

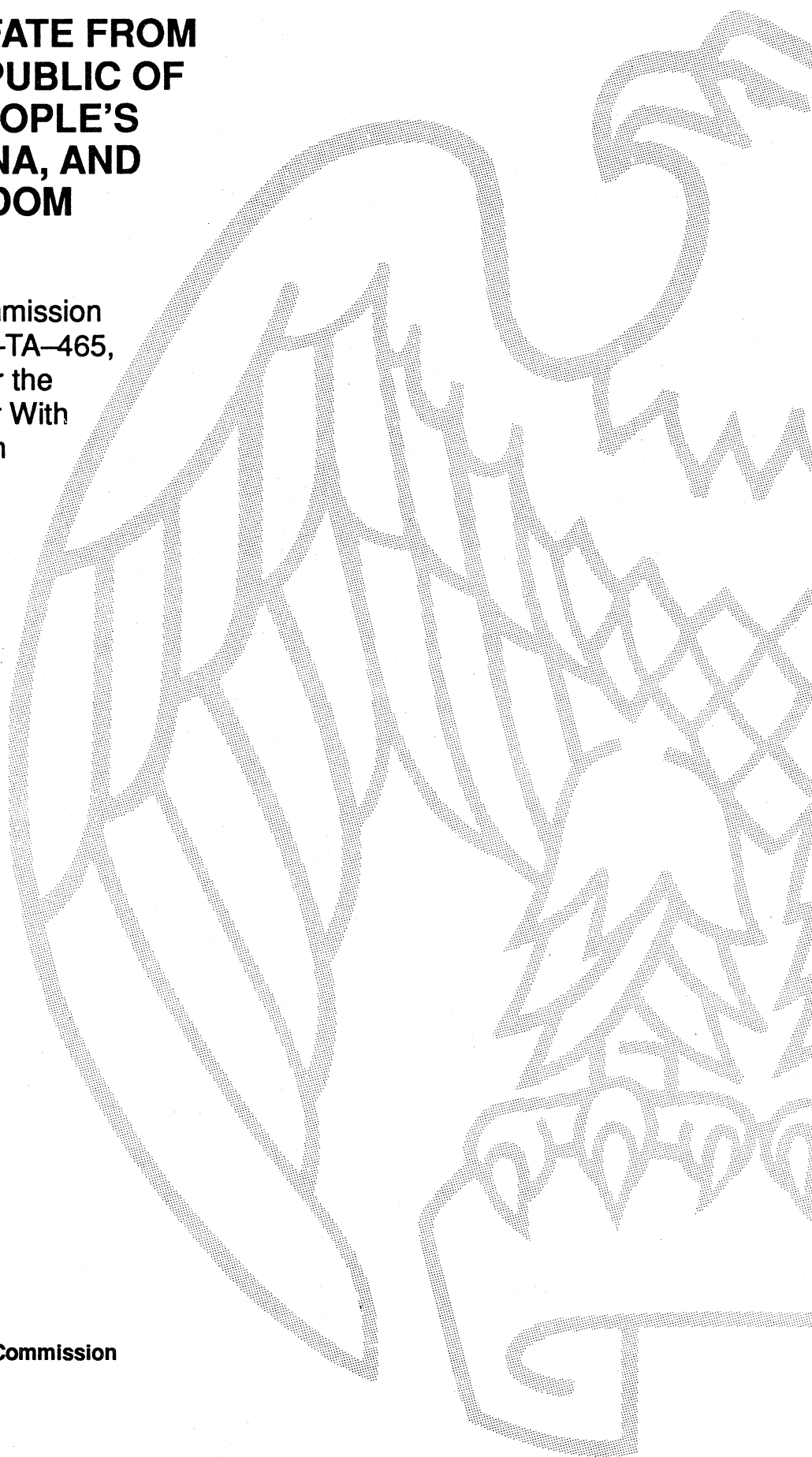
SODIUM THIOSULFATE FROM THE FEDERAL REPUBLIC OF GERMANY, THE PEOPLE'S REPUBLIC OF CHINA, AND THE UNITED KINGDOM

Determinations of the Commission
in Investigations Nos. 731-TA-465,
466, and 468 (Final) Under the
Tariff Act of 1930, Together With
the Information Obtained in
the Investigations

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FEBRUARY 1991

**United States International Trade Commission
Washington, DC 20436**



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

Investigations Nos. 731-TA-465, 466 and 468 (Final)

SODIUM THIOSULFATE FROM THE FEDERAL REPUBLIC OF GERMANY, THE
PEOPLE'S REPUBLIC OF CHINA, AND THE UNITED KINGDOM

Determinations

On the basis of the record¹ developed in the subject investigations, the Commission unanimously determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the act), that an industry in the United States is materially injured by reason of imports from the Federal Republic of Germany, the People's Republic of China, and the United Kingdom of sodium thiosulfate, provided for in subheading 2832.30.10 of the Harmonized Tariff Schedule of the United States, 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 these investigations effective October 16, 1990, for the Federal Republic of Germany and the United Kingdom and effective December 12, 1990, for the People's Republic of China, following preliminary determinations by the Department of Commerce that imports of sodium thiosulfate from the subject countries were being sold at LTFV within the meaning of section 733(a) of the act (19 U.S.C. § 1673b(a)). Notice of the institution of the Commission's investigations and of a public hearing 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 October 31, 1990 (55

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

F.R. 45870) for the Federal Republic of Germany and the United Kingdom and December 27, 1990 (55 F.R. 53204) for the People's Republic of China. The hearing was held in Washington, DC, on January 4, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

On the basis of the record developed in these final investigations, we determine that an industry in the United States is materially injured by reason of imports of sodium thiosulfate from the Federal Republic of Germany, the People's Republic of China and the United Kingdom,¹ that the Department of Commerce has determined to have been sold in the United States at less than fair value.

I. Like Product and Domestic Industry

In order to determine whether a domestic industry has been materially injured or threatened with material injury, the Commission must first determine the domestically produced product which is "like" the imports under investigation.² The statute defines "like product" as "a product which is

¹ Imports of sodium metabisulfite were included in the scope of the preliminary investigations, which also included imports of both allegedly dumped and allegedly subsidized sodium thiosulfate and sodium metabisulfite from Turkey. However, the Commission determined that there was no reasonable indication that an industry in the United States was materially injured or threatened with material injury, or that the establishment of an industry in the United States was materially retarded, by reason of the imports from Turkey of sodium metabisulfite and sodium thiosulfate and made a negative preliminary determination with respect to imports from all the countries of sodium metabisulfite. See Certain Sodium Sulfur Chemical Compounds from the Federal Republic of Germany, the People's Republic of China, Turkey, and the United Kingdom, Invs. Nos. 701-TA-303, 731-TA-465-468 (Preliminary), USITC Pub. 2307 (Aug. 1990).

² 19 U.S.C. § 1677(4)(A).

like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation."³ The Department of Commerce (Commerce) has defined the imported merchandise which is subject to these final investigations as

all grades of sodium thiosulfate, in dry or liquid form, used primarily to dechlorinate industrial waste water. The chemical composition of sodium thiosulfate is $\text{Na}_2\text{S}_2\text{O}_3$. Sodium thiosulfate is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 2832.30.1000.⁴

The Commission's like product determination is essentially a factual one, made on a case-by-case basis.⁵ The Commission traditionally considers such factors as (1) physical characteristics, (2) uses, (3) interchangeability, (4) channels of distribution, (5) customer and producer perceptions, (6) common manufacturing facilities and employees, (7) production process, and (8) price.⁶ No single factor is dispositive and the Commission may consider other factors it deems relevant based on the facts of a given investigation. The Commission has found minor variations to be an insufficient basis for

³ Id. § 1677(10).

⁴ Final Determinations of Sales at Less Than Fair Value: Sodium Thiosulfate from the Federal Republic of Germany and the United Kingdom, 55 Fed. Reg. 51,749 (Dec. 17, 1990) and Final Determination of Sales at Less Than Fair Value: Sodium Thiosulfate from the People's Republic of China, 56 Fed. Reg. 2,904 (Jan. 25, 1991).

⁵ See, e.g., Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 & n.5 (Ct. Int'l Trade 1988); Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-448-450 (Final), USITC Pub. 2312 (Sept. 1990), at 4.

⁶ See Sweaters at 4-5; Industrial Nitrocellulose from Brazil, Japan, the People's Republic of China, the Republic of Korea, the United Kingdom, and West Germany, Invs. Nos. 731-TA-439-444 (Final), USITC Pub. 2295 (June 1990), at 4.

finding separate like products. Rather, the Commission has looked for clear dividing lines among articles.⁷

In the preliminary investigations, the Commission found two separate like products: sodium metabisulfite and sodium thiosulfate.⁸ As a consequence of that determination, the Commission found two domestic industries, comprising the producers of the respective compounds.⁹ The Commission reached a negative preliminary determination with respect to sodium metabisulfite.¹⁰ The petitioner maintains that the Commission should find one like product in these final investigations: all sodium thiosulfate regardless of grade or form.¹¹ The sole respondent who has taken part in these final investigations, a producer in the United Kingdom, opted not to appear at the hearing or file briefs¹² and has proffered no final position on this or any other possible issues during the final investigations.

In light of the overall similarity in uses, channels of distribution, customer and producer perceptions, production process, and price of all grades

⁷ Sweaters at 5; Industrial Nitrocellulose at 4.

⁸ Preliminary Determination at 9.

⁹ Id. at 10-11.

¹⁰ Acting Chairman Brunsdale reached a negative determination regarding imports of sodium metabisulfite from Turkey and the PRC, but concluded that there was a reasonable indication of harm to the domestic industry by reason of imports from Germany and the UK sold at less than fair value. With respect to imports of sodium thiosulfate from the three countries involved in these final investigations, she concluded that there was no reasonable indication of material injury. Views of Chairman Anne E. Brunsdale Dissenting in Part, Preliminary Determination at 34.

¹¹ Posthearing Brief Filed on Behalf of the Calabrian Corporation at 2 (Jan. 10, 1991) (Posthearing Brief); Prehearing Brief Filed on Behalf of the Calabrian Corporation at 3-4 (Dec. 28, 1990).

¹² See Letter from Ryan Trainer to Kenneth R. Mason (Jan. 3, 1991).

and forms of sodium thiosulfate, we again define the like product to be all sodium thiosulfate, regardless of form or grade, as we did in the preliminary investigations.

II. Condition of the Industry¹³

In assessing the condition of the domestic industry, we consider, among other factors, U.S. consumption, production, shipments, capacity utilization, inventories, employment, wages, financial performance, capital investment, and research and development expenditures.¹⁴ No single factor is dispositive and in each investigation we consider the particular nature of the industry involved and the relevant economic factors that have a bearing on the state of the industry.¹⁵ Before describing the condition of the industry in these final investigations, we note that much of the information on which we base

¹³ Acting Chairman Brunsdale joins in this discussion of the condition of the domestic industry. However, she does not reach a separate legal conclusion regarding the presence or absence of material injury based on this information. While she does not believe an independent determination is either required by the statute or useful, she finds the discussion of the condition of the domestic industry helpful in determining whether any injury resulting from dumped or subsidized imports is material. See Certain Light-Walled Rectangular Pipes and Tubes from Taiwan, Inv. No. 731-TA-410 (Final), USITC Pub. 2169 (March 1989), at 10-15 (Views of Chairman Brunsdale and Vice Chairman Cass).

¹⁴ See 19 U.S.C. § 1677(7)(C)(iii).

¹⁵ See id., which requires us to consider the condition of the industry within the context of the business cycle and conditions of competition that are distinctive to the affected industry. See also H.R. Rep. No. 317, 96th Cong., 1st Sess. 46 (1979) ("[i]t is expected that in its investigation the ITC will continue to focus on the conditions of trade and development within the industry concerned"); S. Rep. No. 249, 96th Cong., 1st Sess. 88 (1979) ("[i]t is expected that in its investigation the Commission will continue to focus on the conditions of trade, competition, and development regarding the industry concerned").

our decision is designated business proprietary and thus our discussion must be general in nature.

Because imports of sodium thiosulfate were not separately reported in official statistics prior to January 1, 1989, data on U.S. consumption derived from such statistics are not available for 1987 and 1988. Data based on questionnaire responses received by the Commission show that U.S. consumption increased annually during 1987-89, then declined in January-September 1990, as compared to January-September 1989.¹⁶ U.S. production and producers' domestic shipments followed the same trend, increasing annually during 1987-89 and declining in January-September 1990, relative to the same period in 1989.¹⁷ End-of-period capacity increased from 1987 to 1989, but remained unchanged in January-September 1990, as compared to January-September 1989. There remained substantial unused capacity to produce sodium thiosulfate throughout the period of investigation.¹⁸

U.S. producers' end-of-period inventories increased substantially from 1987 to 1988, then declined in 1989 and during the interim period January-September 1990, relative to the same period in 1989.¹⁹ The average number of production workers declined substantially in January-September 1990, as compared to January-September 1989. Throughout the period of investigation,

¹⁶ Report at A-6 and Table 2.

¹⁷ Id. at A-7 and Tables 3 and 4.

¹⁸ Id., Table 3; B-16, App. D.

¹⁹ Id. at A-8 and Table 5.

the trends for hours worked, productivity and average hourly compensation, while mixed, also indicate a troubled industry.²⁰

While we are prohibited from discussing business proprietary information in this public document, we note that the financial condition of the U.S. producers was indicative of injury. Operating income and loss data, net sales totals, capital investment figures, and data for research and development expenditures portray a weakened industry.²¹ In particular, we note that the income/loss data depict a domestic industry which has been damaged²² and in which the producers have been unable to recoup a reasonable return on their capital investment, a situation which is steadily worsening.²³

Accordingly, based on the data available in these investigations, we find that the domestic industry is materially injured. The poor financial condition of the industry, significant underutilization of capacity and declining number of production workers, together with recent trends in domestic production, domestic shipments, and other employment data on hours worked, form the basis for this conclusion.

III. Cumulation

In determining the existence of material injury to a domestic industry, the Commission is to assess, in part, the volume and effect of imports of the

²⁰ Id. at A-8 and Table 6; A-9, Table 7.

²¹ Id. at A-9 to A-10 and Table 9; A-11, Table 12.

²² We would like to point out that the financial data changed significantly from that reflected in the Prehearing Report as a result of on-site verification of domestic producers' questionnaire responses. Id. at A-9.

²³ Id. at A-10, Tables 9 and 11.

merchandise which is the subject of the investigations. The statute provides that, for this purpose,

the Commission shall cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market.²⁴

Imports are cumulated if they meet three criteria: (1) they must compete with other imported products and with the like domestic product; (2) they must be marketed within a reasonably coincidental period; and (3) they must be subject to investigation.²⁵ In deciding whether there is competition among imports and between imports and the like product, the Commission has traditionally looked to several factors: (1) the degree of fungibility of imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and (4) whether imports are simultaneously present in the market.²⁶

²⁴ 19 U.S.C. § 1677(7)(C)(iv).

²⁵ See, e.g., Chaparral Steel Co. v. United States, 901 F.2d 1097, 1101 (Fed. Cir. 1990); Sweaters at 35-36; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom, Invs. Nos. 303-TA-19 & 20, 731-TA-391-399 (Final), USITC Pub. 2185 (May 1989), at 61.

²⁶ See Certain Cast Iron Pipe Fittings from Brazil, the Republic of Korea and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988); see also Sweaters at 35 n.105; Industrial Nitrocellulose at 12; Antifriction Bearings at 62.

These factors provide the Commission with a framework for determining whether the imports compete with each other and with the domestic like product, although no single factor is determinative and the list is not exclusive.²⁷ The Federal Circuit and the Court of the International Trade have found that the competition requirement is satisfied so long as there is a "reasonable overlap" in the domestic market among imports and between imports and the like product.²⁸

In the preliminary investigations, the Commission determined to assess cumulatively the volume and price effects of imports of the three countries subject to these final investigations.²⁹ Although the German and UK respondents argued during the preliminary investigations that the qualitative differences between their imports and the domestic product were such that the products were not fungible, the Commission found sufficient evidence in the record that the imports did compete with each other and with domestically produced sodium thiosulfate.³⁰

In these final investigations, petitioner asserts that the above-cited requirements for cumulation are again satisfied. Based on evidence in the

²⁷ See Wieland Werke, AG v. United States, 718 F. Supp. 50, 52 (Ct. Int'l Trade 1989); Granges Metallwerken AB v. United States, 716 F. Supp. 17, 19 (Ct. Int'l Trade 1989).

²⁸ Wieland Werke, AG v. United States, 718 F. Supp. at 52 (completely overlapping markets are not required); Granges Metallwerken AB v. United States, 716 F. Supp. at 22 (only evidence of reasonable overlap in competition is necessary); Florex v. United States, 705 F. Supp. 582, 592 (Ct. Int'l Trade 1989) (complete overlap not required); see also Fundicao Tupy S.A. v. United States, 678 F. Supp. at 902 (sufficient evidence of overlap in record to justify conclusion of competition among imports and between imports and like product).

²⁹ Preliminary Determination at 19.

³⁰ Id.

record, all of which is designated business proprietary information and cannot be disclosed in this opinion, we are in agreement. Thus, we find that while there are some perceived quality differences between the imports and the domestic product, there is sufficient evidence that they are comparable in quality and essentially fungible.³¹

Section 1330 of the Omnibus Trade and Competitiveness Act of 1988 provides that the Commission is not required to cumulate imports if it determines that the imports are negligible and have no discernible adverse impact on the domestic industry.³² In making this determination, the Commission is to consider all relevant economic factors, including whether

- (I) the volume and market share of the imports are negligible,
- (II) sales transactions involving the imports are isolated and sporadic, and
- (III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.³³

The legislative history states that the Commission is to apply this exception narrowly and that it is not to be used to subvert the purpose and general application of the mandatory cumulation provision of the statute. Further, whether imports are negligible may differ from industry to industry and for that reason the statute declines to specify a numerical definition of negligibility.

No issue was presented in the preliminary investigations as to whether the imports now under investigation are negligible. The data gathered during these final investigations show that in terms of share of U.S. consumption,

³¹ See, e.g., Report at A-20.

³² 19 U.S.C. § 1677(7)(C)(v).

³³ Id.

imports from all of the countries were low in 1989 and interim 1990, although imports from two countries increased substantially in January-September 1990, as compared to the same period in 1989.³⁴ Arguably, therefore, the question arises as to whether imports from these countries are "negligible" and should be excluded from cumulation. We conclude that such imports are not negligible.

There was a substantial increase during the first nine months of 1990 in imports from the two countries with the smallest share of domestic consumption.³⁵ This fact, added to the fact that the domestic market for sodium thiosulfate is price sensitive³⁶ and that there is no evidence in the record that the sales of imports are only isolated and sporadic, indicates that the imports from all of the countries involved in these final investigations fail to qualify for the narrow statutory exception for negligible imports.

³⁴ Report at A-16.

³⁵ Id.; see also id. at Table 16 for import data derived from questionnaires for earlier years of the period of investigation.

³⁶ See text, infra at 16-17, for a discussion of price sensitivity.

Acting Chairman Brunsdale believes that imports and the domestic like product are good substitutes and therefore that a decline in the price of imported sodium thiosulfate would likely cause customers to switch. However, she notes that the total quantity of sodium thiosulfate demanded is not responsive to changes in price. See Memorandum INV-0-029 (Feb. 4, 1991), at 12-13.

IV. Material Injury by Reason of LTFV Imports³⁷

The statute requires that the Commission determine during its final investigations whether a domestic industry is materially injured by reason of the imported products.³⁸ "Material injury" is defined as harm which is not inconsequential, immaterial or unimportant.³⁹ An evaluation of its relevant factors includes consideration of whether the volume of imports, or any increase in that volume, is significant; whether there has been significant price underselling of the imports as compared with the domestic products; whether the imports otherwise depress prices significantly or prevent, to a significant degree, price increases which otherwise would have occurred; actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; factors affecting domestic prices; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and actual and potential negative effects on the existing development and production efforts of the domestic industry.⁴⁰ The Commission may also consider other relevant economic factors so long as they are identified and their relevance explained in full in the determination.⁴¹

³⁷ Acting Chairman Brunsdale does not join this portion of the Commission's opinion. Her analysis is set forth separately in her Additional Views.

³⁸ 19 U.S.C. § 1673d(b)(1).

³⁹ Id. § 1677(7)(A).

⁴⁰ Id. § 1677(7)(C).

⁴¹ Id. § 1677(7)(B).

The Commission may consider alternative causes of injury, but is not to weigh causes.⁴² The Commission need not determine that imports are the principal or a substantial cause of material injury.⁴³ Rather, the Commission is to determine whether imports are simply a cause of material injury.⁴⁴

The quantity and value of cumulated imports increased rapidly from 1987 to 1989 and there was a very large increase in January-September 1990, based on questionnaire responses.⁴⁵ According to official statistics, imports in January-September 1990 totaled approximately 2.5 million pounds (compared to 774,000 pounds during the same period in 1989), more than doubling the 1.0 million pounds shipped during the entire year of 1989. The value of imports from the three countries during January-September 1990 was more than three

⁴² Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988). Alternative causes may include: the volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade, restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry.

S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979). Similar language is contained in the House Report. H.R. Rep. 317, 96th Cong., 1st Sess. 47 (1979).

⁴³ "Any such requirement has the undesirable result of making relief more difficult to obtain for industries facing difficulties from a variety of sources; industries that are often the most vulnerable to less-than-fair-value imports." S. Rep. No. 249, at 74-75.

⁴⁴ LMI-La Metalli Industriale, S.p.A. v. United States, 712 F. Supp. 959, 971 (Ct. Int'l Trade 1989); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. at 1101; Hercules, Inc. v. United States, 673 F. Supp. 454, 481 (Ct. Int'l Trade 1987); British Steel Corp. v. United States, 593 F. Supp. 405, 413 (Ct. Int'l Trade 1984); see also Maine Potato Council v. United States, 613 F. Supp. 1237, 1244 (Ct. Int'l Trade 1985) (Commission must reach an affirmative determination if it finds that imports are more than a de minimis cause of injury).

⁴⁵ Report at A-15, Table 15.

times as great as for January-September 1989.⁴⁶ Likewise, the cumulated imports' share of consumption more than tripled when the same periods are compared,⁴⁷ which is significant in light of the price sensitivities.

There were several indications of adverse price effects caused by the imports. First, there was significant underselling by the importers.⁴⁸ The margins of underselling ranged up to over 30 percent, varying according to the type of product, the importer and the year.⁴⁹ While the evidence is somewhat mixed,⁵⁰ we find that the information in the record is sufficient to form the basis for our finding that the underselling is significant. The Commission has also confirmed a number of instances of sales and revenues lost to lower import prices.⁵¹ There is uncontested evidence provided by the petitioner of price depression regarding the pentahydrate form of sodium thiosulfate.⁵²

Although domestic list prices have increased since 1988, these prices do not reflect commercial reality due to the necessity to provide customers with discounts of up to 20 percent or more of the list price in order to meet lower import prices.⁵³ The market price did rise during the interim period in 1990,

⁴⁶ Id. at A-14 to A-15.

⁴⁷ Id. at A-16.

⁴⁸ Id. at A-21 to A-22 and Tables 17 and 18.

⁴⁹ Id. at A-21.

⁵⁰ See id. at A-22.

⁵¹ Id. at A-24.

⁵² Tr. at 15.

⁵³ Tr. at 15-17, 44-45; see also Report at A-17 and B-16, App. D.

after having been stagnant for the preceding three years.⁵⁴ However, importers responded by underselling the domestic producers and capturing a significant share of the U.S. market.⁵⁵ Despite annual increases in U.S. consumption of sodium thiosulfate from 1987 to 1989,⁵⁶ the domestic industry's financial position remained extremely poor during the period of investigation. This fact is due in large part to the LTFV imports, especially during the interim 1990 period.

The large increase in imports is especially significant in light of the price sensitivity of the market for sodium thiosulfate. The reason this is a price sensitive product is due to the interaction of the price elasticity of demand for sodium thiosulfate and the substitutability of the domestic product for the imported product.

There are no close substitutes for sodium thiosulfate. The demand for the services for which sodium thiosulfate is used, water dechlorinization, oil field services, and photographic processing, are largely price inelastic. Sodium thiosulfate also accounts for a relatively small share of the total cost of these services. In economic terms, the demand elasticity for sodium thiosulfate is price inelastic.⁵⁷ As a result, any increase in imports will have a larger effect on the U.S. market price for sodium thiosulfate, and hence on the price of the domestic product.

⁵⁴ Report at A-21, Table 17 and A-22, Table 18.

⁵⁵ Id.; A-16.

⁵⁶ Id. at A-6, Table 2.

⁵⁷ Memorandum INV-0-029 (February 4, 1991), at 12-13.

Furthermore, sodium thiosulfate is a commodity chemical. The imported product is easily substituted for the domestic product. In economic terms, the elasticity of substitution between the imported and the domestic product is high.⁵⁸

The fact that demand for sodium thiosulfate is price inelastic and that imports are easily substituted for the domestic product leads to a conclusion that the market for sodium thiosulfate is price sensitive. Therefore, one would expect that the increase in imports would have a greater negative impact on the domestic producers than if this were not a price sensitive market. This impact on the domestic producers is borne out by their dismal financial performance at the time imports were increasing in both volume and market share.⁵⁹ The other indicators of injury discussed above also reveal the effects of imports upon domestic producers. We therefore find that imports are a cause of the injury suffered by the domestic producers.

Conclusion

For all the reasons set forth above, we determine that the U.S. sodium thiosulfate industry is materially injured by reason of imports from the Federal Republic of Germany, the People's Republic of China and the United Kingdom.

⁵⁸ Id. at 10-11.

⁵⁹ Report at A-10, Table 9.

ADDITIONAL VIEWS OF ACTING CHAIRMAN ANNE E. BRUNSDALE

**Sodium Thiosulfate from the Federal Republic of Germany, the
People's Republic of China, and the United Kingdom**

Inv. No 731-TA-465, 466, and 468 (Final)

I concur in the Commission's determination that the domestic industry producing sodium thiosulfate is materially injured by reason of dumped imports from the Federal Republic of Germany (FRG), the People's Republic of China (PRC), and the United Kingdom (UK).¹ I join in the majority's discussion of like product, domestic industry, cumulation, and condition of the industry.² My reasons for concluding that material injury is by reason of the subject imports, however, differ from those of the majority.

Comments on the Preliminary

In the preliminary investigation regarding sodium thiosulfate, I voted negative, basing that decision on the Commission's interpretation of the statute. That interpretation allows a negative determination only when (1) the record contains clear

¹ Material retardation of the establishment of an industry in the United States is not an issue in this case.

² I do not reach a separate legal conclusion concerning the presence or absence of material injury based on the information contained in the condition of the industry section. While I believe an independent determination is neither required by the statute nor useful, I find the discussion of the condition of the industry helpful in determining whether any injury resulting from the dumped imports is material.

and convincing evidence that there is no material injury or threat thereof to a domestic industry and (2) there is no likelihood that evidence of such injury will be developed through further investigation.³ I have discussed the application of the preliminary standard extensively in prior opinions.⁴

This is the first case in which I voted negative in the preliminary investigation and later found material injury in the final investigation. My decision to vote in the affirmative, however, is not based on any information that was missing in the preliminary investigation. The record at the time of the preliminary was fairly complete. Rather, evidence on which I based my preliminary determination has changed substantially in the intervening months. At the time of the Commission's preliminary vote, the level of import penetration was extremely low and had been low throughout the period of investigation. There was no reasonable indication that the level of import penetration would increase to the point where imports would become injurious. Indeed, even with the dramatic increase in import penetration, I find this case to be a very close call.

The reasonable indication standard could in no way be interpreted to include the type of unanticipated changes involved

³ See American Lamb Co. v. United States, 785 F.2d 994 (Fed. Cir. 1986).

⁴ See New Steel Rails from Canada, Inv. No. 731-TA-422 (Preliminary), USITC Pub 2135 (November 1988) at 55-68 (Views of Acting Chairman Anne E. Brunsdale) and Electromechanical Digital Counters From Brazil, Inv. No. 731-TA-453 (Preliminary), USITC Pub 2273 (April 1990) at 23-31 (Dissenting Views of Chairman Anne E. Brunsdale).

in this case. If it did, we could save the parties and the Commission a lot of time and effort and the taxpayers a lot of money by simply dispensing with preliminary investigations.⁵

Evaluating the Effect of Dumped Imports
on the Domestic Industry

In considering whether or not an industry is materially injured by reason of the dumped imports, the Commission is required to consider (1) the volume of subject imports, (2) the effect of those imports on the price of the domestic like product, and (3) the impact of the subject imports on domestic producers.⁶

I do not interpret the statute to require that an industry be "unhealthy" in an absolute sense in order to qualify for relief. Such a standard could cause an industry to delay seeking relief until it is too late to recover from the effects of the dumping. Rather, I interpret the statute to allow any firm that is materially injured by dumped imports to qualify for relief -- even if that firm is making a profit and otherwise shows signs of "health."

Nor am I of the opinion that the presence of dumped imports concurrent with negative trends in the domestic industry is sufficient to establish causation. Domestic firms will sell more

⁵ Thus, I do not think my initial decision was in error. Had the Commission majority rendered a negative determination in the preliminary investigation, the proper course for petitioner would have been to refile its petition, highlighting the surge in imports.

⁶ See 19 U.S.C. 1677(7)(B).

if imports are not present in the market. In that sense imports could always be viewed as "a cause" of injury, nearly always precluding a negative determination in cases where an industry is "unhealthy." The statute, however, specifies that material injury must be by reason of dumped imports.

In order to establish causation, I estimate what the condition of the domestic industry would have been, absent the dumped imports, and compare it to the actual condition of the industry. Using simple economic analysis, I organize the information on the record in such a way that effects of the dumped imports can be isolated. That is the only way that I can be sure that other causes of injury are not incorrectly attributed to the dumped imports.

Specifically, in this case I analyze (1) the degree to which overall demand for sodium thiosulfate responds to changes in price, (2) the degree to which the subject imports and the domestic like product are substitutable, and (3) the degree to which domestic supply responds to changes in price.⁷

⁷ For a more thorough discussion of my analysis, see Internal Combustion Forklift Trucks from Japan, Inv. No. 731-TA-377 (Final), USITC Pub. 2082 (May 1988), at 66-83 (Additional Views of Vice Chairman Anne E. Brunsdale); see also Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore, Invs. Nos. 731-TA-367-370 (Final), USITC Pub. 2046 (December 1987), at 23-32 (Additional Views of Vice Chairman Anne E. Brunsdale); Cold-Rolled Carbon Steel Plates and Sheets from Argentina, Inv. No. 731-TA-175 (Final) (Second Remand), USITC Pub. 2089 (June 1988), at 31-51 (Additional Views of Vice Chairman Anne E. Brunsdale). The Court of International Trade has also discussed with approval the use of elasticities. See Copperweld Corp. v. United States, No. 86-03-00338, slip op. 88-23, at 45-48 (Ct. of Int'l Trade, February 24, 1988); USX Corp. (continued...)

Import Penetration and Dumping Margins. Two factors that are important in determining the effect of dumping on domestic industry are the share of the domestic market accounted for by the unfairly traded imports and the size of the dumping margin. The higher the dumping margin, the greater the extent to which the price of the subject imports is likely to be reduced by the dumping. The larger the market share of unfairly traded imports, the greater the effect of that price reduction on the demand for the products sold by domestic producers.

In this case, the subject imports account for a relatively small share of the domestic market, but they have increased substantially during the interim period.⁸ The Commerce Department determined that during its period of investigation (February to July 1990) the dumping margins ranged from 25.6 percent to 100.4 percent, with a trade-weighted dumping margin of about 55 percent. Commerce's determination was based on the petitioner's estimate of the dumping margin.⁹

Demand Analysis. There are two factors that are important in

⁷(...continued)
v. United States, 12 CIT_____, slip op. 88-30, at 19 (March 15, 1988): Alberta Pork Producers' Marketing Board v. United States, 11 CIT _____, 669 F.Supp. 445, 461-65 (1987).

⁸ The actual level of import penetration is confidential, but in my preliminary determination I characterized import penetration as extremely small.

⁹ Respondents chose not to participate in the Commerce Department's investigation.

considering the effect of dumping on the demand for the domestic like product --the substitutability of the domestic like product and the subject imports and the effect of a change in price on the total demand for that product. If the products are close substitutes, customers would be likely to switch from buying the domestic like product to buying the imported product in response to a change in their relative price.¹⁰ Furthermore, if a small decline in price leads to a large increase in demand for a product, then it is likely that dumped imports would result in increased domestic consumption, rather than replacing sales that would otherwise have been made by the domestic producers.¹¹

While chemicals such as sodium thiosulfate are generally commodity products, the record shows that consumers perceive quality differences in the products offered by domestic and foreign firms. There is a general consensus that the quality of imports from the PRC is lower and that the quality of imports

¹⁰ Substitutability can be determined by examining the elasticity of substitution, an economic concept defined as the percentage change in the ratio of the quantities of two products demanded divided by the percentage change in their relative price. A positive elasticity of substitution indicates that goods are substitutes. The higher the elasticity of substitution, the closer the goods are as substitutes. For a more explicit definition of the elasticity of substitution, see Forklift Trucks, supra, note 4, at 75-76; Color Picture Tubes, supra, note 4, at 25-26.

¹¹ This economic concept is known as the elasticity of demand. To be more exact, the elasticity of demand is defined as the percentage change in the quantity of a good demanded divided by the percentage change in its price, all other things being equal. If demand is elastic (that is, if the elasticity of demand is greater than 1), consumers will increase their total expenditures on a product when its price falls.

from the FRG is as high or higher than the domestic like product. Some disagreement exists about the quality of sodium thiosulfate produced by UK firms and certain domestic firms.

Among those consumers that acknowledge quality differences between imports and the domestic like product, however, some claim that high quality is not important for their particular application. This implies that quality differences do not limit substitutability to any great extent.

In addition, there are longer lead times required for delivery of the imported product. While this may also limit substitutability, evidence on the record shows that lead time is not a crucial factor in purchaser's decisions.

Staff suggests that while imports from the PRC and the UK are fairly good substitutes for domestic sodium thiosulfate, the product from the FRG is an even closer substitute. On balance, I am of the view that sodium thiosulfate from the FRG and the UK are good substitutes for the domestic product, while the Chinese chemical is less substitutable.¹²

The evidence also suggests that the quantity of sodium thiosulfate demanded in the domestic market is not particularly responsive to changes in price for two basic reasons. First, it has no close substitutes, so that purchasers cannot buy another

¹² Staff's estimates of the elasticity of substitution -- 2 to 5 for the PRC and the UK and greater than 4 for the FRG seem reasonable. I would guess that the PRC is at the lower end of the range and the UK and FRG are at the upper end, i.e. 4 or 5. Neither petitioner nor respondents commented on these elasticities.

chemical if the price of sodium thiosulfate rises and vice versa. Second, sodium thiosulfate is used in water treatment, oil field services, and photographic applications. A change in the price of sodium thiosulfate is not likely to affect the demand for its end use products. Staff concludes based on these factors that the responsiveness of demand to changes in price is likely to be limited. I agree with that assessment.¹³

The Supply of Domestic Sodium Thiosulfate. In order to assess the effect of dumping on the domestic volume of domestic production and the prevailing price, one must ascertain how the domestic industry would respond to an increase in the price of sodium thiosulfate.¹⁴

Generally, if the quantity of domestic output is not responsive to price changes--that is, if a slight increase in price causes domestic firms to increase the quantity they produce by only a small amount--then dumping would have little effect on domestic output, but a relatively large effect on domestic prices. On the other hand, if domestic firms are highly responsive to price increases, then dumping would have a greater effect on the volume of output than on domestic prices. The

¹³ Staff estimates the elasticity of demand for sodium thiosulfate to be between .5 and 1. I agree with their assessment. Neither petitioner nor respondents commented on these elasticities.

¹⁴ This economic concept, the elasticity of supply, is defined as the percentage change in the quantity of a good supplied divided by the percentage change in its price, all other things being equal.

supply response can be evaluated by looking at the extent of excess capacity, the ease with which capacity could be added or reduced, the availability of alternative markets, and the ease of entry and exit from the U.S. market. Staff estimates that domestic supply would be fairly responsive to price changes, based principally on evidence of excess capacity and ease of entry into the market.¹⁵

In these circumstances, one can clearly see the impact of the subject imports on the domestic industry. As discussed above, purchasers of sodium thiosulfate demand a given quantity of the chemical to use in specific applications for which sodium thiosulfate has no close substitutes. One can readily deduce from this evidence that if the quantity of imported sodium thiosulfate -- particularly dumped imports -- were restricted, domestic sales would increase and the price would tend to rise.

I do not adopt the view usually advocated by a majority of the Commissioners and by petitioner in this case that evidence of underselling is particularly relevant to the price effect of the dumped imports. The Commission, in considering price depression and suppression, often looks for evidence of underselling. In a market where the dumped import price is consistently higher than the domestic price, there may still be price suppression or depression. Similarly, a lower price for the import is not necessarily evidence of price suppression. The conclusion

¹⁵ Staff estimates the domestic supply elasticity to be between 3 and 5. See Elasticities Memo, p. 7. Respondents and Petitioner offered no comments on domestic elasticity of supply.

depends on the relative quality and sales terms of the various products.

In this case, for example, imports from the PRC are both of lower quality and require longer lead times than the domestic like product. I can hardly imagine why anyone would purchase such a product at a price that was equal to or higher than the domestic like-product's. In such a case, while there may be underselling, its existence is not particularly germane to the issue of price suppression.

Conclusion

While I consider this case to be a close call, I conclude, based on the evidence on the record, that the domestic industry producing sodium thiosulfate is materially injured by reason of imports from the PRC, FRG, and the UK. Imported sodium thiosulfate is a reasonably close substitute for the domestic like product and total demand appears to be fairly unresponsive to changes in price. Indeed, even purchasers concede to having switched to the imported product based on its lower price. Although the import's market penetration is small in this case, it has grown extremely fast since the time of the preliminary investigation and the dumping margin is fairly high. In addition, the condition of the industry is such that it seems vulnerable to injury from imports.

INFORMATION OBTAINED IN THE INVESTIGATIONS

Introduction

On October 16, 1990, the U.S. Department of Commerce (Commerce) notified the U.S. International Trade Commission and on October 19, 1990, published a notice in the Federal Register (55 F.R. 42424) that it had preliminarily determined that there is a reasonable basis to believe or suspect that sodium thiosulfate¹ from the Federal Republic of Germany (Germany) and the United Kingdom is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Tariff Act of 1930. On December 12, 1990, Commerce notified the Commission that it had preliminarily determined that sodium thiosulfate from the People's Republic of China (China) is being, or is likely to be, sold in the United States at LTFV. Accordingly, effective October 16, 1990, the Commission instituted investigations Nos. 731-TA-465 and 468 (Final) and, effective December 12, 1990, instituted investigation No. 731-TA-466 (Final) under section 735(b) of the Act (19 U.S.C. § 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of such imports from Germany, the United Kingdom, and China.

Notice of the institution of the Commission's final investigations and of a public hearing 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 October 31, 1990 (55 F.R. 45870) and of December 27, 1990 (55 F.R. 53204).² The Commission's hearing was held in Washington, DC, on January 4, 1991.³ The Commission reported its final injury determinations to Commerce on February 12, 1991.

Background

On July 9, 1990, petitions were filed with the Commission and Commerce by Calabrian Corp., Houston, TX, alleging that LTFV imports of sodium thiosulfate from Germany, China, Turkey, and the United Kingdom are being sold in the United States and that an industry in the United States is materially

¹ The products covered by these investigations are all grades of sodium thiosulfate having the formula of $\text{Na}_2\text{S}_2\text{O}_3$, including the anhydrous form (100 percent sodium thiosulfate by weight), the pentahydrate, and sodium thiosulfate dissolved in an aqueous solution. Uses include water treatment (as a dechlorinating agent for waste water in effluent streams), as a fixative in photography, chrome leather tanning, and pulp and paper production. Sodium thiosulfate is provided for in subheading 2832.30.10 of the Harmonized Tariff Schedule of the United States.

² Copies of the Commission's Federal Register notices are presented in app. A; copies of Commerce's Federal Register notices are presented in app. B.

³ A calendar of witnesses who appeared at the Commission's hearing is presented in app. C.

injured and threatened with material injury by reason of such imports.⁴ Accordingly, effective July 9, 1990, the Commission instituted antidumping investigations Nos. 731-TA-465-468 (Preliminary) under section 733(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. As a result of those preliminary investigations, the Commission, on August 23, 1990, notified Commerce of its affirmative determinations with respect to Germany, China, and the United Kingdom and its negative determination with respect to Turkey. Commerce, therefore, continued its investigations on LTFV sales of sodium thiosulfate from Germany, China, and the United Kingdom and terminated its investigation with respect to the alleged LTFV sales from Turkey.⁵ The Commission has conducted no previous investigations on sodium thiosulfate.

Nature and Extent of the LTFV Sales

Commerce made its final determinations on the LTFV imports with respect to Germany and the United Kingdom on December 10, 1990, and, with respect to China, on January 25, 1991. Commerce determined that imports of sodium thiosulfate from Germany, China, and the United Kingdom are being sold in the United States at less than fair value. The period of Commerce's investigations was February 1, 1990-July 31, 1990. Foreign producers failed to participate in Commerce's investigations; therefore, using the best information available (the Petitions), Commerce determined that the dumping margins were 100.40 percent for Germany, 25.57 percent for China, and 50.13 percent for the United Kingdom, as presented in the following tabulation:

⁴ The petitions also alleged that LTFV imports of sodium metabisulfite from Germany, China, Turkey, and the United Kingdom 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. As a result of preliminary investigations the Commission, on August 23, 1990, notified Commerce of its negative determinations with respect to sodium metabisulfite from Germany, China, Turkey, and the United Kingdom and Commerce terminated those antidumping investigations.

⁵ The petitions filed on July 9, 1990, by Calabrian Corp. also alleged that imports of sodium thiosulfate and sodium metabisulfite from Turkey were being subsidized by the Government of Turkey so the Commission instituted investigation No. 701-TA-303 (Preliminary) concurrently with the antidumping investigations 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. As the result of that preliminary investigation, the Commission, on August 23, 1990, notified Commerce of its negative determination and Commerce terminated its countervailing duty investigation with respect to both products from Turkey.

<u>Manufacturer/producer/importer</u>	<u>Margin (percent)</u>
Germany:	
Th. Goldschmidt AG.....	100.40
All others.....	100.40
China:	
Shanghai Chemicals Import & Export Corp.....	25.57
All others.....	25.57
United Kingdom:	
William Blythe & Co., Ltd.....	50.13
All others.....	50.13

The Product

Description

Sodium thiosulfate ($\text{Na}_2\text{S}_2\text{O}_3$) is a hygroscopic⁶ crystalline salt, which is sold commercially either in the anhydrous form (solid, 100-percent sodium thiosulfate by weight) or as the pentahydrate (solid, 65-percent sodium thiosulfate by weight) or as a liquid solution. U.S. producers normally sell sodium thiosulfate as a solid; if the customer is within several hundred miles from the production facility, the product may be delivered to the customer in solution form. Virtually all imports of sodium thiosulfate are sold in the United States in the solid form. However, before the chemical can be used commercially, it must first be dissolved in an aqueous solution.

Sodium thiosulfate is a reducing agent that spontaneously reacts with oxidizing agents such as chlorine gas. Sodium thiosulfate is principally sold in technical or photographic grades. Smaller amounts of high-purity sodium thiosulfate may be sold as food grade, FCC grade, or as reagent grade.⁷ Because the production processes used to make these grades are virtually identical and yield high-purity products, the price differences between the technical grade (considered slightly less pure) and the photographic grade are small. The grade is based on an assay of its purity.⁸

Uses

Because most of the sodium thiosulfate consumed in the United States is sold by U.S. producers and importers to distributors, precise end-use distribution data are difficult to obtain. In its questionnaire response, Calabrian estimated that approximately *** percent of its sales of sodium

⁶ Absorbs water from the air.

⁷ Transcript of hearing, p. 36.

⁸ The purity depends to a great extent on the purity of the raw materials. Caustic soda is preferred over soda ash because it has fewer impurities, is easier to transport and handle, and is easier to control in the manufacturing process. Synthetic soda ash is the next preferred alkali source because of its low foaming characteristics and low content of impurities. Calabrian uses caustic soda for its basic raw material and General (the other principal U.S. producer) uses soda ash.

thiosulfate were used in dechlorination. General estimated that *** percent of its sales of sodium thiosulfate were used in dechlorination and *** percent were used in photography. The majority of the importers were unaware of the end uses for the products because the majority of their sales are to distributors.⁹

Sodium thiosulfate is used in photography, where it acts as a fixer to dissolve undeveloped silver halide from negatives or prints. Sodium thiosulfate consumption in photography, although still substantial, has declined because of competition from substitutes such as ammonium thiosulfate.¹⁰ However, consumption of sodium thiosulfate in photography may increase because of environmental problems associated with the use of ammonium thiosulfate. In addition to photography, major amounts of sodium thiosulfate are used in the dechlorination of waste water, in oil field applications to stabilize certain geologic formations, and as a chemical intermediate. Sodium thiosulfate is also used in patented UltraSwim shampoo and soap (it turns the chlorine on the hair and skin into a water-soluble chloride, making it easier to rinse out), as an energy storage device, as a reagent for stabilizing iodine for test solutions, and in leather tanning.

Manufacturing process

Sodium thiosulfate is manufactured by heating a sodium sulfite slurry with elemental sulfur. The solution can then be sold as is or it can be cooled to yield pentahydrate crystals. At high temperatures, the thiosulfate solution when crystallized yields anhydrous crystals of sodium thiosulfate. Producers can sell sodium thiosulfate either in solution form or as crystals of either the pentahydrate or the anhydrous product. Sodium thiosulfate may also be obtained as a byproduct or waste product of various chemical processes that involve the scrubbing or purification of gases such as sulfur dioxide. In general, byproduct sodium thiosulfate is considerably less pure and less expensive than sodium thiosulfate produced from pure raw materials.

Sodium sulfite/bisulfite, used to make sodium thiosulfate as well as other sulfur chemicals, is produced by saturating an alkaline solution with sulfur dioxide.¹¹ Sulfur dioxide is typically obtained on site by burning elemental sulfur. The alkaline solution can be a number of different basic chemicals, but it most typically consists of either soda ash (sodium carbonate) or caustic soda. To produce sodium bisulfite, Calabrian uses caustic soda because of its high purity and advantageous handling characteristics. Other sulfur chemical producers, including General and many

⁹ Sattva Chemical Company stated in a letter to the Commission dated July 27, 1990, that it is an importer of anhydrous sodium thiosulfate, which it sells to distributors who sell to end users in the oil and gas exploration and stimulation industries. ***.

¹⁰ Chemical Products Synopsis, April 1985 (Blythe's postconference brief, exhibit 1; Blythe is a U.K. producer of the subject product).

¹¹ Sodium sulfite and sodium bisulfite are very closely related chemicals that can easily be converted from one to the other. To convert sodium bisulfite to the sulfite, all one has to do is add alkali. To convert sodium sulfite to the bisulfite, all one has to do is add an acid.

foreign producers, use sodium carbonate (soda ash) solution, in part because of cost factors. Soda ash is generally considered to be less expensive than caustic soda, the price of which has risen sharply in the past few years.

U.S. tariff treatment

Sodium thiosulfate is separately classified in the Harmonized Tariff Schedule of the United States (HTS) subheading 2832.30.10. The column 1-general rate of duty on products of all countries eligible for most-favored-nation (MFN) status is 1.5 percent ad valorem. Imports from Germany, China, and the United Kingdom are all dutied at MFN rates.

The Industry

U.S. producers

Three firms, Calabrian Chemicals Corporation (Calabrian), General Chemical Corporation (General), and PVS Chemicals, Inc. (PVS), manufacture sodium thiosulfate in the United States. The Commission received questionnaire responses from all of the firms. The firms' shares of 1989 production, positions regarding the petition, and locations are presented in table 1.

Table 1

Sodium thiosulfate: U.S. producers, shares of 1989 production, position on the petition, and location

<u>Firm</u>	<u>Share of 1989 production Percent</u>	<u>Position</u>	<u>Location</u>
Calabrian.....	***	Supports	Houston, TX
General.....	***	***	Parsippany, NJ
PVS.....	***	***	Chicago, IL
Total.....	100		

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

Calabrian (the petitioner) is an integrated chemical company with home offices in Somerset, NJ, and sales headquarters in Houston, TX. Calabrian manufactures all of its sodium thiosulfate at its facilities in Port Neches, TX. In addition to sodium thiosulfate, Calabrian also manufactures sodium metabisulfite and sulfur and metallic derivatives, including cuprous and cupric chloride, cuprous iodine, sulfuric acid, and sodium sulfite.

General, ***, is a diversified chemical manufacturing company. General produces sodium thiosulfate at its plant in Claymont, DE. General is a major supplier of sodium metabisulfite, soda ash,¹² aluminum sulfate, fine

¹² ***.

chemicals, and electronic chemicals. General also operates three regenerative sulfuric acid plants for refineries located near its plants.

PVS Chemicals, Inc., Chicago, IL, produces sodium thiosulfate ***. PVS, which began production of sodium thiosulfate in 1988, also produces sulfuric acid, Sulfan, aluminum chloride, and other sulfur products.

U.S. importers

The Commission received questionnaire responses from 8 firms that imported sodium thiosulfate from Germany, China, and the United Kingdom. Based on official statistics of Commerce, the responding firms accounted for 104.5 percent, by quantity, and 89.5 percent, by value, of the sodium thiosulfate imported from those sources in 1989.

The Market

Channels of distribution

U.S. producers and importers sell the largest share of their sodium thiosulfate to distributors (some of whom are also importers) and the remainder to end users who purchase in minimums of truckload quantities.

Apparent U.S. consumption

Data on U.S. consumption of sodium thiosulfate based on official import statistics are not available for 1987 and 1988 because imports were not separately reported in official statistics prior to January 1, 1989. In 1989, U.S. consumption based on official import statistics was *** million pounds, with imports supplying *** percent of the total. In January-September 1990, consumption was *** million pounds, down *** percent from consumption of *** million pounds in January-September 1989. In January-September 1990, the share of U.S. consumption supplied by imports was *** percent. Available data on U.S. consumption are presented in the following tabulation (in 1,000 pounds and 1,000 dollars):

<u>Item</u>	<u>1989</u>	<u>January-September</u>	
		<u>1989</u>	<u>1990</u>
Quantity:			
Producers' U.S. shipments.....	***	***	***
Imports.....	<u>1,009</u>	<u>774</u>	<u>2,496</u>
Apparent consumption.....	***	***	***
Value:			
Producers' U.S. shipments.....	***	***	***
Imports.....	<u>294</u>	<u>196</u>	<u>586</u>
Apparent consumption.....	***	***	***

Note: Producers' U.S. shipments were compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; imports were compiled from official statistics of the U.S. Department of Commerce.

Based on questionnaire responses, U.S. consumption increased annually, rising *** percent from *** million pounds in 1987 to *** million pounds in 1989. Consumption in January-September 1990 amounted to *** million pounds, *** percent below consumption of *** million pounds in January-September 1989 (table 2).

Table 2

Sodium thiosulfate: Producers' U.S. shipments, importers' U.S. shipments, by specified sources, and apparent consumption, 1987-89, January-September 1989, and January-September 1990

* * * * *

Consideration of Alleged Material Injury

The information presented in this section on the report is based on the questionnaire responses of the three firms which account for all known U.S. production of sodium thiosulfate.

U.S. capacity, production, and capacity utilization

End-of-period capacity to produce sodium thiosulfate increased *** percent in 1987-89 but remained unchanged in January-September 1990 compared with January-September 1989. *** (table 3).

Table 3

Sodium thiosulfate: U.S. producers' end-of-period capacity, production, and capacity utilization, by firms, 1987-89, January-September 1989, and January-September 1990

* * * * *

U.S. production increased annually, rising *** percent from *** million pounds in 1987 to *** million pounds in 1989. Production in January-September 1990, at *** million pounds, was *** percent below the level of production in January-September 1989.

Producers' domestic shipments

U.S. producers' domestic shipments of sodium thiosulfate increased *** percent in 1987-89, then declined by *** percent in January-September 1990. There were no intercompany transfers of sodium thiosulfate (table 4).

Table 4

Sodium thiosulfate: U.S. producers' domestic shipments, by firms, 1987-89, January-September 1989, and January-September 1990

* * * * *

U.S. producers also supplied data on the quantity of shipments of sodium thiosulfate in the anhydrous form (100 percent sodium thiosulfate by weight), the pentahydrate form (65 percent sodium thiosulfate by weight) and for sodium thiosulfate in solution form as presented in the following tabulation (in 1,000 pounds):

* * * * *

U.S. exports

* * * * *

U.S. producers' inventories

U.S. producers' end-of-period inventories of sodium thiosulfate increased *** percent from *** million pounds in 1987 to *** million pounds in 1988, then decreased *** percent to *** million pounds in 1989. Inventories on September 30, 1990, totaled *** million pounds, a decrease of *** percent from the *** million pounds held on September 30, 1989. The ratio of producers' inventories to shipments followed the same trend, increasing from *** percent in 1987 to *** percent in 1988, then declining to *** percent in 1989. On September 30, 1990, the ratio was *** percent, compared with *** percent on September 30, 1989 (table 5).

Table 5

Sodium thiosulfate: U.S. producers' end-of-period inventories, by firms, as of December 31, 1987-89, and September 30, 1989-90

* * * * *

Employment and wages¹³

The average number of production and related workers producing sodium thiosulfate in the United States *** percent during 1987-89 and *** in January-September 1990, dropping *** percent from January-September 1989. Hours worked by production workers *** percent from *** hours in 1987 to *** hours in 1989. Hours worked during January-September 1990 were *** percent *** the number of hours worked in January-September 1989. Productivity *** annually in 1987-89, but *** in January-September 1990 (table 6).

Table 6

Average number of production and related workers producing sodium thiosulfate in U.S. establishments, hours worked by such workers, and output per hour worked, by firms, 1987-89, January-September 1989, and January-September 1990

* * * * *

¹³ Data in this section of the report are for 2 firms. PVS did not supply usable employment data.

Total compensation paid to production and related workers producing sodium thiosulfate *** percent from \$*** million in 1987 to \$*** million in 1989. Total compensation paid in January-September 1990 *** percent from total compensation paid in January-September 1989. Average hourly total compensation *** by *** percent during 1987-89, but *** percent in January-September 1990. Average unit labor costs *** from \$*** per pound in 1987 to \$*** per pound in 1988 and 1989, then *** to \$*** per pound in January-September 1990 (table 7).

Table 7

Total compensation and average hourly total compensation paid to production and related workers producing sodium thiosulfate in U.S. establishments, and unit labor costs of such production, by firms, 1987-89, January-September 1989, and January-September 1990

* * * * * * *

U.S. producers were asked to report any reductions of production and related workers if such reductions involved at least 5 percent of the workforce or 50 workers. ***.

Financial experience of U.S. producers

Financial information was provided on sodium thiosulfate operations in addition to overall establishment operations by the two major producers and one minor producer.¹⁴ These data, representing 100 percent of 1989 production of sodium thiosulfate, are presented in this section. The data have changed significantly from the Prehearing Report as the result of on-site verification of General's and Calabrian's questionnaire responses.

Overall establishment operations.--Income-and-loss data on the U.S. producers' overall establishment operations are presented in table 8. Profitability varies considerably between the major producers on these operations as shown in the following tabulation (in thousands of dollars, except where noted):

* * * * * * *

Table 8

Sodium thiosulfate: Income-and-loss experience of U.S. producers on their overall establishment operations within which sodium thiosulfate is produced, accounting years 1987-89, January-September 1989, and January-September 1990

* * * * * * *

¹⁴ Calabrian, General, and PVS.

In addition to the product under investigation, Calabrian indicated in its questionnaire response that it produces ***. General indicated its other overall establishment products are ***. Sodium thiosulfate 1989 net sales were *** percent of overall establishment net sales for Calabrian, *** percent for General, and *** percent for PVS.

Sodium thiosulfate.--Income-and-loss data for the U.S. producers' sodium thiosulfate operations are presented in table 9. The two major producers experienced ***. ***. Selected key financial data by major producers are presented in the following tabulation (in thousands of dollars, except where noted):

* * * * *

Table 9

Sodium thiosulfate: Income-and-loss experience of U.S. producers on their sodium thiosulfate operations, accounting years 1987-89, January-September 1989, and January-September 1990

* * * * *

Verification of the major producers' data revealed that neither accumulates costs in the questionnaire categories of raw materials, direct labor, and other factory costs; therefore, some inaccuracies were present in these categories by both producers in their respective questionnaire responses. Total cost of sales, however, could accurately be determined for the sodium thiosulfate operations by both producers. Total cost of sales on a per-pound basis for General and Calabrian are presented in the following tabulation:

* * * * *

Although exact raw material costs could not be determined for either producer, some conclusions about these costs can be made as the result of the verification. ***. As calculated at the verification, the effect of these increases for Calabrian on a per pound basis are shown in the following tabulation:

* * * * *

Exact manufacturing overhead comparisons are not possible since each producer accumulates costs differently, although each ultimately derives an accurate total cost of sales for their sodium thiosulfate operations.

Investment in productive facilities.--The value of property, plant, and equipment and total assets for the major U.S. producers are presented in table 10. The return on total assets for these producers is presented in table 11.

Table 10

Sodium thiosulfate: Value of property, plant, and equipment of major U.S. producers as of the end of accounting years 1987-89, September 30, 1989, and September 30, 1990

* * * * *

Table 11

Sodium thiosulfate: Major producers' return on total assets, accounting years 1987-89

* * * * *

Capital expenditures.--The capital expenditures reported by the major U.S. producers are presented in table 12. Installation and freight costs on Calabrian's purchase of Celanese's equipment in 1989 have been capitalized in accordance with generally accepted accounting principles and will be amortized over the life of the assets, ***.

Table 12

Sodium thiosulfate: Capital expenditures of U.S. producers, 1987-89, January-September 1989, and January-September 1990

* * * * *

Research and development expenses.--Calabrian indicated that its R&D expenses for its sodium thiosulfate operations were ***. Calabrian's and General's expenses are presented in the following tabulation (in thousands of dollars):

* * * * *

Capital and investment.--The Commission requested the U.S. producers to describe any actual or potential negative effects of imports of sodium thiosulfate from the subject countries on their existing development and production efforts, growth, investment, and ability to raise capital. Their responses are shown in appendix D.

Consideration of the Question of
Threat of Material Injury

Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. § 1677(7)(F)(i)) provides that--

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant factors¹⁵--

(I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

(V) any substantial increase in inventories of the merchandise in the United States,

(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,

¹⁵ Section 771(7)(F)(ii) of the act (19 U.S.C. § 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 736, are also used to produce the merchandise under investigation,

(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.¹⁶

Information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the causal relationship between the LTFV imports and the alleged material injury;" and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in the section entitled "Consideration of alleged material injury." Available information on U.S. inventories of the subject products (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), and (VIII) and above); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets, follows. The other threat indicators do not apply to these investigations.

U.S. importer's inventories

U.S. importers reportedly held no inventories of sodium thiosulfate from Germany, China, or the United Kingdom on December 31, 1987. Importers held *** pounds from Germany on December 31, 1988, and held *** pounds from Germany and *** pounds from China on December 31, 1989. On September 30, 1990, U.S.

¹⁶ Section 771(7)(F)(iii) of the act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

importers held inventories of *** pounds of sodium thiosulfate from the United Kingdom, *** pounds of sodium thiosulfate from China, and *** from Germany.

Ability of foreign producers to generate exports

The Commission requested the U.S. embassies in Germany and the United Kingdom to provide information on the foreign producers of sodium thiosulfate. A similar request was made of counsel for William Blythe & Co. Ltd. (Blythe), the only foreign producer represented by counsel. The information requested of each producer consisted of production, inventories, capacity, home market shipments, and exports to the United States and all other countries for each of the periods covered by the investigations. The request also asked for projections for these same factors for 1990 and 1991. This section presents the data received, by country.

Germany.--The U.S. embassy was unable to obtain even partial statistics from the chemical industry on sodium thiosulfate. The only statistics pertaining to sodium thiosulfate refer to "other sulfur compounds," which encompass a vast assortment of miscellaneous chemicals. The embassy did, however, identify Th. Goldschmidt AG Chemische, Fabriken, CIBA-GEIGY GMBH, and three smaller firms that produce sodium thiosulfate in Germany.¹⁷ ***.¹⁸

China.--According to information obtained by the U.S. embassy in Beijing during the preliminary investigation, sodium thiosulfate was exported by the Shanghai Chemicals Import/Export Corporation (SCIEC) during the period of investigation. SCIEC does not produce sodium thiosulfate; it acts as an exporting agent whose primary supplier of sodium thiosulfate is Shanghai Fluorescence Material Works (SFMW). SCIEC did not export sodium thiosulfate to the United States in 1987 or 1988. In 1989 and January-March 1990, it shipped *** and *** pounds, respectively, of this material to the United States. SFMW's production capacity is *** million pounds annually. It sold *** million pounds of sodium thiosulfate abroad in 1988 and *** pounds in 1989. The Commission received no other information on the sodium thiosulfate market in China.

United Kingdom.--According to information supplied by the U.S. embassy, Blythe is the only manufacturer of sodium thiosulfate in the United Kingdom. Blythe's capacity to produce sodium thiosulfate *** at *** million pounds throughout the period of investigation. Production *** percent from *** million pounds in 1987 to *** million pounds in 1989, and continued to *** in January-September 1990, *** percent from production in January-September 1989. Capacity utilization *** percent in 1987 to *** percent in 1989 and to *** percent in January-September 1990. Between 1987 and the third quarter of 1990, exports to the United States fluctuated from *** percent to *** percent of Blythe's total shipments. In 1987, Blythe marketed *** percent of its total sodium thiosulfate shipments in the United States. In 1988 and 1989,

¹⁷ State Department cable of Nov. 30, 1990, from the American Embassy, Bonn, in response to the Commission's request for information.

¹⁸ ***.

this share stood at *** percent and *** percent, respectively.¹⁹ In the interim periods, the percentage of total shipments to the United States *** from *** percent to *** percent (table 13).

Table 13

Sodium thiosulfate: Blythe's capacity, inventories, production, and total shipments, 1987-89, January-September 1989, and January-September 1990

* * * * *

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

U.S. imports

U.S. imports of sodium thiosulfate were not separately reported in official statistics prior to January 1, 1989. In 1989, U.S. imports amounted to 1.0 million pounds, valued at \$294,000. In January-September 1990, imports of sodium thiosulfate totaled 2.5 million pounds valued at \$586,000, more than twice the volume imported in 1989. In 1989, Germany accounted for 42.9 percent of the total imports based on quantity, China for 29.7 percent, the United Kingdom 18.8 percent, and the three countries as a group for 91.6 percent. In January-September 1990, Germany accounted for 13.5 percent, China, 34.9 percent, the United Kingdom, 47.1 percent, and the three countries as a group, 95.5 percent. U.S. imports of sodium thiosulfate as compiled from official Commerce statistics are presented in the following tabulation (in 1,000 pounds and 1,000 dollars):

<u>U.S. imports from:</u>	<u>1989</u>	<u>January-September</u>	
		<u>1989</u>	<u>1990</u>
Quantity:			
Germany.....	433	433	338
China.....	300	187	870
United Kingdom.....	<u>190</u>	<u>136</u>	<u>1,176</u>
Subtotal.....	924	756	2,383
Others.....	<u>85</u>	<u>18</u>	<u>112</u>
Total.....	1,009	774	2,496
Value:			
Germany.....	108	108	70
China.....	51	31	136
United Kingdom.....	<u>51</u>	<u>37</u>	<u>328</u>
Subtotal.....	210	176	534
Others.....	<u>84</u>	<u>20</u>	<u>52</u>
Total.....	294	196	586

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

¹⁹ The sodium thiosulfate market for use in U.S. oil fields reportedly dried up in 1989, ***.

U.S. imports by questionnaire respondents.--U.S. imports by respondents to the Commission's questionnaires²⁰ increased annually, rising *** percent from *** pounds in 1987 to *** pounds in 1989 (table 14). Total imports by the responding firms continued to increase substantially in January-September 1990, rising to nearly *** the level of imports in January-September 1989. The value of imports increased *** percent from \$*** in 1987 to \$*** in both 1988 and 1989. The value of imports in January-September 1990 totaled \$***, more than *** the value of imports in January-September 1989.

Table 14

Sodium thiosulfate: U.S. imports by questionnaire respondents, by specified sources, 1987-89, January-September 1989, and January-September 1990

* * * * *

U.S. importers' shipments.--U.S. shipments of sodium thiosulfate by responding importers increased annually, rising *** percent from *** pounds in 1987 to *** pounds in 1989. Shipments in January-September 1990 continued to increase, rising to *** million pounds, more than double the quantity shipped in January-September 1989. The value of importers' shipments increased *** percent from \$*** in 1987 to \$*** in 1989. The value of shipments totaled \$*** in January-September 1990, more than *** that of any full year during 1987-89 (table 15).

Table 15

Sodium thiosulfate: Importers' U.S. shipments, by specified sources, 1987-89, January-September 1989, and January-September 1990

* * * * *

Market penetration by the LTFV imports

As stated earlier, imports of sodium thiosulfate were not separately reported in official statistics prior to January 1, 1989. Accordingly, consumption and market penetration data based on such statistics are not available for 1987 and 1988. In 1989, imports accounted for *** percent of the quantity of U.S. consumption, with the countries subject to these investigations supplying *** percent. U.S. producers supplied *** percent. In January-September 1990, U.S. producers' share of domestic consumption dropped to *** percent, from *** percent in January-September 1989. The share of consumption supplied by imports increased to *** percent in January-September 1990 from *** percent in January-September 1989. The increased market share of imports in January-September 1990 was accounted for by sodium thiosulfate from the United Kingdom and China, as shown in the following tabulation:

* * * * *

²⁰ Based on official statistics, questionnaire respondents accounted for 104.5 percent of the quantity and 89.5 percent of the value of imports from the subject countries in 1989.

Based on value, U.S. producers accounted for *** percent of domestic consumption in 1989, but that share dropped to *** percent in January-September 1990. U.S. imports from countries subject to these investigations accounted for *** percent of the value of domestic consumption in 1989, then increased their share to *** percent in January-September 1990. The United Kingdom and China accounted for the increase, as shown in the following tabulation:

* * * * * * *

Because consumption data based on official statistics are not available for 1987 and 1988, table 16 presents shipments of the imports from Germany, the United Kingdom, and China (as reported in questionnaires) as a percentage of total U.S. shipments of sodium thiosulfate. The questionnaire data accounted for virtually all of the imports from the subject countries as reported in official statistics in 1989.

Table 16

Sodium thiosulfate: U.S. producers' and importers' shipments, 1987-89, January-September 1989, and January-September 1990

* * * * * * *

Prices

The prices of the different forms of sodium thiosulfate vary according to their manufacturing cost and their water content. For example, liquid sodium thiosulfate has lower manufacturing costs than either anhydrous sodium thiosulfate or sodium thiosulfate pentahydrate and is about 30 percent lower in price on a dry-equivalent basis.²¹ The prices of anhydrous sodium thiosulfate and sodium thiosulfate pentahydrate are approximately equal on a dry-equivalent basis but differ on a per-pound basis. Because of its water content, the pentahydrate form has only 65 percent as much sodium thiosulfate as the anhydrous form and is priced accordingly. In the third quarter of 1990, anhydrous sodium thiosulfate was reported to be selling at \$*** to \$*** per pound, while sodium thiosulfate pentahydrate was \$*** to \$*** cents per pound.²²

Sodium thiosulfate is sold in two grades--photographic and technical. According to Calabrian, they produce only one product and these grades differ only in that the photographic grade is tested and is guaranteed to meet a higher degree of purity. Calabrian believes that the same product can be used in any of the different end-use applications. They argue that because the competition has become so severe in recent years, prices of the different grades of sodium thiosulfate are now the same and they are unable to recover

²¹ Based on list prices ***.

²² Based on weighted-average producer and importer prices submitted in questionnaire responses.

the expense of certifying the product.²³ Four purchasers agreed that photographic and technical grades were substitutable most of the time; however, seven purchasers stated that the photo grade was a purer material.

Price lists are published by both Calabrian and General Chemical. Over the period of investigation, both Calabrian and General raised list prices a number of times and announced across-the-board increases in previously negotiated prices. Since November 1989, Calabrian has raised sodium thiosulfate list prices three times, by one and a half cents each time. Since January 1987, General has raised list prices of anhydrous sodium thiosulfate twice by three cents and sodium thiosulfate pentahydrate once by three cents. ***.

Importers do not use price lists and negotiate prices directly with each customer. Most importers reported they have increased prices over the period of investigation to recover increases in prices charged by foreign manufacturers. Approximately half of the importers reported that they try to make most of their sales for full container loads (37,478 pounds), although truckload sales (40,000-44,000 pounds) are offered by most importers that warehouse the product. Three importers reported that they would supply less-than-truckload orders.

***. Calabrian's price list includes prices for less-than-full-truckload orders, whereas General's price schedule does not. Calabrian and General charge truckload prices for sales of 24,000 pounds or more.²⁴

*** percent of Calabrian's 1990 sales of sodium thiosulfate were on a spot basis.²⁵ Calabrian's contract sales generally are subject to meet-or-release clauses. Most importers reported that they sold on a spot basis only. All companies reported typical sales terms of net 30 days.

Calabrian reported a week as its maximum lead time. General reported that lead times could vary greatly but usually were one to two days. Importers reported one- to two-day lead times for imported product that is warehoused or four to six weeks for a direct shipment.²⁶ Purchasers reported lead times ranging from 3 to 30 days for the domestic product, 4 to 10 weeks for imports from China, 6 to 8 weeks for sodium thiosulfate imported from Germany, and 4 to 8 weeks for the product imported from the United Kingdom.

Transportation and packaging. -- Sales are made on both an f.o.b. and a delivered basis. In 1990, Calabrian sold *** percent of its anhydrous sodium thiosulfate f.o.b. plant and *** percent delivered. *** percent of Calabrian's sodium thiosulfate pentahydrate was sold f.o.b. plant, *** percent delivered, and *** percent f.o.b. warehouse.²⁷ ***. Importers of anhydrous sodium thiosulfate reported that 70 percent or more of their sales were made f.o.b warehouse, with the remainder sold on a delivered basis. Importers sold

²³ Transcript of hearing. pp. 37, 40-41.

²⁴ A truckload price includes the maximum quantity discount for spot purchases.

²⁵ ***.

²⁶ Three of 6 importers reporting have warehouse facilities.

²⁷ ***.

sodium thiosulfate pentahydrate delivered, f.o.b port-of-entry, and f.o.b. warehouse.^{28 29}

Both Calabrian and General reported selling sodium thiosulfate nationwide. Calabrian distributes its sodium thiosulfate from its producing facility in Port Neches, TX, and warehouses sodium thiosulfate pentahydrate in Los Angeles, CA. According to Calabrian, ***. General sells sodium thiosulfate from its facility in North Claymont, DE, and from its warehouse in El Segundo, CA. ***.

Calabrian reported that liquid sodium thiosulfate is only sold within *** of its plant; and General reported that sales of liquid sodium thiosulfate are limited to regional markets. No sales of imported liquid product were reported over the investigation period.

Most importers reported that their sales of sodium thiosulfate are concentrated in specific geographic areas, many of which are close to ports of entry. It is not known where and how far the imported products are shipped once they are sold by the importers to distributors. According to both Calabrian and General, the imports are being sold throughout the United States.³⁰

Both producers and importers reported that transportation costs are an important consideration in customers' purchase decisions. The freight on anhydrous sodium thiosulfate generally ranges from 5 to 15 percent of the total delivered price. Freight for sodium thiosulfate pentahydrate ranges from 8 to 25 percent.³¹ Sometimes the producer arranges the transportation and sometimes the purchaser does. Two importers reported that the importer generally arranges the freight and two that the purchaser does.³²

Although truckload prices are offered for sales of 24,000 pounds or more, a full truckload in physical terms is 40,000 to 44,000 pounds so that less-than-full truckload purchases can result in higher per-pound freight expenses. In order to achieve transportation economies, sodium thiosulfate may be transported to purchasers in a truck with sodium metabisulfite or another chemical.

U.S.-produced sodium thiosulfate is usually sold in 50-pound, 100-pound, and 200-pound bags. According to Calabrian, the size of the bag has no effect on the price per pound of the sodium thiosulfate.³³ General Chemical's list prices for 100-pound bags are 1 cent higher per pound than its list prices for 50-pound bags. General's sales in bulk result in reduced thiosulfate prices. Sodium thiosulfate pentahydrate may also be sold in drums. A premium of approximately 3 to 4 cents per pound is charged to offset

²⁸ Based on the responses of 6 importers.

²⁹ Of the 5 importers reporting sales of sodium thiosulfate pentahydrate in 1990, ***.

³⁰ Telephone conversations with ***.

³¹ Calabrian's questionnaire response.

³² ***.

³³ Conversation with ***.

the cost of the drum. Importers generally sell in 25- and 50-kilo bags or 50-kilo drums.

Changes in raw material costs.---***.

Industry sources report that caustic soda has increased in price from \$100 per ton in early 1987 to over \$300 per ton in late 1990.³⁴ Prices of soda ash, by comparison, have increased only 20 percent, from \$67 per ton to \$80 per ton. Other raw material prices have also increased, sulfur dioxide by 15 percent from \$200 per ton to \$230 per ton, and sulfur by 75 percent from \$60 to \$105 per ton, over the same period.³⁵ ***.

Calabrian points out that switching from caustic soda to soda ash as a raw material would not reduce its production costs significantly but would reduce the quality of its products.³⁶ It notes that the price of soda ash delivered to its production facility, when adjusted for the difference in effectiveness as a raw material, would be the equivalent of \$240 per ton. This, compared with the current \$300 per ton price of caustic soda, would have very little effect on its price of the final product, based on the quantity of each input used to produce a pound of sodium thiosulfate.

Purchaser information.---Most purchasers reported that they know the manufacturer for each of their sodium thiosulfate purchases and that their customers (if any) are likewise interested in having this information. Availability, price, quality, service, and traditional supplier relationships were the most common factors cited when choosing a supplier.³⁷ In general, two suppliers are contacted before making a purchase. Most companies reported that they purchased sodium thiosulfate on a monthly or an irregular basis.

Quality considerations.---Some of the foreign manufacturers have alleged that the quality of Calabrian's sodium thiosulfate is inferior. Counsel for Blythe submitted a number of non-confidential letters in support of this allegation.³⁸ ***. Several purchasers contacted by the Commission also reported that they had experienced problems with Calabrian's products.

According to Calabrian, its major customers have a qualification test for its thiosulfate. No qualification test has failed over the period of investigation. According to General, none of their customers require elaborate qualification tests, although they may require that prescribed specifications be met and request a sample for testing. General reports that these specification requirements have always been met.³⁹

Three importers reported that their major customers required no qualification tests. Five importers reported that their major customers had

³⁴ Chemical Purchasing Magazine, July 1989, p. 32, and July 1990, p. 34. Calabrian's questionnaire response and purchase invoices show similar increases in caustic soda prices.

³⁵ ***.

³⁶ Transcript of hearing, pp. 25-6.

³⁷ The factors were not necessarily cited in this order.

³⁸ Submission by Dow, Lohnes & Albertson, Aug. 2, 1990.

³⁹ Conversation with ***.

qualification processes and that none of their sodium thiosulfate imports had failed these tests.

Most purchasers responding to the questionnaires reported that U.S.-produced sodium thiosulfate was comparable in quality to the imported products. However, ***, which purchases primarily from ***, reported that sodium thiosulfate imported from all three of the countries subject to the investigation was inferior to that produced in the United States. One purchaser reported that the Chinese sodium thiosulfate is inferior and one that the U.K. product is inferior.

Producer and importer price data.--The Commission requested U.S. producers and importers to provide quarterly price data between January 1987 and September 1990 for sales of anhydrous sodium thiosulfate and sodium thiosulfate pentahydrate (table 17).⁴⁰ Two U.S. producers provided price information for each of the two products and six importers provided price data for the specific products they imported. Price data provided by the responding U.S. producers accounted for 75 percent of total domestic shipments over the period of investigation; the responding importers accounted for 69 percent of reported U.S. imports from China, 89 percent from Germany, and 83 percent from the United Kingdom.

Table 17

Sodium thiosulfate: Weighted-average net delivered prices reported by U.S. producers and importers and margins of underselling (overselling) by the subject imports, by products and by quarters, January 1987-September 1990

* * * * * *

Price trends.--In general, prices of the two products rose throughout the period of investigation. The price of U.S.-produced anhydrous sodium thiosulfate fluctuated between \$*** and \$*** per pound during 1987-89. Prices then increased markedly to \$*** in the first quarter of 1990, and remained at this level in the second and third quarters of 1990.⁴¹ Three importers *** reported importing anhydrous sodium thiosulfate from the United Kingdom. The weighted-average net delivered price of these imports decreased from \$*** in the first quarter of 1987 to \$*** in the third quarter of 1990.

The price of U.S.-produced sodium thiosulfate pentahydrate was generally flat in 1987-88 at \$***-\$*** per pound; it then rose to \$*** in the second quarter of 1989 and to \$*** by the third quarter of 1990. The Chinese sodium

⁴⁰ Producers and importers reported net delivered prices for sales to both distributors and end users of the 2 products. Commission staff compared selling prices for each product to each of the 2 channels and found no significant differences in price. Consequently, prices are not reported separately for distributors and end users.

⁴¹ In January 1990, ***. Calabrian ceased production of anhydrous sodium thiosulfate in April 1990. Since then it has made sales only from inventory. Calabrian reports that these few sales have been made at prices significantly higher than in previous quarters. Transcript of hearing, pp. 10, 56-7.

thiosulfate pentahydrate fluctuated between \$*** and \$*** per pound except for one sale for less than a full container in the third quarter of 1989 priced at \$***. The price of imported German sodium thiosulfate pentahydrate was virtually constant at \$***-\$*** during October 1988-September 1990, the period for which data were reported. The U.K. sodium thiosulfate pentahydrate increased from \$***-\$*** in 1987-88 to \$*** in the second quarter of 1989 before decreasing slightly to \$*** in the fourth quarter and remaining constant for the remainder of the investigation period.⁴²

Price comparisons.--U.K. anhydrous sodium thiosulfate was priced higher than the U.S. product in 1987-89. In 1990, U.S. prices increased significantly, while U.K. prices increased slightly. U.K. anhydrous sodium thiosulfate then undersold U.S. product by margins of *** to *** percent.⁴³

Sodium thiosulfate pentahydrate from China and Germany was priced lower than the U.S. product in all but one instance. The margins of underselling ranged from *** to *** percent for the Chinese sodium thiosulfate pentahydrate and *** to *** percent for the German sodium thiosulfate pentahydrate. U.K. sodium thiosulfate pentahydrate was priced higher than U.S. sodium thiosulfate pentahydrate from the third quarter of 1987 through the second quarter of 1990. In the third quarter of 1990, the U.K. product undersold the U.S. product by a margin of *** percent.

Purchaser price data.--The Commission requested 40 distributors and end users of sodium thiosulfate to provide quarterly delivered price data from January 1988 to September 1990 for their purchases of anhydrous sodium thiosulfate and sodium thiosulfate pentahydrate.⁴⁴ Price data were received from 14 purchasers (table 18). Based on these data, the average price of U.S.-produced anhydrous sodium thiosulfate increased from \$*** in the first quarter of 1988 to \$*** in the first quarter of 1990. Average prices then increased markedly to \$***-\$*** per pound in the second and third quarters of 1990.⁴⁵ The price of the U.K. anhydrous sodium thiosulfate increased from \$*** in the second quarter of 1988 to \$*** in the third quarter of 1990.

Table 18

Sodium thiosulfate: Weighted-average net delivered prices reported by U.S. purchasers and margins of underselling (overselling) by the subject imports, by products and by quarters, January 1988-September 1990

* * * * *

⁴² ***.

⁴³ In its briefs and at the hearing, the petitioner noted that the Commission's reported prices of the imported sodium thiosulfate from the United Kingdom are higher than those reported to the petitioner by its customers. Staff re-evaluated the data submitted in response to Commission questionnaires and confirmed with questionnaire respondents that these prices accurately represent net delivered prices to their customers.

⁴⁴ Both distributors and end users reported net delivered prices for purchases from domestic producers and importers of the 2 products. Commission staff compared reported purchase prices for each product in each of the 2 channels and found no significant differences in price. Consequently, prices are not reported separately for distributors and end users.

⁴⁵ ***.

The prices paid by purchasers of U.S.-produced sodium thiosulfate pentahydrate also increased, from \$*** in the first quarter of 1988 to \$*** in the third quarter of 1990. The price of the German sodium thiosulfate pentahydrate remained flat at \$***-\$*** per pound throughout the investigation period. The price of the U.K. sodium thiosulfate pentahydrate averaged \$*** in 1990, the only year for which usable data were reported.

Purchasers' prices for the U.K. anhydrous sodium thiosulfate were higher than those of the U.S. product in both 1988 and 1989. The price of the U.S. anhydrous sodium thiosulfate increased sharply in the second and third quarters of 1990 and the U.K. product undersold the U.S. product by *** and *** percent, respectively, in these quarters.

The Chinese sodium thiosulfate pentahydrate undersold the U.S. product by *** percent in the third quarter of 1990, the only quarter for which price information on the Chinese import was reported. The German sodium thiosulfate pentahydrate was priced lower than the U.S. product in five of the six quarters for which pricing information was reported. Margins of underselling ranged from *** to *** percent. Underselling of the U.K. sodium thiosulfate pentahydrate ranged from *** to *** percent in 1990, the only period for which comparisons were possible.

Exchange rates

Quarterly data reported by the International Monetary Fund indicate that the currencies of two of the countries subject to this investigation appreciated in relation to the U.S. dollar over the period from January-March 1987 through July-September 1990 (table 19).^{46 47} The nominal values of the German and U.K. currencies appreciated by 15.4 percent and 20.7 percent, respectively. When adjusted for movements in producer price indexes in the United States and the specified countries, the respective values of the German and U.K. currencies appreciated 6.1 percent and 12.5 percent during the periods for which data were collected.

Lost sales and lost revenues

In the final investigations two firms reported 10 allegations of lost sales involving 9 customers and \$*** and 9 allegations of lost revenues involving 6 customers and \$***. Commission staff attempted to contact these customers concerning these allegations.⁴⁸ Unless otherwise noted, all price comparisons are made on a delivered basis.

* * * * *

⁴⁶ International Financial Statistics, November 1990.

⁴⁷ The value of the Chinese currency is determined by the Government of China rather than the free market. Therefore, an accurate description of movements in the Chinese exchange rate cannot be presented.

⁴⁸ ***.

Table 19

Exchange rates:¹ Indexes of nominal and real exchange rates of selected currencies, and indexes of producer prices in those countries,² by quarters, January 1987-September 1990

Period	U.S. producer price index	Germany			United Kingdom		
		Producer price index	Nominal exchange rate index	Real exchange rate index ³	Producer price index	Nominal exchange rate index	Real exchange rate index ³
1987:							
January-March.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0
April-June.....	101.6	99.7	101.9	99.9	101.0	106.6	105.9
July-September.....	102.8	100.1	100.0	97.4	101.6	104.9	103.7
October-December...	103.3	100.4	107.9	104.9	102.7	113.8	113.2
1988:							
January-March.....	103.9	100.4	109.8	106.1	103.8	116.5	116.5
April-June.....	105.5	101.1	107.7	103.2	105.3	119.5	119.3
July-September.....	107.1	101.6	98.6	93.5	106.5	110.0	109.5
October-December...	107.6	102.1	103.6	98.3	107.8	116.1	116.3
1989:							
January-March.....	109.9	103.6	99.5	93.7	109.3	113.4	112.7
April-June.....	111.9	104.4	95.1	88.8	110.6	105.6	104.4
July-September.....	111.5	104.6	95.6	89.7	112.0	103.6	104.1
October-December...	111.9	105.4	101.5	95.6	113.4	102.8	104.2
1990:							
January-March.....	113.5	105.4	108.8	101.0	115.2 ⁵	107.5	109.1
April-June.....	113.2	106.1	109.6	102.8	117.2 ⁵	108.6	112.5 ⁵
July-September.....	115.3	106.0 ⁴	115.4	106.1 ⁴	(6)	120.7	(6)

¹ Exchange rates expressed in U.S. dollars per unit of foreign currency.

² Producer price indexes--intended to measure final product prices--are based on period-average quarterly indexes presented in line 63 of the International Financial Statistics.

³ The real exchange rate is derived from the nominal rate adjusted for relative movements in producer prices in the United States and the specified countries.

⁴ Derived from German price data reported for July only.

⁵ Derived from U.K. price data reported for April-May only.

⁶ Not available.

Note.--January-March 1987 = 100.

Source: International Monetary Fund, International Financial Statistics, November 1990.

APPENDIX A

COMMISSION' S FEDERAL REGISTER NOTICES

by February 12, 1991 (see sections 735(a) and 735(b) of the act (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 parts 201).

EFFECTIVE DATE: October 16, 1990.

FOR FURTHER INFORMATION CONTACT: Bruce Cates (202-252-1187), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of sodium thiosulfate from the Federal Republic of Germany and the United Kingdom are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673b). The investigation was requested in a petition filed on July 9, 1990, by Calabrian Corp., Houston, TX. In response to that petition the Commission conducted preliminary antidumping 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 (55 FR 35373, August 29, 1990).

Participation in the investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 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.

Public service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing

[Investigations Nos. 731-TA-465 and 468 (Final)]

Sodium Thiosulfate From the Federal Republic of Germany and the United Kingdom

AGENCY: United States International Trade Commission.

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

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731-TA-465 and 468 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) 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 the Federal Republic of Germany and the United Kingdom of sodium thiosulfate, provided for in subheading 2832.30.10 of the Harmonized Tariff Schedule of the United States that 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). Unless the investigations are extended, Commerce will make its final LTFV determinations on or before December 26, 1990, and the Commission will make its final injury determinations

the names and addresses of all persons, or their representatives, who are parties to these investigations 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 public document filed by a party to the investigations must be served on all other parties to the investigation (as identified by the public 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.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list.—Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)), the Secretary will make available business proprietary information gathered in these final investigations to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Staff report.—The prehearing staff report in these investigations will be placed in the nonpublic record on December 18, 1990, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on January 4, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., 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 December 31, 1990. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 3, 1991, at the U.S. International Trade Commission Building. Pursuant to § 207.22 of the

Commission's rules (19 CFR 207.22) each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is December 28, 1990. If prehearing briefs contain business proprietary information, a nonbusiness proprietary version is due December 31, 1990.

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 nonbusiness proprietary 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 business proprietary 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.—Prehearing briefs submitted by parties must conform with the provisions of § 207.22 of the Commission's rules (19 CFR 207.22) and should include all legal arguments, economic analyses, and factual materials relevant to the public hearing. Posthearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on January 10, 1991. If posthearing briefs contain business proprietary information, a nonbusiness proprietary version is due January 11, 1991. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before January 10, 1991.

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 business proprietary 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 information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than January 15, 1991. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs. A nonbusiness proprietary version of such additional comments is due January 16, 1991.

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: October 25, 1990.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-25726 Filed 10-30-90; 8:45 am]

BILLING CODE 7020-02-M

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: December 12, 1990.

FOR FURTHER INFORMATION CONTACT:

Bruce Cates (202-252-1187), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20438. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background. This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of sodium thiosulfate from the People's Republic of China are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673b). The investigation was requested in a petition filed on July 9, 1990, by Calabrian Corp., Houston, TX. In response to that petition the Commission conducted a preliminary antidumping 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 a reason of imports of sodium thiosulfate (55 FR 35373, August 29, 1990).

Participation in the investigation. The Commission hereby waives the time limits in § 201.11 of its rules and requires that persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission not later than seven (7) days after the publication of this notice in the Federal Register. This waiver of the rules is necessary to ensure that this investigation can be conducted on the same schedule as concurrently filed investigations Nos. 731-TA-465 and 468 (Final), sodium thiosulfate from Germany and the United Kingdom (55 FR 45870). 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.

[Investigation No. 731-TA-466 (Final)]

Sodium Thiosulfate From the People's Republic of China

AGENCY: International Trade Commission.

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

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-466 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) 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 the People's Republic of China of sodium thiosulfate, provided for in subheading 2832.30.10 of the Harmonized Tariff Schedule of the United States, that 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 will make its final injury determination within 45 days of the date of Commerce's final determination (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

Public service list. Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public 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 public document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the public 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.

Limited disclosure of a business proprietary information under a protective order and business proprietary information service list. The Commission hereby waives the time limits in § 207.7(a) of its rules; the Secretary will make available business proprietary information gathered in this final investigation to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Staff report. The prehearing staff report in this investigation will be placed in the nonpublic record on December 18, 1990, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing. The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on January 4, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., 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 December 31, 1990. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a

prehearing conference to be held at 9:30 a.m. on January 3, 1991, at the U.S. International Trade Commission Building. Pursuant to § 207.22 of the Commission's rules (19 CFR 207.22) each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is December 28, 1990. If prehearing briefs contain business proprietary information, a nonbusiness proprietary version is due December 31, 1990.

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 nonbusiness proprietary 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 business proprietary 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 submission. Prehearing briefs submitted by parties must conform with the provisions of § 207.22 of the Commission's rules (19 CFR § 207.22) and should include all legal arguments, economic analyses, and factual materials relevant to the public hearing. Posthearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on January 10, 1991. If posthearing briefs contain business proprietary information, a nonbusiness proprietary version is due January 11, 1991. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before January 10, 1991.

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 business proprietary 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 information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business

proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than January 15, 1991. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs. A nonbusiness proprietary version of such additional comments is due January 16, 1991.

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: December 19, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-30272 Filed 12-26-90; 8:45 am]

BILLING CODE 7020-02-M

APPENDIX B

COMMERCE'S FEDERAL REGISTER NOTICES

[A-428-807 and A-412-805]

Final Determinations of Sales at Less Than Fair Value: Sodium Thiosulfate From the Federal Republic of Germany and the United Kingdom

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that imports of sodium thiosulfate from the Federal Republic of Germany and the United Kingdom are being, or are likely to be sold, in the United States at less than fair value. We have notified the International Trade Commission (ITC) of our determinations and have directed the Customs Service to continue to suspend liquidation of all entries of sodium thiosulfate from the Federal Republic of Germany and the United Kingdom, as described in the "Suspension of Liquidation" section of this notice. The ITC will determine on or before February 8, 1991, whether these imports materially injure, or threaten material injury to, a U.S. industry.

EFFECTIVE DATE: December 17, 1990.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Steve Alley, Office of

Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-8830, or (202) 377-1768, respectively.

SUPPLEMENTARY INFORMATION:

Final Determinations

We determine that imports of sodium thiosulfate from the Federal Republic of Germany and the United Kingdom are being, or are 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. 1673(d)(a) (the Act)). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of preliminary determinations (55 FR 42424, October 19, 1990), the following events have occurred. On October 22, 1990, William Blythe & Co., Ltd. ("Blythe"), respondent in the antidumping duty investigation of sodium thiosulfate from the United Kingdom, requested a public hearing. On October 23, 1990, the Calabrian Corporation, petitioner, requested to participate in any hearing requested by respondents. Petitioner and Blythe filed case briefs on November 5, 1990. On November 7, 1990, Blythe submitted United Kingdom export statistics for all thiosulfates for the month of September. Also on November 9, 1990, Blythe withdrew its request for a public hearing. Accordingly, no public hearing was held.

Scope of Investigations

The products covered by these investigations are all grades of sodium thiosulfate, in dry or liquid form, used primarily to dechlorinate industrial waste water. The chemical composition of sodium thiosulfate is $\text{Na}_2\text{S}_2\text{O}_3$. Sodium thiosulfate is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 2832.30.1000. The HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive.

Period of Investigation

The period of investigation is February 1, 1990, through July 31, 1990.

Standing

Prior to the issuance of our preliminary determinations, Blythe contested petitioner's standing. Blythe cited *Suramerica de Aleaciones Laminadas, C.A. v. U.S.*, Slip. Op. 90-79

at 32 (CIT Aug. 22, 1990), in which the Court of International Trade held that the Department cannot presume industry support for a petition. The Department is appealing Suramerica. And, as stated in our preliminary determinations, there is nothing in the statute, its legislative history, or our regulations which requires that petitions establish affirmatively that they have the support of a majority of their industries. In many cases, such a requirement would be so onerous as to preclude access to import relief under the countervailing and antidumping duty laws. In addition, no other party has expressed its opposition to these proceedings. Therefore, consistent with our past practice (see, for example, Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Hollow Products from Sweden (52 FR 5794, February 26, 1987); Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada (51 FR 10041, March 24, 1986); and Frozen Concentrated Orange Juice from Brazil: Final Determination of Sales at Less than Fair Value (52 FR 8324, March 17, 1987)), we have determined that the petitioner does not lack standing.

Fair Value Comparisons

To determine whether sales of sodium thiosulfate from the Federal Republic of Germany and the United Kingdom to the United States were made at less than fair value, we used the best information available, as required by section 776(c) of the Act, because both Blythe (the respondent in the investigation of sodium thiosulfate from the United Kingdom) and Th. Goldschmidt AG (the respondent in the investigation of sodium thiosulfate from the Federal Republic of Germany), declined to respond to the Department's request for information. We determined that the best information available was information submitted by the petitioner.

For the United Kingdom, we used the highest margin listed in the petition for sodium thiosulfate for the period of investigation. We made adjustments to the U.S. price and foreign market value for this sale to correct for clerical errors.

For the Federal Republic of Germany, we used the only margin listed in the petition for sodium thiosulfate for the period of investigation.

Critical Circumstances

Petitioner alleges that "critical circumstances" exist with respect to imports of the subject merchandise from the Federal Republic of Germany and the United Kingdom. Section 733(e)(1) of the Act provides that critical

circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following factors in determining whether imports have been massive over a short period of time: (1) the volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

For our preliminary determinations, we found that critical circumstances existed based on best information available because Blythe and Th. Goldschmidt AG (Goldschmidt) declined to participate in these investigations. As best information available, we assumed that imports of sodium thiosulfate were massive over a relatively short period of time.

Since the preliminary determinations, we have been able to obtain updated U.S. import statistics for sodium thiosulfate from the Federal Republic of Germany and the United Kingdom through September 1990.

Pursuant to § 353.16(g) of the Department's regulations, in making critical circumstances determinations the Department normally considers the period beginning on the date the proceeding begins and ending at least three months later. The Department considers this period because it is the period immediately prior to a preliminary determination in which exporters of the subject merchandise could take advantage of their knowledge of the dumping investigation to increase exports to the United States without being subject to antidumping duties. (See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Internal-Combustion, Industrial Forklift Trucks from Japan, 53 FR 12552, April 15, 1988.) For purposes of these determinations, however, we are using as our comparison period the two months following the month of the filing of the petition (i.e., August and September 1990) because (1) we recognize that, due to the lag between export and import, the import statistics

for July reflect exports made prior to the date on which the proceeding began (i.e., July 9, 1990) and (2) we only have available two months of import data.

The official U.S. import statistics for August and September indicate that there have been no imports of sodium thiosulfate from the Federal Republic of Germany and that there has been a significant decrease in imports of sodium thiosulfate from the United Kingdom.

Based on these import statistics, we determine that imports of sodium thiosulfate from the Federal Republic of Germany and the United Kingdom have not been massive over relatively short period of time. Moreover, with respect to the United Kingdom, official export statistics from the United Kingdom confirm these findings.

Because we find that imports have not been massive over a relatively short period of time for both the Federal Republic of Germany and the United Kingdom, we do not need to determine whether there was a knowledge or history of dumping. Therefore, in accordance with section 733(e)(1)(B), we determine that critical circumstances do not exist with respect to both Blythe and Goldschmidt.

With respect to firms covered by the "All Other" rate, we have determined that imports of sodium thiosulfate have not been massive over a relatively short period of time. As such, we determine that critical circumstances do not exist for those firms.

Verification

No verification occurred because the respondents failed to respond to the Department's questionnaire.

Interested Party Comments

All comments raised by parties to the proceeding in the antidumping duty investigation of sodium thiosulfate from the United Kingdom are discussed below. There were no comments submitted in connection with the antidumping duty investigation of sodium thiosulfate from the Federal Republic of Germany.

Comment 1

Petitioner believes that, because Blythe has refused to answer the Department's questionnaire, the Department should use, as best information available for the United Kingdom, the highest margin found in the petition for the class or kind of merchandise instead of the average of margins found for each such or similar category.

Respondent argues that Blythe decline to respond to the Department's questionnaire because of its modest level of involvement in the U.S. market, not because it attempted to impede the Department's investigation. Therefore, respondent contends that the Department should continue to use the simple average of margins alleged in the petition for the final determination.

DOC Position

The Department has discretion in determining what information to use as best information available, and determines what to use based on the circumstances of each investigation. We agree that because Blythe failed to respond to our questionnaire, the appropriate best information available rate should be based on the petition. After further consideration, and consistent with our treatment of non-responding companies in past determinations, we agree with petitioner that the highest single margin for the such or similar category of sodium thiosulfate alleged in the petition should be used as best information available. (See, e.g., Final Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man Made Fiber from Hong Kong, 55 FR 30733, July 27, 1990; Final Determination of Sales at Less Than Fair Value: Certain Residential Door Locks and Parts Thereof From Taiwan, 54 FR 53153, December 27, 1989; and Final Determination of Sales at Less than Fair Value: Drafting Machines and Parts Thereof From Japan, 54 FR 46961, November 8, 1989.)

Comment 2

Petitioner asserts that the Department should compare the volume of imports entered for a period of 102 days after the filing of the petition to the volume of imports entered for a period of 102 days before the filing of the petition to determine whether critical circumstances exist with respect to Blythe. Moreover, petitioner states that the Department should rely on official United Kingdom export statistics only if official U.S. import statistics are unavailable.

Respondent urges the Department to use official United Kingdom export statistics or U.S. import statistics to compare the volume of imports/exports for a period of three months following the date the proceeding commences to the volume of imports/exports for a period of three months prior to the date the proceeding commences to determine whether critical circumstances exist with respect to Blythe.

DOC Position

See the "Critical Circumstances" section of this notice.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of sodium thiosulfate from the Federal Republic of Germany and the United Kingdom, as defined in the "Scope of Investigation" section of this notice, 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 continue to require a cash deposit or posting of a bond equal to the final dumping margins, as shown below. This suspension of liquidation will remain in effect until further notice and applies to all sodium thiosulfate from the Federal Republic of Germany, including entries from the former German Democratic Republic.

Manufacturer/producer/exporter	Margin percentage
United Kingdom	
William Blythe & Co., Ltd.	50.13
All Others	50.13
Federal Republic of Germany	
Th. Goldschmidt AG	100.40
All Others	100.40

Because we now determine that critical circumstances for both Blythe and Goldschmidt do not exist, the retroactive suspensions of liquidation ordered at the time of the preliminary determinations are terminated for entries of both companies. All cash deposits or bonds placed on entries made by Blythe and Goldschmidt prior to October 19, 1990, shall be refunded.

ITC Notification

In accordance with section 735(c) of the Act, we have notified the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to these investigations. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

The ITC will determine on or before February 8, 1991, whether these imports materially injure, or threaten material

injury to, a U.S. industry. If the ITC determines that material injury, or the threat of material injury, does not exist, the proceedings will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, the Department will issue an Antidumping Duty Order directing customs officials to assess antidumping duties on sodium thiosulfate from the Federal Republic of Germany and the United Kingdom entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, equal to the margins shown above.

These determinations are published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Dated: December 10, 1990.

Marjorie A. Chorlins,
Acting Assistant Secretary for Import Administration.

[FR Doc. 90-29480 Filed 12-14-90; 8:45 am]

BILLING CODE 3510-05-M

[A-570-805]**Final Determination of Sales at Less Than Fair Value: Sodium Thiosulfate from the People's Republic of China**

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that imports of sodium thiosulfate from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value. We also determine that critical circumstances do not exist with respect to these imports. The ITC will determine on or before April 4, 1991, whether these imports materially injure, or threaten material injury to, a U.S. industry.

EFFECTIVE DATE: January 25, 1991.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Shawn Thompson, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-8830 or (202) 377-1776, respectively.

SUPPLEMENTARY INFORMATION:**Final Determination**

We determine that imports of sodium thiosulfate from the People's Republic of China (PRC) are being, or are 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. 1673(d)(a) (the Act)). The estimated margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of preliminary determination (55 FR 51140, December 12, 1990), there has been no further activity in this proceeding.

Scope of the Investigation

The products covered by this investigation are all grades of sodium thiosulfate, in dry or liquid form, used primarily to dechlorinate industrial waste water. The chemical composition of sodium thiosulfate is $\text{Na}_2\text{S}_2\text{O}_5$. Sodium thiosulfate is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 2832.30.1000. The HTS subheading is provided for convenience and customs purposes. The written description remains dispositive.

Period of Investigation

The period of investigation is February 1, 1990, through July 31, 1990.

Best Information Available

To determine whether sales of sodium thiosulfate from the PRC to the United States were made at less than fair value, we used the best information available, as required by section 776(c) of the Act. For a discussion of the reasons for using best information available, see the preliminary determination in this case.

As best information available, we used the only margin listed in the petition for sodium thiosulfate for the period of investigation.

Critical Circumstances

Petitioner alleges that "critical circumstances" exist with respect to imports of the subject merchandise from the PRC. For a discussion of the factors considered in our analysis, see the preliminary determination in this case.

For our preliminary determination, we found that critical circumstances did not exist based on an analysis of the Commerce Department's import statistics for sodium thiosulfate from the PRC for the two months following the month of the filing of the petition (*i.e.*, August and September 1990). We examined only two months because those months represented the latest information available at the time.

Since the preliminary determination, we have been able to obtain updated U.S. import statistics through October 1990. The statistics for August through October indicate that imports of sodium thiosulfate from the PRC have not been massive. Therefore, in accordance with section 733(e)(1)(B), we determine that critical circumstances do not exist with respect to imports of sodium thiosulfate from the PRC.

Verification

No verification occurred because no response was received to the Department's questionnaire.

Interested Party Comments

There were no comments submitted in connection with this investigation.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of sodium thiosulfate from the PRC, as defined in the "Scope of the Investigation" section of this notice, 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 continue to require a cash deposit or posting of a bond equal to 25.57 percent (the estimated dumping margin) on these entries. The suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 735(c) of the Act, we have notified 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 in writing that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

The ITC will determine on or before April 4, 1991, whether these imports material injury, or threaten material injury to, a U.S. industry. If the ITC determines that material injury, or the threat of material injury, does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, the Department will issue an Antidumping Duty Order directing customs officials to assess antidumping duties on sodium thiosulfate from the PRC entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, equal to the margin shown above.

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

Dated: January 17, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-1825 Filed 1-24-91; 8:45 am]

BILLING CODE 3510-06-M

APPENDIX C
CALENDAR OF WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject	:	SODIUM THIOSULFATE FROM THE FEDERAL REPUBLIC OF GERMANY AND THE UNITED KINGDOM; SODIUM THIOSULFATE FROM THE PEOPLE'S REPUBLIC OF CHINA
Inv. Nos.	:	731-TA-465 and 468 (Final) and 731-TA-466 (Final)
Date and Time	:	January 4, 1991 - 9:30 a.m.

Sessions were held in connection with the investigations in the Main Hearing Room 101 of the United States International Trade Commission, 500 E Street, S.W. Washington, D.C.

In Support of Imposition of
Antidumping Duties:
Brownstein Zeidman and Schomer
Washington, D.C.
On behalf of

Calabrian Corporation
Charles E. Cogliandro, Executive Vice President

Steven P. Kersner)
) --OF COUNSEL
Ronald M. Wisla)

-end-

APPENDIX D

IMPACT OF IMPORTS ON U.S. PRODUCERS' GROWTH, INVESTMENT,
ABILITY TO RAISE CAPITAL, AND EXISTING DEVELOPMENT
AND PRODUCTION EFFORTS

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