancies, all the information used for this final determination regarding Proses was verified. To assume that the company received the maximum level of rebates, in contradiction to verified information, would be incorrect.

Respondent's Comments

Comment 1: The Government of Turkey argues that not all companies under investigation are eligible for a 20 percent export revenue tax deduction. Temel, Eksel and Fepas, as export trading companies, are eligible for no greater than a five percent export revenue deduction.

DOC Position: We agree. In the calculation of the duty deposit rate, we took into account the two levels of benefits under the Export Revenue Tax Deduction program. Furthermore, we note that the export revenue tax deduction for trading companies is in addition to the deduction for producers. This is also reflected in our calculations.

Comment 2: The Government of Turkey argues that the Department should use the tax returns of the non-responding companies, provided by the Government of Turkey at verification, as the basis for the final determination.

DOC Position: After receiving only one company response to our questionnaire, we requested a meeting with counsel for the Government of Turkey and a representative of the Turkish Embassy. We emphasized the importance of all producers and exporters of aspirin in Turkey responding to our questionnaire. Prior to verification, after receiving only two proper company responses, we again requested a meeting. At this second meeting, we suggested ways to verify the Government of Turkey's assertion that certain alleged programs were not used. At verification, we were provided with the tax returns of the non-responding companies, but we clearly stated to counsel for the Government of Turkey that we could not make a commitment to use the information on the returns. We have determined that the Department cannot use the tax returns of the non-responding companies as a matter of law and policy. The Department is under a statutory obligation to use only verified information in its final determinations. We cannot consider the tax returns obtained from the non-responding companies to be verified. The non-responding companies did not cooperate in this investigation. They did not provide proper responses to our questionnaires, nor did they agree to on-site verification by Department officials. Furthermore, the statutory and regulatory scheme of a countervailing duty investigation requires that the petitioner be provided with an opportunity to comment on all information submitted to the Department. The provision of business proprietary information, such as a tax return, at verification, without a proper questionnaire response, denies the petitioner the opportunity to examine and to comment on the substance of the information submitted.

Moreover, as a matter of policy, we cannot use the tax returns obtained from the non-responding companies. To do so in this case would undoubtedly encourage future company respondents not to cooperate and to provide only that information helpful to their cause. Finally, we note that the submitted returns of the non-responding companies were not those filed during the review period. While the Department recognizes and appreciates the efforts made by the Government of Turkey to obtain the information in question, the Department is bound by law and policy not to use the tax returns provided at verification in our final determination.

Comment 3: The Government of Turkey argues that the Department incorrectly assumed full use of the 20 percent export revenue tax deduction by all companies, while the tax returns of the non-responding companies provided by the government at verification showed that certain eligible companies used less than the full amount to which they were entitled.

DOC Position: As explained in response to Comment 2, we cannot and did not accept the tax returns of the non-responding companies.

Comment 4: The Government of Turkey argues that company-specific rates should be applied because a "significant differential" exists between the individual company rates.

DOC Position: We disagree. For the Export Revenue Tax Deduction program, the sole program upon which the duty deposit rate is based, we used the best information available for all companies which did not adequately respond. As is the Department's policy, a significant differential for an individual company is found to exist when there is a difference of the greater of at least 10 percentage points, or 25 percent, from the weighted-average net subsidy calculated on a country-wide basis. Since the difference in rates for producers and exporters of aspirin in Turkey is less than ten percentage points from the weighted-average duty deposit rate calculated on a country-wide basis, a significant differential does not exist. See "Proposed Countervailing Duty Regulations" (50 FR 24207, 24225, June 10, 1985).

Verification

In accordance with section 776(a) of the Act, except where noted in this determination, we verified the information used in making our final determination. During verification, we followed standard verification procedures, including meeting with government and company officials, inspecting documents and ledgers, and trading information in the response to source documents, accounting ledgers, and financial statements.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of aspirin from Turkey, except aspirin produced and exported by Proses, which are entered, or withdrawn from warehouse, for

consumption on or after March 3, 1987. As of the date of publication of this notice in the Federal Register, the Customs Service shall require a cash deposit or bond of 6.54 percent *ad valorem* for each entry of this merchandise from Turkey. The subject merchandise produced by Proses is not included in this determination. The suspension of liquidation ordered in our preliminary affirmative countervailing duty determination shall be terminated with respect to Proses. All estimated countervailing duties shall be refunded and all appropriate bonds shall be released for entries of aspirin produced and exported by Proses.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted, as a result of the suspension of liquidation, will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing the Customs officers to assess countervailing duties on all entries of aspirin from Turkey entered, or withdrawn from warehouse, for consumption, as described in the "Suspension of Liquidation" section of this notice.

This determination is published pursuant to section 705(d) of the Act [19 U.S.C. 1671d(d)].

Paul Freedenberg,

Assistant Secretary for Trade Administration.

June 23, 1987.

[FR Doc. 87-14825 Filed 6-30-87; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Amendment to an Export Trade Certificate of Review, Application # 84-A0033.

SUMMARY: The Department of Commerce has issued an amendment to the export trade certificate of review of International Continental Agri-Tech, Inc. This notice summarizes the amendment.

FOR FURTHER INFORMATION CONTACT: George Muller, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11,1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a certificate in the Federal Register. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amendment

The Export Trade Certificate of Review issued on December 31, 1984 to International Continental Agri-Tech, Inc. ("Agri-Tech") (50 FR 871) is amended as follows: (1) The section captioned "Export Trade," at subsection "a" captioned "Products," is amended to read "All Products." (2) Mr. G.F. Corcoran, of New Orleans, Louisiana, is no longer a "member" of Agri-Tech within the meaning of § 325.2(l) of the Regulations, and the section captioned "Members" is amended to read: "Mr. R.S. Norsworthy, Florence, Mississippi, is a 'member' within the meaning of § 325.2(l) of the Regulations." (3) The following sentence under the caption "Disclaimer" is deleted: "This certificate does not apply to sales to the United States Government or to any sale more than half the cost of which is borne by the United States Government." The following sentence is inserted in place of the deleted sentence: "The application of this certificate to conduct in export trade where the United States Government is the buyer or where the United States Government bears more than half the cost of the transaction is subject to the limitations set forth in Section V.(D.) of the "Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition)," 50 FR 1788 (January 11, 1985)."

In accordance with section 304(a)(2) of the Act, this amendment is effective from March 26, 1987, the date on which the application for the amendment was deemed submitted.

A copy of the amendment to the certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: June 25, 1987.

George Muller,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 87-14873 Filed 6-30-87; 8:45 am]

BILLING CODE 3510-DR-M

APPENDIX C
LIST OF WITNESSES AT THE COMMISSION'S HEARING

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

Subject : Certain Acetylsalicylic Acid (Aspirin) from Turkey

Inv. No. : 701-TA-283 and 731-TA-364 (Final)

Date and time: July 2, 1987 - 9:30 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 and countervailing duties:

Stewart and Stewart—Counsel
Washington, D.C.
on behalf of

Monsanto Chemical Company

Robert G. Pier, Director, Process and Specialty Chemicals, Specialty Chemicals Division

Michael L. Marcum, Business Manager, Acetylsalicylic Acid

Fred L. Thompson, Manager, Queeny Plant

Clifford E. Powell, Manager, Planning

Barbara M. McManis Attorney

Dow Chemical Company

Teri S. LeBeau, Business Manager, Organic Intermediates

David E. Gow, The Dow Chemical Company, Chemicals and Metals Department, District Sales Manager, Charlotte, North Carolina

James H. Jeffs, Attorney

Eugene L. Stewart)
Charles A. St. Charles) --OF COUNSEL

In opposition to the imposition of antidumping and countervailing duties:

White & Case—Counsel
Washington, D.C.
on behalf of

The Government of Turkey

Alev Kaymak, Economic & Command Counsellor,
The Government of Turkey

John J. McAvoy)
Lloyd H. Randolph)--OF COUNSEL
Christopher M. Curran)