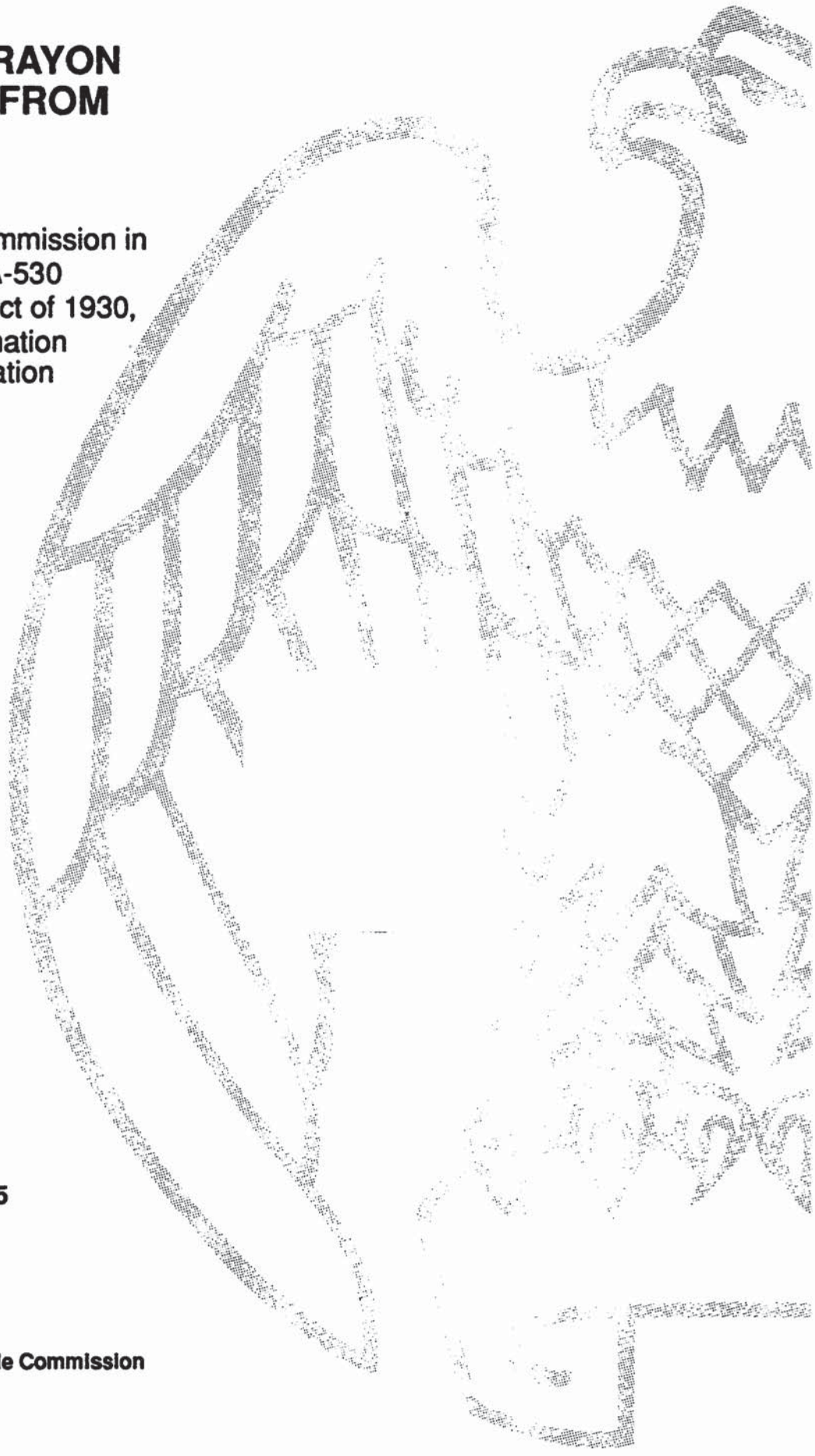
HIGH-TENACITY RAYON FILAMENT YARN FROM GERMANY

Determination of the Commission in Investigation No. 731-TA-530 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation



USITC PUBLICATION 2525

JUNE 1992

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-530 (Final)

HIGH-TENACITY RAYON FILAMENT YARN FROM GERMANY

Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines,[2] 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 Germany of high-tenacity rayon filament yarn,[3] provided for in subheading 5403.10.30 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 this investigation effective February 20, 1992, following a preliminary determination by the Department of Commerce that imports of high-tenacity rayon filament yarn from Germany were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission,

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

[2] Vice Chairman Brunsdale, Commissioner Crawford, and Commissioner Watson dissenting. (Commissioner Watson was appointed vice chairman effective June 17, 1992.)

[3] The imported product subject to this investigation is a multifilament single yarn of viscose rayon with a twist of 5 turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tex.

Washington, DC, and by publishing the notice in the Federal Register of March 25, 1992 (57 F.R. 10368). The hearing was held in Washington, DC, on May 1, 1992, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF CHAIRMAN NEWQUIST, COMMISSIONER ROHR AND COMMISSIONER NUZUM

Based on the record in this final investigation, we determine that an industry in the United States is materially injured by reason of imports of high-tenacity rayon filament yarn from Germany that has been found by the Department of Commerce (Commerce) to be sold at less than fair value (LTFV).[1]

I. **Like Product/Domestic Industry**

In determining whether an industry in the United States is materially injured or is threatened with material injury by reason of the subject imports, the Commission must first define the "like product" and the "industry." Section 771(4)(A) of the Tariff Act of 1930 defines the relevant industry as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."[2] In turn, the statute defines "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation."[3]

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

[2] 19 U.S.C. § 1677(4)(A).

[3] Id. § 1677(10). The Commission's determination of what is the appropriate like product or products in an investigation is a factual determination, to which we apply the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis. See, e.g., Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1669 & n.5 (Ct. Int'l Trade 1988); Fresh Kiwifruit from New Zealand, Inv. No. 731-TA-516 (Final), USITC Pub. 2510 (May 1992), at 3 n.4.

In analyzing like product issues, the Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability of the products; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) the use of common manufacturing facilities and production employees; and when appropriate, (6) price. No single factor is dispositive and the Commission may consider other factors it

(continued...)

Commerce has defined the imported product found to be sold at LTFV as:

> high-tenacity rayon filament yarn. High-tenacity rayon filament yarn is a multifilament single yarn of viscose rayon with a twist of five turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tex. This yarn is currently classifiable under subheading 5403.10.30.40 of the HTS.[4]

High-tenacity rayon filament yarn is also known as industrial rayon yarn. The tenacity, or breaking strength, of rayon yarn is expressed as a ratio of breaking point to thickness, usually in grams per denier.[5] A higher tenacity corresponds to a stronger yarn. Tenacity is determined by both the chemical composition of the yarn and by the production process. There are three commonly recognized tenacity ranges for rayon filament yarns: normal or regular, medium and high. High-tenacity (industrial) rayon yarn is defined by the petitioner as having a tenacity greater than 4.0 grams per denier.[6] High-tenacity rayon yarn is primarily used in the automobile market to reinforce rubber products such as hoses, belts and tires.[7]

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[3] (...continued)
deems relevant based on the facts of a given investigation. The Commission has found minor variations to be an insufficient basis for finding separate like products. Rather, the Commission has looked for clear dividing lines. See, e.g., Torrington Co. v. United States, 747 F. Supp. 744 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991); Cambridge Lee Industries, Inc. v. United States, 728 F. Supp. 748 (Ct. Int'l Trade 1989).

[4] Final Determination of Sales at Less Than Fair Value: High-Tenacity Rayon Filament Yarn From Germany, 57 Fed. Reg. 21,770 (May 22, 1992) (Commerce's Final Determination).

[5] Denier is a measure of the thickness of yarn expressed as the weight in grams of 9,000 meters of fiber. Thickness may also be expressed in terms of decitex, which is the weight in grams of 10,000 meters of yarn.
The Harmonized Tariff Schedule (HTS) expresses tenacity in terms of centinewtons per tex. A centinewton is a unit of force capable of accelerating a 10-gram mass at 1 meter per second. Report at A-4 nn.6-7.

[6] Id. at A-4.

[7] Id. at A-5.

During the manufacturing process, industrial rayon yarn may be treated according to customer specifications. Petitioner North American Rayon Corporation (NARCO), the sole domestic producer of the subject product, has the capacity to apply various finishes. Currently, the subject imports that are produced by Akzo Faser, AG and imported by Akzo Fibers Inc. (collectively "Akzo"), enter the United States with a spin finish but no other finishes. Converters provide further treatment of the yarn before selling it to end users. Some end users who purchase directly from the producers may also treat the yarn in their own facilities to meet specifications.[8]

Similarly, the U.S producer, converters and some end users also have the ability to ply or cable the yarn.[9] Single yarn is yarn with single ends; plied yarn has two or more single ends that have been plied together; and cabled yarn has two or more plied ends that have been cabled.[10] Plying involves taking two different ends of yarn and twisting them together to form one yarn.[11] Cabling involves putting twist in two single yarns and then reversing the twist during the plying process, resulting in a cord-type cable.[12]

Industrial rayon yarn may be either "Super 2" or "Super 3" yarn, depending upon the strength of the yarn, with Super 3 having a somewhat higher breaking strength than Super 2. Both the U.S. and German producer manufacture

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[8] Id. at A-6.

[9] See id. at A-7.

[10] Id.

[11] Tr. at 155.

[12] Id.

and sell Super 2 industrial rayon yarn. Only the German producer, however, manufactures and sells Super 3 high-tenacity rayon yarn. About two-thirds of the imported product is of that type.[13]

In the preliminary investigation, petitioner asserted that the Commission's definition of the like product should be the same as Commerce's definition of the class of merchandise that was subject to investigation. Respondent did not disagree. The Commission independently considered whether to include other types of rayon yarn in the definition of the like product, but ultimately determined that the like product be defined as single high-tenacity rayon filament yarn. The domestic industry was therefore defined as the petitioner who, as stated above, is the sole current U.S. manufacturer of such yarn.[14]

In this final investigation, respondents maintain that the Commission should adopt the same like product definition that it adopted in the preliminary investigation.[15] Petitioner, however, now disputes limiting the definition of the like product to "single" high-tenacity rayon filament yarn, arguing that plied yarn also should be included in the like product.[16]

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[13] Report at A-7; Tr. at 98-99.

[14] High-Tenacity Rayon Filament Yarn from Germany and the Netherlands, Invs. Nos. 731-TA-530 and 531 (Preliminary), USITC Pub. 2444 (Oct. 1991), at 5-6.

[15] Prehearing Brief of Akzo Faser AG and Akzo Fibers Inc. at 4 (Apr. 27, 1992).

[16] Petitioner sought to enlarge the scope of the investigation by raising the issue of single versus plied yarns with Commerce. Commerce determined that the petition alleged only that certain of the single yarns classified under HTS item 5403.10.30.40 were being, or were likely to be, sold in the United States at less than fair value and noted that petitioner did not seek to amend the petition during the investigation. Thus, Commerce stated, it was not provided a basis upon which to expand the original scope of investigation.
(continued...)

We find that a sufficiently clear dividing line exists between single and plied yarn. After evaluating the arguments of both petitioner and respondents, we are persuaded that plied yarn is not identical to single yarn in terms of physical characteristics and uses; that it is not always interchangeable with single yarn; that consumers have differing perceptions of plied and single yarn; and that plied yarn is higher priced than single yarn. Further, plied yarn is a downstream product that is not subject to investigation.[17] Accordingly, we define the like product in this final investigation to be high-tenacity rayon filament yarn corresponding to the class or kind of merchandise defined by Commerce. As a result, we define the domestic industry to be the petitioner, NARCO.

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[16] (...continued)
Moreover, no ambiguity exists with regard to including a particular product within the scope of the investigation, for there is no question that the scope is limited to certain single yarn within HTS item 5403.10.30.40. Commerce's Final Determination at 21,771. It is Commerce which determines the imported articles that are subject to investigation.

Petitioner also indicates its concern about circumvention of any antidumping duty order that may be imposed in the instant investigation. Prehearing Submission in Investigation No. 731-TA-530 (Final) by North American Rayon Corporation at 3 (Apr. 27, 1992). If circumvention of any antidumping duty order becomes evident, Congress has provided a mechanism in the statute for addressing that concern when appropriate. See 19 U.S.C. § 1677j.

[17] Because plied yarn comprises single ends that are further processed by being plied together, plied yarn is a "downstream" product from the product under investigation. Likewise, cabled yarn is also a downstream product from the product under investigation. Although not dispositive of the issue, the Commission has noted previously "compelling legal and policy reasons for not broadening like product to include downstream products." Tungsten Ore Concentrates from the People's Republic of China, Inv. No. 731-TA-497 (Preliminary), USITC Pub. 2367 (March 1991), at 9.

II. Condition of the Domestic Industry

In assessing whether there is material injury to a domestic industry by reason of dumped imports, the Commission is required to consider "all relevant economic factors which have a bearing on the state of the industry in the United States."[18] In making that assessment we consider, among other relevant factors, U.S. consumption, production, shipments, capacity utilization, employment, wages, financial performance, capital investment, and research and development expenses.[19] No single factor is considered dispositive in evaluating the condition of the domestic industry. In each investigation, the Commission also considers the particular nature of the industry in the context of the "conditions of competition that are distinctive to the affected industry."[20] In this investigation, there is only one foreign producer/importer of the subject imports[21] and only one domestic producer of the like product. Much of the information on which we base our decision is consequently business proprietary and our discussion of the record must be in general terms.

The evidence in the record shows a number of important developments that have affected this industry. First, in October 1988, the only other domestic producer at that time and a major supplier, Avtex Fibers, Inc., abruptly ceased production of industrial rayon yarn when it closed its plant for

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[18] 19 U.S.C. § 1677(7)(C)(iii).

[19] See id.

[20] Id.; see also H.R. Rep. No. 317, 96th Cong., 1st Sess. 46 (1979); S. Rep. No. 249, 96th Cong., 1st Sess. 88 (1979).

[21] Akzo Faser AG and Akzo Fibers Inc. are subsidiaries of Akzo N.V. Report at A-8.

failure to meet pollution control standards.[22] After the announcement of the plant closure, many of Avtex' former customers turned to the sole remaining domestic supplier, NARCO, to obtain the product.[23] This sudden surge in demand was not anticipated by NARCO. Petitioner testified that, to meet this new demand, it invested money and effort to bring on line machinery which had been idled for some time. Petitioner experienced some problems with respect to the consistency of quality of industrial rayon yarn manufactured on these rapidly rehabilitated lines. Petitioner also acknowledged that it had delivery difficulties and sought to supply its regular customers before attempting to meet the demands of Avtex' former customers.[24]

Second, a number of substitute products, such as nylon, polyester, polyvinylalcohol, and aramid fibers have been introduced into the market and have displaced a sizable portion of the demand for industrial rayon yarn.[25] The record indicates that some former rayon purchasers switched to these substitute products after Avtex' departure from the industry.[26]

It is clear that the domestic industry is experiencing declines in relevant performance indicators. There has been a steady decline in the domestic consumption of industrial rayon yarn, whether measured by quantity or value.[27] Limited public data available on rayon tire cord fabric production,

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[22] Id. at A-16, A-18; Tr. at 19.

[23] Petitioner's Prehearing Submission at 22-23; Tr. at 11.

[24] Petitioner's Prehearing Submission at 23-24; Tr. at 18-20.

[25] Report at A-9 - A-10, A-11, A-12, A-16 - A-17 & Table 3.

[26] Id. at A-12.

[27] Id. at A-16. Conditions of the recession have contributed to decreased consumption of industrial rayon yarn, id. at A-10, A-16, as well as the

(continued...)

which historically accounted for a large percentage of industrial rayon yarn consumption, show that rayon has declined from 1.4 percent of the U.S. tire cord market in 1988 to 0.4 percent in 1991.[28]

Although production and capacity increased from 1988 to 1989 as NARCO acquired some of Avtex' customers, these indicators fell or remained stable during 1989-91. Capacity, production and capacity utilization all declined from 1989 to 1990. While capacity remained stable from 1990 to 1991, both production and capacity utilization fell further during this period.[29] Both the quantity and value of domestic shipments decreased steadily and dramatically during the period of investigation.[30]

The number of workers, hours worked, wages paid, and total compensation paid all decreased from 1989 to 1990 and further declined from 1990 to 1991. Unit labor costs increased during the period of investigation.[31]

Both the quantity and value of net sales decreased significantly during the period of investigation. The industry's levels of operating income as a percentage of net sales clearly indicate deterioration of the industry during the period of investigation.[32]

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[27] (...continued)
replacement of rayon yarn with other fibers in tires and automotive and appliance belts. Id. at A-9 - A-10.

[28] Id. at A-17.

[29] Id. at A-19 & Table 5.

[30] Id. at A-19; A-20, Table 6.

[31] Id. at A-20; A-21, Table 7.

[32] Id. at A-22, Table 9.

Contributing to the industry's profitability problems were increases in the costs of the basic raw materials used in the production of industrial rayon yarn.[33] Increases in the costs of wood pulp and caustic soda, two major raw materials used to produce industrial rayon yarn, significantly increased the cost of the product during the period of investigation.[34] Direct labor and factory overhead costs also increased.[35] Although petitioner's prices increased throughout the period of investigation, these increases were not enough to cover the cost of goods sold. Indeed, the gap between the per-pound price and cost of industrial rayon yarn widened throughout the period.[36] While total environmental operating costs as a percentage of total operating expenses increased during the period of investigation,[37] these costs are depreciated over time and thus the full impact of such costs does not immediately affect profitability.[38]

With respect to return on assets, the industrial rayon yarn operation showed a decline. In contrast, NARCO's other products yielded an increased return on total assets during the period of investigation. The industrial rayon yarn operation results clearly indicate deteriorating performance.[39] Data on capital expenditures were mixed, while research and development

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[33] Id. at A-21 - A-22, B-20 & Table D-1.

[34] Id. at B-20 & Table D-1.

[35] Id. at A-22.

[36] Id. at A-22, Table 9.

[37] The exact amounts applicable to the industrial yarn operations cannot be determined from the submitted data. Id. at A-22.

[38] Id. at A-23.

[39] Id. at A-23, Table 10.

expenses for industrial rayon yarn, which constituted a relatively minor portion of NARCO's overall expenditures, increased.[40]

In sum, the evidence in the record indicates a domestic industry whose performance has deteriorated sharply during a period of declining apparent consumption and increasing raw material costs. Chairman Newquist and Commissioner Rohr determine that the domestic industry is experiencing material injury.

III. Material Injury by Reason of LTFV Imports

In determining whether the domestic industry is materially injured by reason of the imports under investigation, the statute directs the Commission to consider:

> (I) the volume of imports of the merchandise which is the subject of the investigation;
>
> (II) the effect of imports of that merchandise on prices in the United States for like products, and
>
> (III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States.[41]

In making this determination, the Commission may consider "such other economic factors as are relevant to the determination."[42] Although we may consider information that indicates that injury to the industry is caused by factors other than the LTFV imports, we do not weigh causes.[43] The Commission need

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[40] Id. at A-23 - A-24, Tables 11 & 12.

[41] 19 U.S.C. § 1677(7)(B)(i).

[42] Id. § 1677(7)(B)(ii).

[43] See, e.g., Citrosuco Paulista S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988); see also S. Rep. No. 249, at 57; H.R. Rep. No.

(continued...)

not determine that imports are the principal, a substantial or a significant cause of material injury.[44] Rather, a finding that imports are a cause of material injury is sufficient.[45] We are particularly mindful of Congress' admonition that to weigh imports against other causes, such as contraction in demand or changes in patterns of consumption, developments in technology, and productivity of the domestic industry, "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."[46]

In evaluating the volume of imports of merchandise, the statute directs the Commission to consider "whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[47] During the period of investigation, the volume of the subject imports increased slightly in absolute terms. Relative to production or consumption in the United States, however, the volume of subject imports was very significant and greatly increased, both in terms of quantity and value. There was a

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[43] (...continued)
317, at 46-47.

[44] S. Rep. No. 249, at 57, 74.

[45] See Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741 (Ct. Int'l Trade 1989); Citrosuco Paulista S.A. v. United States, 704 F. Supp. at 1101; see also Iwatsu Electric Co. v. United States, 758 F. Supp. 1506, 1512 (Ct. Int'l Trade 1991); LMI-La Metalli Industriale, S.p.A. v. United States, 712 F. Supp. 959, 971 (Ct. Int'l Trade 1989), aff'd in part, rev'd in part on other grounds, 912 F.2d 455 (Fed. Cir. 1990).

[46] S. Rep. No. 249, at 75; accord H.R. Rep. No. 317, at 47.

[47] 19 U.S.C. § 1677(7)(C)(i).

corresponding loss of market share by the domestic industry.[48] Moreover, the substantial increase in the subject imports' share of domestic consumption occurred while the market for industrial rayon yarn shrank. Indeed, apparent domestic consumption decreased by more than the amount of the increase in German exports to the United States from 1989 to 1990, as well as from 1990 to 1991.[49]

With respect to prices, the prices reported by purchasers for domestic yarn and German yarn processed and sold by converters increased irregularly throughout the period of investigation, while the prices of imports sold directly to end users declined irregularly.[50] The record indicates mixed overselling and underselling for the subject merchandise, with a greater frequency of underselling in sales made directly to end users.[51] In eight of twelve quarters of prices reported by end users for their direct purchases from petitioner and respondents, the imports significantly undersold one type of domestic yarn. In four of the nine quarters for which comparative data are available, the imports also significantly undersold another type of domestic yarn. Thus, in more than half of the quarterly comparisons of direct sales to

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[48] Report at A-29 & Tables 14 & 15. Because the vast majority of Akzo's imports of the subject product were misclassified by its customs broker, the importer's questionnaire data are believed to be the most accurate and reliable source of information on the subject imports. Further, we note that the export data obtained from the German producer show that exports of industrial rayon yarn from Germany to the United States increased sharply from 1989 to 1990 and also increased from 1990 to 1991. Id. at A-28 & Table 13.

[49] Id. at A-17, Table 2.

[50] Id. at A-43 - A-47; A-44 - A-45, Tables 21-25.

[51] Id.

end users, the imports significantly undersold the domestic product.[52] We further note that these particular yarns represent a substantial portion of both sales of imports and of the domestic product.[53]

There is no dispute between the parties that some customers shifted their purchasing from the petitioner to the foreign producer during the period of investigation, although there is substantial disagreement as to the reasons for these shifts. The core of the parties' arguments reflects differences concerning the quality of the domestic and imported products and the degree of substitutability between Super 2 and Super 3 yarn.

We do not deny the importance of the quality of the product to end users in this market. Evidence in the record indicates that several customers cited the inferior quality of the petitioner's product as the reason for their discontinuing purchases of the product[54] and stated that the petitioner's product is qualified for fewer applications than is the importer's product.[55] Nevertheless, the record also indicates that some customers rated the domestic and imported yarns comparable in terms of quality.[56] One such customer specifically indicated that it had shifted its business to the importer after experiencing some delivery problems with NARCO. This customer had declined to shift back to NARCO not because of quality problems, however, but because

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[52] Id. at A-44, Table 24; A-45, Table 25.

[53] See id. at A-39 - A-40 & n.150; Post-Hearing Brief of Akzo Faser AG and Akzo Fibers Inc., App. at 7 (May 12, 1992); Posthearing Submission in Investigation No. 731-TA-530 (Final) by North American Rayon Corporation at 9 (May 12, 1992).

[54] See Report at A-34, A-35, A-38 - A-39.

[55] See id. at A-34, A-36, A-37.

[56] Id. at A-34, A-36.

NARCO had failed to offer a "competitive advantage."[57] Moreover, respondents' own testimony during the hearing confirms that NARCO and the importer compete at least in part on the basis of price and that customers will play one supplier off the other to obtain a lower price.[58] There also is evidence that, because of recent increased prices of the German product, respondent producer's announcement of its intention to cease production of Super 2 yarn and the desire to maintain alternative product sources, some customers have recently qualified NARCO's yarn for their use.[59] In short, although quality is undeniably an important factor in this market, it is not the only important factor in purchasers' decisionmaking.[60]

With respect to the differences between Super 2 and Super 3 yarn, although the evidence indicates that the products are not perfectly substitutable,[61] there is some degree of substitutability between them.[62] We are not convinced by respondents' arguments regarding the complete lack of

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[57] Id. at A-34.

[58] Tr. at 156-57 (purchasers "give guidance" as to competitive price levels), 176.

[59] Report at A-36, A-37.

[60] See 3.5" Microdisks and Media Therefor from Japan, Inv. No. 731-TA-389 (Final), USITC Pub. No. 2170 (March 1989), at 35-36 (footnotes omitted) ("The quality issue is a difficult one in this investigation. . . . [Q]uality is an important factor in OEM [original equipment manufacturer] purchase decisions. . . . Domestic product is qualified with fewer OEMs than is the imported Japanese product. . . . While we do not discount the effects of these factors on the domestic industry's condition, we do not believe that they account completely for the injury suffered by the domestic industry. We are prohibited from weighing causes, and cannot say that the injury to the domestic industry is solely by reason of factors other than LTFV imports.").

[61] Report at A-7 - A-8.

[62] See id. at A-37; Respondents' Prehearing Brief at 17; Petitioner's Prehearing Submission at 15-16 & n.13.

competition between its Super 3 and NARCO's Super 2 yarn.[63] First, we note that, in fact, NARCO's Super 2 and Akzo's Super 3 yarn were competing directly for some portion of the period of investigation.[64] Second, the pricing data indicate that the imported product does not command the premium price which one would expect from a "premium" product.[65] In fact, Super 3 yarn prices generally were lower than NARCO's prices for Super 2 yarn in direct sales to end users by producers.[66] Indeed, one purchaser cited Super 3 yarn's "more competitive pricing" as one of its superior characteristics when compared to NARCO's Super 2 yarn.[67] Further, although the information is confidential, we note the relative prices of Akzo's Super 2 and Super 3 yarns also support our finding that the import prices contributed to price suppression of the domestic product.[68]

With respect to the pricing comparisons, although the pricing data are not based on sales of identical products,[69] we think the pricing comparisons

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[63] Respondents maintain that the differences between Super 2 and Super 3 yarn are significant, that the market perceives the Super 3 product to be superior to the domestic product for certain applications and that NARCO's Super 2 yarn does not compete directly with Akzo's Super 3. Respondents' Prehearing Brief at 13.

[64] See Report at A-36 and a final confidential purchaser questionnaire response at 30 (customer purchased Super 3 from Akzo and Super 2 from NARCO for same application during period of investigation); Report at A-49.

[65] See id. at A-45 - A-46; A-44 - A-45 & Tables 21-25.

[66] Id.; id. at A-46, A-47.

[67] Id. at A-35.

[68] See id. at A-44, Tables 21-23.

[69] The prices for converters' sales are based upon sales of Super 3 yarn and Super 2 yarn with a slightly higher twist than that of NARCO's Super 2 yarn. See id. The prices of Akzo's direct sales to end users are based upon sales of Super 3 yarn, compared to NARCO's Super 2 yarn. See id. at A-44 - A-

(continued...)

are reliable and credible for purposes of our analysis, particularly the pricing comparisons for direct sales to end users. These prices constitute direct comparisons between NARCO and Akzo. Indeed, with respect to Table 25 of the Staff Report, those prices apply primarily to the same major customer.[70] The evidence in the record indicates that it purchased yarn from both producers for use in its tires during much of the period of investigation, and continued to purchase yarn from both producers for other applications throughout the entire period of investigation.[71]

With respect to overselling, we do not find persuasive the respondents' arguments that evidence of imports overselling the domestic product indicates imports were not causing material injury. Imports need not undersell the domestic product in order to have an adverse impact on domestic prices.[72] In that connection, when present, the margins of import overselling, which primarily exist with respect to sales by converters, are generally small.[73] Further, although petitioner's prices increased throughout the period of investigation, the price increases not only were insufficient to cover the increased cost of goods sold, but also were insufficient to prevent the complete disappearance of the domestic industry's profit margin from 1989 to

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[69] (...continued)
45, Tables 24-25. Further, there may be some differences between these companies' direct sales to end users in terms of packaging. See id. at A-6, Table 1.

[70] See final confidential purchaser questionnaire responses § VI; INV-P-094 (June 5, 1992).

[71] Report at A-49 & n.173.

[72] See 19 U.S.C. § 1677(7)(C)(ii)(II).

[73] Report at A-44 - A-45, Tables 21-25.

1990 with losses increasing even more from 1990 to 1991.[74] Given the dramatic increase in the imports' share of domestic consumption and the evidence of price competition in the industrial rayon yarn market, we believe that the subject imports contributed to price suppression in this market.

Respondents contend that any price suppression is due to the presence of competing substitute products, such as nylon, polyester, polyvinylalcohol, and aramid fibers, and to the general decline of the industrial rayon yarn industry.[75] [76] With respect to the first point, although some substitution of the aforementioned products for industrial rayon yarn occurred when Avtex shut down its operation, the record shows that substitution leveled out approximately five years ago and that significant new substitution is not likely to occur in the near term.[77] In addition, the qualification process to approve substitute products and re-design the end product to use a different reinforcing material is costly and time-consuming.[78]

As for the argument that the industrial rayon yarn industry is in a general state of decline, we note that Akzo was able to increase its customer base and its exports to the United States during a period of declining consumption in the industrial rayon yarn market.[79] Akzo accomplished this in part by increasing the amount of Super 3 yarn that it sells to the United

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[74] Id. at A-22, Table 9.

[75] Respondents' Posthearing Brief at 2.

[76] While aramids may be used in tire cord fabric, these yarns are much more costly than industrial rayon yarn or its other substitutes. Report at A-12.

[77] Id. & n.48.

[78] Id. at A-13 n.49.

[79] Id. at A-29 & Table 15.

States.[80] As previously noted, the allegedly superior Super 3 yarn undersold NARCO's Super 2 yarn.[81] Indeed, the relative movement of Super 3 prices sold directly to end users as compared to the movement of NARCO's Super 2 prices supports our determination that imports contributed to price suppression.[82] In light of these facts, we do not believe that the price suppression experienced by the domestic industry is accounted for entirely by substitute products and the decline in domestic consumption of rayon yarn.

Finally, respondents contend that any declines in import prices were due to pressure from U.S. customers, and not because respondents were competing with NARCO for sales.[83] Whatever respondents' motivations may have been for decreasing prices, the statute directs the Commission to look at the effects of those prices on domestic prices for the like product and on the domestic industry as a whole.[84] For the reasons discussed above, we find that there is material injury to the domestic industry by reason of LTFV imports of high-tenacity rayon filament yarn from Germany.

IV. Critical Circumstances

When Commerce makes an affirmative determination with respect to critical circumstances, the Commission is required to determine, for each domestic industry for which it makes an affirmative injury determination,

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[80] Id. at A-44, Table 24; A-45, Table 25.

[81] See text, supra at 17.

[82] Id.

[83] See Tr. at 156-57.

[84] 19 U.S.C. § 1677(7)(B)(i).

"whether retroactive imposition of antidumping duties on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time."[85] The Commission is to make an evaluation as to whether the effectiveness of the antidumping duty order would be materially impaired if retroactive duties were not imposed.[86]

The statute requires that the Commission consider the following factors in evaluating the effectiveness of the antidumping duty order absent the retroactive imposition of antidumping duties:

> (I) the condition of the domestic industry,
>
> (II) whether massive imports of the merchandise in a relatively short period of time can be accounted for by efforts to avoid potential imposition of antidumping duties,
>
> (III) whether foreign economic conditions led to the massive imports of the merchandise, and
>
> (IV) whether the impact of the massive imports of the merchandise is likely to continue for some period after issuance of the antidumping duty order under this part.[87]

In prior investigations involving critical circumstances findings, the Commission has examined various factors to aid in its determination. These include increased import prices, importers' inventories, the volume of the massive imports in relation to domestic demand and to historical import

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[85] Id. § 1673d(b)(4)(A)(i).

[86] Id. § 1673d(b)(4)(A)(ii).

[87] Id. § 1673d(b)(4)(A)(iii). Congress has further stated that the Commission should examine the injury suffered as a result of the dumped imports. In addition, efforts by exporters to unload massive excess supply on the domestic market when international prices are depressed constitute a means for transferral of economic hardship and may call for retroactive duties if they materially increase the extent of injury suffered by the domestic industry. H.R. Rep. No. 576, 100th Cong., 2d Sess. 611 (1988).

levels, the margin of underselling, and whether the retroactive imposition of duties would capture the months in which there was the greatest number of imports.[88] It is also appropriate to analyze any other factors which may affect the ability of the massive imports to postpone prompt and effective relief to the domestic industry.[89]

In this final investigation, Commerce has found that critical circumstances exist with respect to imports of high-tenacity rayon filament yarn from Germany.[90] Commerce found that the weighted-average margin was 24.58 percent.[91]

Based upon our evaluation of the relevant data, we determine that the record does not indicate that the massive imports will prolong the injury to the domestic industry or cause its recurrence. Although German end-of-period inventories increased in 1990, they fell to near 1989 levels in 1991. German inventories were lower than the domestic producer's inventories throughout the period of investigation.[92] There is evidence on the record that the increase in imports constituted a response to the immediate needs of respondents' customers and not a stockpiling of the merchandise to avoid the imposition of

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[88] Silicon Metal from Brazil, Inv. No. 731-TA-471 (Final), USITC Pub. 2404 (July 1991), at 17-19; Silicon Metal from the People's Republic of China, Inv. No. 731-TA-472 (Final), USITC Pub. 2385 (June 1991), at 31-32.

[89] Silicon Metal from Brazil at 18; Silicon Metal from the People's Republic of China at 31.

[90] Commerce's Final Determination at 21,771.

[91] Id. at 21,773.

[92] Report at A-26.

antidumping duties.[93] There is also evidence on the record that Akzo's quarterly inventory levels decreased overall from March 1991 to April 1992.[94]

Although the volume of imports of German industrial rayon yarn increased throughout the period of investigation, the increase from 1990 to 1991 was quite small.[95] During the same period, the percentage change in value was negligible.[96]

Finally, were duties to be imposed retroactively 90 days from the date of Commerce's preliminary determination,[97] the month in which there was the greatest amount of imports would not be captured.[98] Thus, retroactive imposition of duties would be of marginal value in preventing the recurrence of the material injury. Accordingly, we determine that the effectiveness of the antidumping duty order will not be materially impaired by declining to impose retroactive duties on German imports.

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[93] See Tr. at 117-19; Supplemental Brief of Akzo Faser AG and Akzo Fibers Inc. at 3 (May 20, 1992); Respondents' Posthearing Brief, App. at 22; Respondents' Prehearing Brief at 53-54.

[94] Respondents' Posthearing Brief, App. at 23.

[95] Report at A-29, Table 14.

[96] Id.

[97] See 19 U.S.C. § 1673b(e)(2). Commerce published its preliminary determination on February 20, 1992. Notice of Preliminary Determination of Sales at Less Than Fair Value: High-Tenacity Rayon Filament Yarn From Germany, 57 Fed. Reg. 6,088 (Feb. 20, 1992).

[98] See INV-P-094 (June 5, 1992).

CONCLUSION

Based upon our analysis of the evidence in this investigation and in light of the statutory factors, we conclude that the domestic industry is materially injured by reason of LTFV imports of high-tenacity rayon filament yarn from Germany.

DISSENTING VIEWS OF VICE CHAIRMAN WATSON, COMMISSIONERS BRUNSDALE AND CRAWFORD

High-Tenacity Rayon Filament Yarn from Germany
Inv. No. 731-TA-530 (Final)

We concur with our colleagues with respect to the discussion of the like product and the domestic industry. We determine, however, that the domestic industry is not materially injured, nor threatened with material injury, by reason of the subject imports from Germany. In reaching that conclusion, we find that the record clearly establishes that the petitioner's present predicament is wholly unrelated to the subject imports.

I. NO MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS

In making our determination under 19 U.S.C. §§ 1671b(a), 1671d(b), 1673b(a) and 1673d(b), the Commission is required to consider:

> (I) the volume of imports of the merchandise which is the subject of the investigation,
>
> (II) the effect of imports of that merchandise on prices in the United States for like product, and
>
> (III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States; and
>
> "may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports."[1]

A. VOLUME EFFECT

In determining whether there is material injury by reason of LTFV imports, the statute directs the Commission to consider "whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the

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[1] 19 U.S.C. § 1677(7)(B).

United States, is significant."[2] The record indicates that the volume of respondents' exports to the U.S. might have increased slightly or held steady during the period of investigation.[3] In view of the sudden shutdown of Avtex in late 1988 and the temporary shortage of domestically-produced industrial rayon that resulted in the U.S. market,[4] we do not find the relative increase in the volume of respondents' shipments to be significant. We also do not find the increase in respondent's market share during the period of investigation significant in light of Avtex's shutdown and the non-price factors as discussed below.

B. PRICE EFFECTS

In evaluating the effect of imports on prices, the Commission considers whether there has been significant price underselling of imports and whether the imports depress prices to a significant degree or prevent price increases which otherwise would have occurred, to a significant degree.[5] Price is almost always an important factor in purchasing decisions. However, it is value, that is relative prices, not absolute prices, that are more relevant in making purchasing decisions. The evidence in the record in this investigation indicates that quality and other non-price factors play a more important role than price in this market. All twelve known end users and both converters responded to the Commission's request for product information and purchase prices. It is significant that almost all purchasers stated they rank quality as the primary factor in choosing suppliers.[6] Several purchasers reported in their

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[2] 19 U.S.C. § 1677(7)(C)(i).

[3] Staff Report at A-28-29, table 13, 14. According to table 13, in percentage terms, respondent Akzo A.G.'s exports to the United States increased by *** from 1989 to 1990 and further rose by *** from 1990 to 1991. However, table 14 shows both the quantity and value of the subject imports remained essentially unchanged during the period of investigation. In actual fact, respondent's increased share in a declining market is largely a function of holding its own sales steady while Narco continually lost customers. Table 6. This fact cannot be masked by adjectives. (The difference between the tables is apparently due to a time lag in reporting.)

[4] *Id.* Respondents' U.S. inventories are believed to have been drawn down in late 1988 in response to Avtex's sudden shutdown. Increases in exports to the U.S. from 1989 to 1990 are partially explained by the need to rebuild inventories and supply former Avtex customers.

[5] 19 U.S.C. § 1677 (7)(C)(ii).

[6] Staff Report at A-32-33.

questionnaires that, even if prices of the German imports were to rise, they would not consider purchasing the domestic product.[7]

Price trends during the period of investigation do not lead to the conclusion that the imports caused price depression or suppression.[8] The statute requires us to look at whether there has been significant price underselling by the imported merchandise;[9] however, evidence of underselling should be viewed with an especially critical eye. Underselling may simply reflect differences in quality or terms of trade between two products. The price data do not support a finding of underselling as claimed by petitioner. The price data presented in tables 21-23 of the Staff Report indicate significant overselling by the imports, even after rebates to end users are taken into account. The price data presented in tables 24-25 of the report are of limited value and are misleading in determining whether there has been underselling or overselling. The information presented in tables 24-25 is of limited usefulness in making price comparisons because those tables compare prices for a domestic product processed to customer specifications with prices of an unconverted product. We note that the end users responding to the pricing data contained in tables 24-25 are primarily tire manufacturers which must further process the imported product before use. If appropriate price adjustments are made to reflect the value of additional processing by the end use customers, tables 24-25 would reflect overselling by the subject imports.

In reaching our conclusion we have also looked at relevant non-price factors as they affect the relative value of the domestic product and the subject imports. The record provides persuasive evidence that petitioner's limited product line, poor quality and poor service record

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[7] Staff Report at A-33. Purchasers were requested to indicate how much higher the price for the German product would have to be before purchasing the domestic product. Seven of the twelve purchasers answered that question. *** and *** reported that the price of the German product would have to increase by ***, respectively. *** also noted that the quality of petitioner's product would first have to improve before it would consider purchasing the domestic product. Five other firms reported that price was not a consideration unless quality was first met or that price increases would most likely lead them to turn to other non-rayon fibers.

[8] Staff Report at A-39-47, See tables 16-25. Price trends indicate that prices have *** during the period of investigation. We note that purchase prices reported by large end users indicate that prices for domestic yarn products *** while import prices for comparable products *** during the same period. Similarly, prices reported by producers and importers indicate that domestic prices *** while import prices ***.

[9] 19 U.S.C. § 1677(7)(C)(ii)(I).

have disqualified it from a major portion of the industrial rayon market. Virtually all purchasers and converters cited service problems and quality deficiencies with petitioner's yarn or reported that petitioner's yarn did not meet their product specifications. All four of the largest purchasers of industrial rayon in the U.S. market reported that they had significant quality problems with petitioner's product. Furthermore, four purchasers indicated that following successful qualifications of NARCO's product they experienced subsequent delays, inconsistent quality and/or an inability to meet production requirements resulting in supply disruptions by NARCO. Even purchasers that reported buying some product from petitioner reported that the German yarn was of a higher quality.[10]

The evidence suggests that the quality of the German product as a whole is superior to the petitioner's product. Moreover, there are significant differences between Respondents' higher quality product (Super 3) and petitioner's products. The record abounds with evidence that the higher strength of Super 3[11] has factored into purchasers' and converters' purchasing decisions.[12] Nevertheless, petitioner does not produce, and apparently has not made any recent attempts to produce, a product comparable to Respondent's Super 3. It is thus reasonable to conclude that petitioner has no interest in competing in a large part of the domestic market. From the purchasers' perspective, Super 3's higher strength and higher degree of shrinkage substantially reduces the substitutability of Super 2 and Super 3 for most end users. Coupled with the significant quality and service problems experienced by purchasers in using the domestically-produced Super 2 product, we conclude that the domestically produced Super 2 is not a reliable substitute for Super 3. We note that approximately two-thirds of the product that Respondents import is Super 3. If, as we conclude, Super 2 cannot be substituted for Super 3 in most applications using Super 3, then it follows that petitioner has voluntarily

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[10] Staff Report at A-37. ***. In addition, several purchasers indicated possible product liability problems with using an inferior source of industrial rayon yarn in their downstream product.

[11] Staff Report at A-7. While petitioner contends that Super 2 and Super 3 are interchangeable, it acknowledges that Super 3 is about 10 percent stronger than Super 2. Respondents claim, however, that Super 3 is at least 13 percent stronger than Super 2.

[12] Staff Report at A-34-37, and A-39. See comments of ***.

disqualified itself from the lion's share of the market. It is also clear that petitioner's product is not losing sales as a result of pricing factors.

C. IMPACT ON THE AFFECTED DOMESTIC INDUSTRY

Finally, the statute directs the Commission to examine the impact of the subject imports on the domestic industry. The statute requires that we consider this impact in light of certain relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[13]

We note that the petitioner is the only current domestic producer of industrial rayon filament yarn. As a result, much of the record before us is comprised of business proprietary information and can only be discussed in general terms.

The past twenty years have seen a sharp worldwide decline in all major end uses of industrial rayon in favor of other synthetic fibers such as polyester, nylon and aramid.[14] This trend is decidedly more pronounced in the U.S. than in Europe.[15] Industrial rayon has been used primarily in the U.S. to reinforce rubber products such as tires and automotive and industrial hoses. Until the 1970s when rayon was largely replaced by other materials in the U.S. automotive market, industrial rayon was the primary fiber used for tire reinforcement in the U.S. Currently, however, demand for rayon-reinforced tires has substantially diminished in the U.S.[16] Other end uses of industrial rayon are disappearing as well. For example, in the 1970s rayon held an estimated 45 to 50 percent of the overall belt-reinforcing market. Today rayon holds only a 4 percent share of this market.[17]

During the period of investigation the general industry decline described above has been exacerbated by a cyclical downturn due to the recession in the durable goods sector of the

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[13] 19 U.S.C. § 1677 (7)(C)(iii).

[14] Staff Report at A-9, Respondents' Prehearing Brief, exhibit 1.

[15] Staff Report at A-9.

[16] Staff Report at A-9. Because rayon performs well as a rubber reinforcing material at high speeds it continues to maintain well above 50% of the passenger tire cord market in Europe where there tend to be higher speed limits.

[17] Respondents' Postconference Brief, exhibit 5.

economy, specifically the automotive, farm and construction sectors of the economy. These sectors are the primary purchasers of industrial rayon yarn. Data collected by the staff indicates that U.S. shipments and consumption of industrial rayon yarn decreased substantially during the period of investigation.[18] Public data indicate that rayon has declined from 1.4 percent of the U.S. tire cord market in 1988 to 0.4 percent in 1991.[19] Nine purchasers indicated in their questionnaire responses that performance, price and availability factors have accelerated the substitution of polyester, nylon, PVA and aramid fibers for industrial rayon yarn. Several purchasers stated that Akzo's decision to close its Super 2 plant in Oberbruch has accelerated their decision to find suitable non-rayon fiber substitutes.

The remaining U.S. market in industrial rayon yarn is also beginning to see increasing competition from Cydsa, a Mexican company, and from other non-subject foreign producers. The record contains evidence that some end users are either purchasing or considering the purchase of imported yarn from countries other than Germany.[20]

We also have noted that just prior to the beginning of the period of this investigation, Avtex, a major producer of industrial rayon yarn, was forced by Virginia to shut down after failing to meet pollution-control standards.[21] Avtex gave little warning that it was leaving the market and the effect on the market was paramount. Petitioner indicated that it encountered quality and production problems as it rushed to fill the gaps in the market.[22] To some degree, the demise of Avtex and petitioner's inability to fill the resultant gaps left in the market has also motivated end-users of industrial rayon yarn to begin examining substitute products with renewed vigor.

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[18] Staff Report at A-17, Table 2.

[19] Staff Report at A-17.

[20] Staff Report at A-36, Respondent's Confidential Prehearing Brief at 34. For example, *** has begun importing Mexican industrial rayon yarn from Cydsa even though *** than Narco's price for a similar product during the period of investigation; A-39, *** has been importing industrial rayon yarn from yet another country.

[21] Staff Report at A-15 and A-16.

[22] Official Transcript of Proceedings at 44.

We note generally that many of the relevant indicators show a decline in the health of the domestic industry during the period of investigation.[23] We also note that the production of industrial rayon yarn is only a small part of petitioner's business.[24] The record indicates that petitioner's related textile rayon operations have helped to cushion the effects of the decline in its industrial rayon operations.[25]

The distinctive conditions of competition in this industry include the general downward trend in consumption caused by the development of new fiber technology overlaid by the cyclical downturn in certain sectors of the economy, and the unusual market conditions that resulted when Avtex ceased production of industrial rayon yarn in late 1988.

The record contains clear evidence that the petitioner was not prepared to meet the increased demand resulting from Avtex's closing. Petitioner acknowledged that it had trouble putting its mothballed manufacturing lines in service.[26] At the public hearing, a representative of petitioner stated in regard to comments of one of its customers: "Much of their comments and opinions of us, came from our inability to provide them with the quantity and consistent quality of yarns when they needed it."[27] In previous investigations where the domestic industry was unqualified to supply customers or produced a product that was inferior to the imports, the Commission has found an absence of head-to-head price competition and, accordingly, no price suppression or depression.[28] We find the present case to be similar. Moreover, the evidence

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[23] Staff Report at A-19-24. Capacity, production and capacity utilization *** from 1989 to 1990. The quantity and value of shipments decreased as did the number of workers, hours worked, wages paid and total compensation. Petitioner's industrial rayon yarn operations show *** throughout the period of investigation. We have noted, however, that hourly wages and hourly total compensation all increased during the period of investigation. We have also noted that petitioner's net sales were relatively high in 1989 presumably as a result of additional customers served after Avtex's shutdown in late 1988. Also of interest is the fact that cost of goods sold, environmental operating costs and capital expenditures have risen substantially throughout the period of investigation. Moreover, export shipments, total assets and *** have increased overall during the period of investigation.

[24] Official Transcript of Proceedings at 8.

[25] ***.

[26] Public version of Petitioner's Prehearing Submission at 24.

[27] Official Transcript of Proceedings at 33.

[28] See *Pressure-Sensitive PVC Battery Covers from West Germany*, Inv. No. 731-TA-452 (Preliminary), USITC Pub. 2265 (March 1990); *Copier Toner from Japan*, Inv. No. 731-TA-373 (Preliminary), USITC Pub. 1960 (March 1987).

in the record indicates that even if prices of the imports were to rise substantially, purchasers would be unlikely to turn toward the domestic product. Similarly, any rise in prices by the domestic producer would most likely lead purchasers to shift to substitute non-rayon products. We note that substitutes for high-tenacity industrial rayon yarn are available in each end use application but no one substitute can serve all applications due to the combination of properties available in rayon yarn. We do not find that the nonexistence of a universal substitute for all applications in any way limits our conclusion that industrial rayon yarn faces significant, real and direct competition with non-rayon fiber substitutes. We also note that the majority of the purchasers of the petitioner's product reported in their questionnaire responses that they were in the process of developing suitable replacement fibers for industrial rayon. Finally, some of the largest purchasers of industrial rayon have the requisite market power to exert some control over prices.[29]

The weighted average dumping margin as calculated by Commerce is 24.58 percent. As discussed above, non-price factors had a significant influence on purchasing decisions apart from the dumping. Based on our analysis of those non-price factors, we conclude that the state of the domestic industry would not have been different even if the subject imports had been fairly traded, and find, therefore, a lack of causal nexus between the performance of the industry and the dumped imports.

II. NO THREAT OF MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS

We further determine that there is no threat of material injury by reason of LTFV imports from Germany. Our application of the statutory threat criteria[30] to the facts of this case requires such a result. A key fact is that Akzo has publicly announced that it will be closing one of its two industrial rayon plants in Germany by the end of 1992. The plant that is closing

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[29] The largest purchaser of industrial rayon yarn significantly increased the volume of its purchases from Akzo during the period of investigation. We do not find it unusual, therefore, that the purchase price for the imports sold to this buyer *** during that period. Staff report at A-37. We also note that ***. Staff report at A-38.

[30] 19 U.S.C. § 1677 (7)(F).

produces Super 2 yarn, the product most likely to compete directly with the domestic yarn.[31] We have also looked at whether shipments of the subject imports are projected to increase or decline in subsequent years, and the relative importance of the U.S. market to Akzo's industrial rayon operations.[32]

III. CONCLUSION

Based on our overall analysis of the record, the volume of the subject imports, the effect of the subject imports on domestic prices and the impact of subject imports on domestic producers, we conclude that there is no material injury or threat of material injury to a U.S. industry by reason of LTFV imports of industrial rayon yarn from Germany.

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[31] ***.

[32] *Id.* ***.

INFORMATION OBTAINED IN THE INVESTIGATION

INTRODUCTION

Following a preliminary determination by the U.S. Department of Commerce that imports of high-tenacity rayon filament yarn[1] from Germany are being, or are likely to be, sold in the United States at less than fair value (LTFV) (57 F.R. 6088, February 20, 1992), the U.S. International Trade Commission, effective February 20, 1992, instituted investigation No. 731-TA-530 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. In a parallel investigation, Commerce determined on February 20, 1992, that there were no imports of the subject product from the Netherlands (57 F.R. 6091) and, pursuant to a request by the petitioner to withdraw its petition with regard to the Netherlands, subsequently terminated its investigation on April 2, 1992 (57 F.R. 11291).

Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was posted in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and published in the Federal Register on March 25, 1992 (57 F.R. 10368).[2] The hearing was held in Washington, DC, on May 1, 1992.[3]

Commerce's final LTFV determination was published in the Federal Register on May 22, 1992 (57 F.R. 21770). The applicable statute directs that the Commission make its final injury determination before 45 days following the final determination by Commerce. The administrative deadline for the Commission's final determination in this investigation is June 18, 1992.

BACKGROUND

This investigation results from a petition filed on September 6, 1991, by North American Rayon Corp. (NARCO), Elizabethton, TN, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of high-tenacity rayon filament yarn from Germany and the Netherlands. In response to that petition the Commission instituted investigations Nos. 731-TA-530 and 531 (Preliminary) under section 733 of the Tariff Act of 1930 (19 U.S.C § 1673b(a)) and, on October 21, 1991, determined that there was a reasonable indication of such material injury.

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[1] The imported product subject to this investigation is a multifilament single yarn of viscose rayon with a twist of 5 turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tex. This yarn is currently classifiable under item 5403.10.30.40 of the Harmonized Tariff Schedule of the United States (HTS).

[2] Copies of cited Federal Register notices are presented in app. A.

[3] A list of witnesses who appeared at the Commission's hearing is presented in app. B.

PREVIOUS INVESTIGATION ON INDUSTRIAL RAYON YARN

Industrial rayon yarn has been the subject of one previous investigation by the Commission, No. TEA-W-115, conducted under section 301(c)(2) of the Trade Expansion Act of 1962. In 1971, the United Textile Workers of America (AFL-CIO) petitioned the Commission to determine the eligibility of certain workers to apply for adjustment assistance. The workers were the former employees of the Childersburg, AL, plant of Beaunit Fibers Division of Beaunit Corp. (Beaunit), which had produced primarily industrial rayon yarn and also some textile rayon yarn. The Commission determined that articles like and directly competitive with these yarns were not, as a result, in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of those workers.[4]

THE PRODUCT

High-tenacity rayon filament yarn, also known as industrial rayon yarn, is distinguished from other rayon yarns, and from industrial yarns of other materials, by its properties, its method of production, and its end uses.

Rayon is an artificial fiber composed of regenerated cellulose, or wood pulp. Rayon yarn can be produced from either filaments or staple fibers; industrial rayon yarn is a filament yarn.[5]

The tenacity, or breaking strength, of rayon yarn is expressed as a ratio of breaking point to thickness, usually in grams per denier.[6,7] A higher tenacity corresponds to a stronger yarn. Tenacity is determined by both the chemical composition of the yarn and by the production process. There are three commonly recognized tenacity ranges for rayon filament yarns: normal or regular, medium, and high.[8] High-tenacity (industrial) rayon yarn is defined by the petitioner as having a tenacity greater than 4.0 grams per denier.

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[4] U.S. Tariff Commission, Viscose Rayon Yarns Wholly of Continuous Fibers: Workers of Childersburg Plant of Beaunit Corporation (inv. No. TEA-W-115), TC publication 435 (November 1971).

[5] A filament is a continuous strand of fiber. Filament yarns consist of multiple filaments twisted together. Staple fiber yarn is made up of a bundle of fibers that have been cut to specific lengths, usually 1 to 3 inches, depending on the end use.

[6] Denier is a measure of the thickness of yarn expressed as the weight in grams of 9,000 meters of fiber. Thickness may also be expressed in terms of decitex, which is the weight in grams of 10,000 meters of yarn.

[7] The HTS expresses tenacity in terms of centinewtons per tex. See note 6 to sec. XI of the HTS. A centinewton is a unit of force capable of accelerating a 10-gram mass at 1 meter per second.

[8] NARCO produces yarn of *** tenacities.

Industrial rayon yarn is primarily used in the automobile market to reinforce rubber products such as hoses, belts, and tires. A detailed description of uses and substitute products is presented in the section of this report entitled "Product Uses, Substitutability, and Trends in the World Market." Most applications of industrial rayon yarn require at least a "Super 2" yarn, which has a tenacity of approximately 5.0 grams per denier. (See the section entitled "Super 2 and Super 3 Industrial Rayon Yarn".)

Industrial rayon yarn ranges in thickness from 1100 to 4400 denier. In the United States, other rayon filament yarns are produced in thicknesses up to only *** denier.[9] As shown in table 1, the most common industrial rayon yarn sold in the United States have deniers of 1650 or 2200, both for the imported and the domestically-manufactured products. The most common form of packaging is in tubes.

Production Process

The basic production steps described here apply not only to industrial yarn production but also to textile and carbonized filament yarn production and somewhat to staple fiber production. However, the grade and type of wood pulp, the type and strength of chemicals, the length of aging periods, and the extrusion and drawing processes all vary depending on the yarn type. Rayon yarn properties such as tenacity, denier, acceptance of finishes, and dyeability are determined by variations in inputs and in the production process. Theoretically, up to the extrusion stage, production equipment can be converted to industrial, carbonized, or textile rayon yarn production.

All rayon yarn production in the United States is accomplished through the viscose method. In this process, sheets of specially processed wood pulp[10] are steeped in caustic soda, shredded, and then treated with carbon disulfate. The resulting orange-colored crumbs, called xanthate crumb, are dissolved in a dilute caustic soda solution, producing a thick, honey-colored liquid (viscose). After aging and filtering, the viscose solution is forced through the tiny holes of spinnerets into a dilute sulfuric acid bath,[11] where it solidifies ("regenerates") into continuous filament fiber. This particular process of extrusion and regeneration is referred to as "wet spinning."[12]

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[9] Conversation with NARCO officials, Sept. 23, 1991.

[10] Industrial rayon is made from pulp with a high-alpha cellulose, while textile rayon yarn is made from lower alpha cellulose pulp. High-alpha cellulose is the highest quality grade of chemically produced wood pulp available.

[11] Textile yarn is spun into a bath of a different chemical solution.

[12] The rayon staple fiber production process can be described similarly up to this stage.

Table 1
Single industrial rayon yarn: U.S. shipments of the domestic and imported product, by denier, packaging, and type of product, 1991

Product or packaging type	NARCO's estimated shipments-- Quantity (1,000 lbs.)	Value ($1,000)	Akzo's estimated shipments-- Quantity (1,000 lbs.)	Value ($1,000)
*	*	*	*	*	*	*

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

As the rayon filament emerges from the spinneret, it passes around a series of wheels and through a series of baths that stretch and wash the strands. This "drawing" process causes the molecules in the fiber to arrange themselves into a more orderly pattern. As the pattern of the molecular arrangement becomes better oriented, the strength increases and the fiber's ability to stretch without breaking decreases. A wide range of strength-stretch combinations may be produced at this stage of production. In the drawing stage, the machinery used for the production of industrial rayon yarn is designed specifically for the production of a yarn of great strength and little stretch. Textile yarn cannot be drawn on this same equipment.[13]

Additional treatments may be applied to the yarn depending on customer specifications. NARCO has the capacity to apply resorcinol formaldehyde latex (RFL) and isocyanate finishes on its industrial yarns.[14] Currently, the subject imports are without any finish other than a spin finish. The imported product is further treated, if necessary, by a converter.[15] Some end users, especially larger ones such as the major tire manufacturers, have the capacity to further treat and ply or cable the yarn in their own facilities.

Industrial rayon yarn is wound and shipped to the customer in one of four forms: on cones, tubes, beams, or as waste. Domestically produced yarn is shipped in *** forms,[16] depending on the customer preference. It either is sold on tubes containing *** pounds of yarn, on cones holding about 7 pounds of yarn, on beams with 1,500 pounds of yarn, or as waste. The tubes vary in size depending on customer specifications. The imported yarn, in contrast, is

[13] ***.

[14] These finishes help the yarn adhere better to rubber. Such finishes are never used on textile rayon yarns. Likewise, textile and carbonized finishes are never used on industrial yarn.

[15] Converters specialize in finishing (or coating), rewinding, and repackaging yarn to customer specifications. The only converters of industrial rayon yarn in the United States are Beaver Manufacturing Company (Beaver) and Bibb Manufacturing Company (Bibb), both of which are located in the Atlanta, GA, area.

[16] Questionnaire response, final investigation.

typically shipped in 10-pound packages. Converters often rewind the imported yarn on tubes, cones, or beams according to customer specifications.

Commission staff inquired as to whether NARCO, the sole domestic manufacturer of the subject product, produces items other than high-tenacity rayon filament yarn on the same equipment and machinery used in the production of high-tenacity rayon filament yarn. ***.[17]

NARCO further reported that ***.[18]

Single, Plied, and Cabled Industrial Rayon Yarn[19]

While single yarn is yarn with single ends, plied yarn has two or more single ends that have been plied together. Cabled yarn has two or more plied ends that have been cabled.

NARCO reports that *** of its industrial rayon yarn is ***. In 1991, single yarn accounted for *** percent of the company's production of industrial rayon yarn and *** percent of its shipments, by quantity.[20] The remaining yarn manufactured by NARCO is ***; the company produces *** ~~cabled yarn~~.

Akzo American imports only single yarn from Germany. Imports of single industrial rayon yarn also include purchases by *** from ***; by *** from ***; and by *** in 1990 from ***. *** imported *** industrial rayon yarn from Akzo, the Netherlands.

Super 2 and Super 3[21] Industrial Rayon Yarn

Both U.S. and foreign producers sell the subject "Super 2" industrial rayon yarn. However, only the importer sells "Super 3" industrial rayon yarn in the U.S. market and about two-thirds of the imported product is of the "Super 3" type. In its final questionnaire response, Akzo, the only importer of the subject product, detailed the differences between the two types of products and operations as follows:

* * * * * * * [22]

Petitioner NARCO agrees with the respondent that the difference between Super 2 and Super 3 is yarn strength and assesses Super 3 to be about 10 percent stronger than Super 2. NARCO further reports that Super 3 ***. However, Commission staff found considerable evidence to the contrary, based

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[17] Conversation with NARCO officials, Sept. 23, 1991, and fieldwork of Mar. 19, 1992.

[18] NARCO's final questionnaire response.

[19] As noted in footnote 1, only imports of "single" yarn are subject to this investigation.

[20] NARCO's final questionnaire response.

[21] "Super 1" was in use in the 1970s.

[22] Akzo's final questionnaire response.

on conversations with *** purchasers of Super 3, who indicated the need for stronger yarn in many applications.

NARCO also reported ***.[23] *** purchasers detailed for Commission staff the various applications for which they consider stronger yarn essential. (See section entitled "Company Profiles.")

THE WORLD INDUSTRY

Worldwide production of high-tenacity industrial rayon yarn amounted to 553 million pounds in 1988.[24] Eastern Europe, including the former Soviet Union, has the largest production and producing capacity of high-tenacity industrial rayon yarn of any world region, followed by Western Europe. In 1988, the Soviet Union alone accounted for nearly half the world's production, while Western Europe accounted for some 30 percent.

Akzo N.V. is among the largest producers of industrial rayon yarn in the world, with a reported 1991 production capacity of approximately 58,000 metric tons (mt) (127.9 million pounds).[25] Akzo N.V. is a multinational firm headquartered in the Netherlands with five divisions operating in 50 countries. Its principal products include salt and chemicals, fibers and polymers, coatings, and healthcare products. One subsidiary, Akzo Fibers B.V. (Akzo B.V.), produces industrial rayon yarn in Arnhem and Ede, the Netherlands; another, Akzo Faser A.G. (Akzo A.G.), produces the subject product in Oberbruch and Obernburg, Germany; a third, Akzo Fibers, Inc. (Akzo), is the U.S. importer. Akzo N.V. is the only producer of industrial rayon yarn both in Germany and the Netherlands.[26]

Other major European producers include Glanzstoff, an Austrian firm, and Sicrem, an Italian company, with estimated production capacities of 9,000 mt (19.8 million pounds) each in 1991.[27] The petitioner has estimated annual consumption in Europe at 64,700 mt (142.6 million pounds),[28] over *** times the size of the U.S. market. France, with its Michelin tire production facilities, is the largest industrial rayon yarn-consuming nation.

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[23] Fieldwork at NARCO, Mar. 19, 1992.

[24] Fiber Organon, July 1991.

[25] Conference transcript, pp. 67-68.

[26] In response to a Commission request, the U.S. Embassy in Bonn identified two other German firms as producers of the subject product. The source of this information was a German textiles association. Counsel for respondents provided a response from the German Association of Chemical Fibers reasserting that Akzo A.G. is the only German producer of the subject product. (Attachment to letter from Tom Schaumberg to Commission staff, dated Oct. 3, 1991.)

[27] Petition, ex. 6.

[28] Ibid.

PRODUCT USES, SUBSTITUTABILITY, AND TRENDS IN THE WORLD MARKET

Technological Advances

Although research and development in product performance are ongoing, the production processes and basic technology for producing rayon yarn are well established and have remained largely unchanged for decades. Industry sources regard as technologically current the 1963 Handbook of Industrial Textiles, a reference book detailing the production of high-tenacity industrial rayon yarn. In addition, the primary end uses of the subject product that apply today--tires, hoses and belts--are precisely those described in this industry manual of 30 years ago, although in many cases substitute products are edging it out of these markets.

Production techniques, technology, and use of raw materials are similar worldwide.

Trends in Product Demand

The past 20 years have seen a sharp decline in all major end uses of industrial rayon yarn in favor of polyester, nylon, and other synthetics. Although this is a worldwide trend, it is more pronounced in the United States than in Europe and, generally speaking, than in other world regions.

Major Applications

Currently the automotive sector is by far the largest end-use market for industrial rayon yarn. Industrial rayon yarn primarily is used to reinforce rubber products such as tires and automotive and industrial hoses and belts. Industrial rayon yarn imparts such properties as strength and resistance to heat, abrasion, shrinkage, and stretching. The yarn is usually plied with either rubber or plastics materials to manufacture the end product.

Rayon's chemical resistance and high-temperature stability make it a particularly effective reinforcement material in automotive brake hoses and radiator coolant hoses. In 1990, rayon accounted for an estimated 28 percent of total automotive and industrial hose reinforcement materials.[29]

The second largest use of industrial rayon yarn is in the production of tire cord fabric,[30] which is used to reinforce pneumatic tires. Until the 1970s when rayon was largely replaced by other materials in the U.S. passenger car market, rayon was the primary fiber used for tire reinforcement in the United States. U.S. companies such as Avtex reportedly were forced to shut

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[29] Respondent's postconference brief, ex. 5. This share is down from 30 percent in 1980.

[30] Tire cord fabric is a loosely woven fabric consisting of heavy cords in the warp (lengthwise) and much lighter weight (often cotton) yarns in the filling (crosswise).

down plants in the 1970s at least in part because of this sharply reduced demand.[31] ***.[32]

Rayon tire cord continues to be used in tires that undergo extreme punishment such as heavy-duty equipment tires, tractor tires, motorcycle tires, and airplane tires. Rayon also is used in high performance tires.[33]

The world trend is toward replacing rayon with polyester in tires. Yet while demand for rayon-reinforced tires has virtually disappeared in the United States, rayon continues to be a common tire cord material in the European market. Highways with no speed limits or with speed limits substantially above 55 miles per hour require a higher performance tire. Rayon performs especially well as a rubber-reinforcing material at high speeds and at the resultant higher temperatures. Despite increasing use of polyester and nylon, rayon maintains well above 50 percent of the passenger tire cord market in Europe, where there tend to be higher speed limits.

A third application is in reinforcing automotive and appliance belts. Rayon is particularly effective in strengthening V-belts and timing belts because it has a dimensional stability that resists deformation by stretching. Belts that require more flexibility cannot use rayon. In the 1970s rayon held an estimated 45 to 50 percent of the overall belt-reinforcing market.[34] Again, however, rayon has been almost entirely replaced by polyester and nylon-type products. Today rayon holds only a 4 percent share of this market.[35]

Some minor end uses of industrial rayon yarn are thread for shoes and strapping.

General Trends

Commission staff asked both petitioner and respondent to assess fluctuations in demand of industrial rayon yarn and to address the effects of any changes on the firms' ability to compete:

The petitioner wrote the following in its final questionnaire response:

* * * * * * *[36]

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[31] Fieldwork at NARCO, Mar. 19, 1992.

[32] Fieldwork at NARCO, Mar. 19, 1992.

[33] "High-performance" tires are defined as those designed for extended use at speeds in excess of 100 miles per hour. Rayon tire cord is used both in racing car tires and in European passenger car tires.

[34] ***.

[35] Respondent's postconference brief, ex. 5. This share is up from 3 percent in 1980.

[36] ***.

In response to the same question, Akzo wrote:

* * * * * * *[37]

Product Substitutability

Since commercial production of rayon in the United States began in 1910, other products have been developed that substitute for industrial rayon yarn in certain applications. An important feature in the development of fiber consumption is the rising importance of synthetics over cellulosics, production of which has fallen. Worldwide production of cellulosic filament yarn dropped by 35 percent from 1970 to 1990, from 3.1 billion pounds in 1970 to 2.0 billion pounds in 1990. Production of synthetic filament yarn increased by 176 percent during the same period, from 5.6 billion pounds in 1970 to 15.4 billion pounds in 1990.[38]

The increasing preference for synthetics over cellulosics is due to the fact that synthetics allow a more sophisticated mix of properties than can be achieved with wood-based cellulosics.[39] In some regions, notably the former Soviet Union and eastern Europe, cellulosics are still important although technological development has fallen behind.[40]

Substitutes for rayon are available in each of its industrial applications, but no one substitute can be used in all applications because rayon has a combination of properties that is not available in any other single product.

Substitute Products

Substitutes discussed here include nylon, polyester, polyvinylalcohol (PVA), and aramid fibers.

Both industrial polyester and nylon yarns are substitutes for industrial rayon in specific applications.[41] Industrial polyester and nylon yarns can be produced with higher tenacities than industrial rayon yarn. However, nylon and polyester do not have the high modulus (resistance to deformation by stretching) characteristic that rayon does, which is important in tires that take a lot of punishment and in industrial belting that must retain its shape. Advances have been made in the development of a high-modulus, low-shrinkage (HMLS) polyester yarn, also referred to in the industry as dimensionally stable polyester, or DSP. HMLS polyester yarn is a close substitute for industrial rayon yarn in certain applications such as tires. In the case of high-performance tires, rayon still remains a primary reinforcement material because of its high thermal stability. (Rayon does not melt, as do polyester and nylon.)

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[37] Akzo's final questionnaire response.
[38] Textile Organon, June 1972 and Fiber Organon, July 1991.
[39] "Industry and Development." In Unido, 1989, p. 236.
[40] Ibid, p. 237.
[41] The petitioner specified that ***.

Industry sources have indicated that prices of HMLS industrial rayon yarn range from *** per pound, and those for industrial nylon yarn from *** per pound, compared with industrial rayon yarn typically priced *** per pound.[42] Aramids, which do not melt and are "ultra" high-modulus, have also been used in tire cord fabric. These yarns, however, are priced many times higher than industrial rayon yarn or any of its other substitutes.

In hoses, such as automotive brake hoses and radiator coolant hoses, industrial rayon yarn is preferred because of its chemical resistance, high-temperature stability, and high modulus, which improves the bursting pressure of the hose. Polyvinylalcohol may also be used in these types of hoses because it also has a high resistance to chemicals, unlike synthetic fibers such as polyester or nylon.[43]

Industry sources report that HMLS polyester yarn, reported to be technically superior and more cost effective, is replacing industrial rayon fiber for tire manufacture in the United States. ***.[44]

Considerations in the Use of Substitute Products

Commission staff asked both petitioner and respondent to address the practical issues involved in substituting products such as nylon and polyester for industrial rayon yarn.

NARCO identified these substitute products: ***.[45]

Akzo wrote the following:

* * * * * * *[46]

An Akzo official testified that some substitution of industrial rayon yarn by other materials occurred in the United States when Avtex shut down, causing a supply shortage that forced many end users to seek alternative reinforcement materials.[47] Other industry sources have indicated that substitution of other materials for rayon leveled out about 5 years ago.[48]

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[42] Telephone conversation with ***, Sept. 18, 1991. Also, ***. See also conference transcript, p. 70.

[43] PVA is not produced in the United States. According to industry sources PVA is imported into the United States mainly from Japan.

[44] Staff conversation with ***.

[45] NARCO's final questionnaire response.

[46] Akzo's questionnaire response.

[47] Conference transcript, p. 71.

[48] Conversation with ***, Sept. 18, 1991. ***. (Conversation with company officials, Sept. 20, 1991.) Although other products are constantly being developed and improved to meet new end-use requirements, *** estimated that further significant substitution for industrial rayon yarn is another 5 years away.

Substitutability may be retarded by the time and cost required both to redesign products using a different reinforcing material and to qualify the material of a specific supplier. Representatives of the Goodyear Tire & Rubber Co. (Goodyear) estimated qualification alone to take up to 2 years and to be "quite expensive."[49]

Substitutability of the Domestic and Imported Products

Respondents assert that the domestic and imported products are not perfect substitutes because of certain strength and quality advantages of the latter. Reportedly, in 1991, *** percent of the imported product was "Super 3" yarn, which is somewhat stronger than the domestic "Super 2" yarn.[50] [51] Also, purchasers reported both at the hearing[52] and in numerous staff conversations that Super 3 has greater strength than Super 2. Purchasers have further testified that quality problems, product liability concerns, and difficulties in obtaining timely shipments forced them to increase dependence on the subject imports.[53]

In response, the petitioner maintains that its "Super 2" yarn competes head-to-head with the imported "Super 2" and "Super 3" yarns.[54] NARCO representatives acknowledged that quality and supply problems did result during the period immediately following the abrupt shutdown of Avtex.[55] Otherwise, however, quality issues, according to the petitioner, simply mask the principal reason that purchasers shifted to imports--reportedly low prices of the LTFV imports.[56]

In response to the Commission's question concerning the likelihood and ease of substitution in use between the imported industrial rayon yarn and other types of rayon yarn, both domestic and imported, NARCO responded: ***.[57]

Akzo responded to the same question as follows:

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[49] Conference transcript, p. 113. ***. Conversation with company officials, Sept. 24, 1991.

[50] Akzo's prehearing brief, p. 15.

[51] The petitioner maintains that "Super 3" is 10 percent stronger than the "Super 2" whereas respondents contend that the former is 13 percent stronger. The remainder of the imported product is "Super 2" yarn.

[52] Hearing transcript, pp. 112-115 and pp. 124-127.

[53] Hearing transcript, pp. 112-115. Conference transcript, pp. 82-90 and 95-96. ***. Conversation with company officials, Sept. 23, 1991. However, according to a survey commissioned by Bibb, NARCO ***. (Statement of ***, attachment at p. 12.) Results of the study are qualified as follows: ***.

[54] Conference transcript, p. 38.

[55] Ibid., p. 33, and conversation with company officials, Sept. 23, 1991. See the section of this report entitled "U.S. producers" for a discussion of the Avtex shutdown.

[56] Conference transcript, pp. 37 and 133.

[57] NARCO ***. NARCO's final questionnaire response.

* * * * * * *[58]

U.S. TARIFF TREATMENT

Industrial rayon yarn is classified in subheading 5403.10.30 (statistical reporting number 5403.10.3040) of the Harmonized Tariff Schedule of the United States (HTS), a subheading which provides for single, multifilament high-tenacity yarn of viscose rayon with a twist of 5 turns or more per meter. However, according to respondents, the subject yarn has been entering under HTS subheading 5403.39.00 (statistical reporting number 5403.39.0020). The column 1-general or most-favored-nation (MFN) rate of duty provided for both of the above-mentioned HTS subheadings is 10 percent ad valorem. Imports of rayon yarns are not eligible for preferential duty treatment other than that provided for eligible products from Israel and Canada.[59] For eligible goods, with importers claiming benefits, duties under the above-mentioned HTS subheadings are free for products from Israel and 6 percent ad valorem (in 1992) for those from Canada.

U.S. imports of industrial rayon yarn are subject to restraint under the Multifiber Arrangement (MFA),[60] which provides the international legal framework within which importing countries can negotiate agreements with exporting countries to limit their shipments of textiles and apparel. HTS subheading 5403.39.0020, however, is not covered by quota restrictions under the MFA, nor is Germany subject to quota restraints on its exports of textile and apparel products under the MFA.

NATURE AND EXTENT OF SALES AT LTFV

Effective May 22, 1992, Commerce determined that imports of high-tenacity rayon filament yarn from Germany are being, or are likely to be, sold in the United States at LTFV (57 F.R. 21770). Based on the period of investigation from April 1, 1991, through September 30, 1991, Commerce assessed the LTFV margins for Akzo, as well as for all other exporters, at 24.58 percent.

In addition, Commerce made an affirmative determination of "critical circumstances" with respect to Akzo. NARCO had alleged the existence of critical circumstances (massive imports of merchandise over a relatively short period) within the meaning of section 735(a)(3) of the act.

Commerce also determined on February 20, 1992 that there were no imports of the subject product from the Netherlands (57 F.R. 6091) and subsequently

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[58] Akzo's final questionnaire response.

[59] Preferential rates of duty are applicable to eligible imports from Israel under the United States-Israel Free Trade Area Implementation Act of 1985 and from Canada under the United States-Canada Free-Trade Agreement.

[60] The MFA, formally known as the Arrangement Regarding International Trade in Textiles, is an international agreement negotiated under the auspices of the General Agreement on Tariffs and Trade (GATT). The MFA was implemented in January 1974 and was recently extended to now run through December 1992.

terminated its investigation on such products from the Netherlands on April 2, 1992 (57 F.R. 11291).

THE U.S. MARKET

U.S. Producers

North American Rayon Corp.

A German firm, Glanzstoff, established rayon production facilities in Elizabethton, TN, in 1928. In 1941, the U.S. Government seized the assets of the company and subsequently sold them to the U.S. public. The facility operated under private ownership from 1948 to 1960, at which time it was acquired by Beaunit, a subsidiary of El Paso Natural Gas Co. During the 1960s, Beaunit produced numerous rayon products at several production facilities. Industrial rayon yarn was produced at a plant in Childersburg, AL. Then, during the early 1970s, the firm ceased production of rayon staple fiber and cuprammonium rayon filament yarn, and consolidated viscose rayon filament yarn production in Elizabethton.

Beaunit sold out to officers of the company in the late 1970s, and these officers sold out to the employees in 1985. Hourly employees hold a 70-percent ownership share, ***.[61] North American Rayon (NARCO), the successor to Beaunit, produced textile and industrial rayon yarn throughout the period of investigation. It commenced test production of carbonized rayon yarn in 1989. The petitioner is the only current U.S. producer of rayon filament yarn.

Much of the plant's equipment either ***.[62]

Avtex Fibers, Inc.

A British firm, Courtaulds Ltd., introduced rayon to the U.S. market in 1910 with the establishment, in Marcus Hook, PA, of the Viscose Co., later renamed American Viscose Corp. In 1941, the British Government pledged the company's assets to U.S. bankers for munitions financing, under the U.S.-U.K. lend-lease agreements. These assets were subsequently sold and American Viscose operated as a private company until 1963, when it was acquired by FMC Corp. Like Beaunit, in the face of declining demand, FMC closed several rayon production facilities in the early 1970s.

Avtex Fibers (Avtex), a newly formed, privately held company, purchased the bulk of the assets of FMC Corp.'s Fiber Division in 1976. These assets included rayon production plants in Nitro, WV, Parkersburg, WV, and Front Royal, VA. Industrial rayon yarn was only produced in the latter facility. Avtex continued to consolidate, eventually shifting production entirely to the Front Royal location.

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[61] ***.

[62] Fieldwork at NARCO, Mar. 19, 1992.

Avtex produced industrial rayon yarn until October 1988, when the plant was forced to shut down by the State of Virginia after failing to meet pollution-control standards. The firm had produced textile, industrial, and carbonized rayon yarn. Because there was no other U.S. producer of carbonized rayon yarn at the time, the U.S. Government provided the financial assistance necessary for the plant to resume production solely of this product, which it did from December 1988 to November 1989. Avtex filed for protection under chapter 11 of the U.S. Bankruptcy Code in February 1990, and is selling its assets under a court-appointed trustee. The petitioner provided an estimate of Avtex's 1988 production of industrial rayon yarn; however, further information is not available. Avtex is believed to have been the *** U.S. producer of industrial rayon yarn in 1988.

U.S. Importers

The petitioner identified six potential importers of the subject product, including the U.S. subsidiary of the foreign producer, three end users, and two converter-distributors. ***.[63] Akzo, headquartered in Conyers, GA, is a wholly owned subsidiary of Akzo America, Inc., New York, NY, which is in turn a wholly owned subsidiary of Akzo N.V.[64] From 1929 to 1975, Akzo N.V. was also involved in U.S. industrial rayon yarn production.[65] Akzo N.V. reportedly began exporting the subject product to the United States upon the shutdown of its U.S. facility.[66]

Apparent U.S. Consumption

The data presented in table 2 represent U.S. shipments of industrial rayon yarn by all known producing and importing firms. These data show a steady decline in the quantity and value of U.S. consumption of industrial rayon yarn, both of the subject product and of all industrial rayon yarn. With regard to the subject product, Akzo's shipments increased *** over the period of investigation, while NARCO's sales declined ***. With regard to all industrial rayon yarn, again, NARCO's shipments declined ***. Importers' shipments of the subject industrial rayon yarn increased in 1990 and in 1991, while importers' shipments of all industrial rayon yarn declined from 1989 to 1990, then rose from 1990 to 1991, but to levels below those of 1989.

Both the petitioner and respondent parties noted that conditions of general recession, including, specifically, declines in the automotive and durable goods sectors, have contributed to decreased consumption of the

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[63] ***. See the discussion in the section of this report entitled "U.S. tariff treatment."

[64] Prior to July 1, 1991, Akzo B.V. was known as Enka B.V.; Akzo was Enka America, Inc.; and Akzo Faser A.G. was Enka A.G. The firms have been referred to by these former names in testimony.

[65] Akzo held a controlling interest in American Enka, a producer of rayon staple fiber and rayon filament yarn. U.S. International Trade Commission, Rayon Staple Fiber from Sweden (inv. No. 104-TAA-13), USITC publication 1360 (March 1983), p. A-9.

[66] Conference transcript, p. 66.

Table 2
Industrial rayon yarn: U.S. shipments by the producer and importers and apparent U.S. consumption, 1989-91

Item	1989			1990			1991
	*	*	*	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and staff conversations with purchasers.

product.[67] (For a further discussion of this issue, see the section entitled "Trends in Product Demand.")

Neither the Commission staff nor the parties to the investigation were able to identify public data on overall U.S. consumption of industrial rayon yarn. However, limited data were available on rayon tire cord fabric production, which accounted for an estimated *** percent of industrial rayon yarn consumption in 1990. These data, which show a steady decline in consumption, *** those reported by NARCO and Akzo for their U.S. shipments to tire producers (table 3). As a percent of the U.S. tire cord market, rayon has declined from 1.4 percent in 1988 to 0.4 percent in 1991.

Table 3
Tire cord fabric: U.S. shipments, by type of material, 1988-91

(In thousands of pounds)

Material	1988	1989	1990	1991
Steel	211,409	312,150	355,457	382,296
Polyester	165,490	186,357	182,926	170,838
Nylon	198,625	168,668	162,622	152,280
Rayon	8,989	([1])	([1])	2,846
Glass	2,828	1,920	1,123	766
Cotton	0	([1])	([1])	0
Other	62,549	13,877	12,885	12,016
Total	649,890	688,413	718,144	721,042

[1] Data not disclosed. Rayon is believed to account for the bulk of the derived cotton and rayon total, which was 5.4 million pounds in 1989 and 3.1 million pounds in 1990.

Source: Broadwoven Fabric MQ22T, U.S. Department of Commerce, Bureau of Census; and staff conversations with Census representative, Sept. 25, 1991 and May 27, 1992.

[67] Conference transcript, petitioner at p. 17 and respondent at p. 71.

Channels of Distribution and Purchasers

NARCO and Akzo compete directly for sales to manufacturers of tires and hoses, as well as to converters of industrial rayon yarn.

U.S. tire-manufacturer purchasers are ***. In the United States, tire producers may perform additional processing of tire cord yarn.

Other major end users of industrial rayon yarn are industrial hose producers. U.S. hose-manufacturer purchasers are ***. These purchasers often require additional processing of the yarn. NARCO further treats industrial rayon yarn by coating (adding finishes) and rewinding it to customer specifications. The imported product, in contrast, is sold without finish to converters who perform these operations. Thus, NARCO competes directly with converters, and only indirectly with Akzo, in this market.

Converter/purchasers are Beaver Manufacturing, Mansfield, GA, and the Bibb Company, Atlanta, GA. Both Beaver and Bibb report they ***.[68] (For details, see section entitled "Company Profiles.") NARCO and Akzo reported their 1989-91 shipments to the various purchasers as presented in table 4.

Table 4
Industrial rayon yarn: U.S. shipments by NARCO and Akzo, by channel of distribution and by purchaser, 1989-91

Channel of distribution and purchaser	NARCO		Akzo	
	Quantity (1,000 lbs.)	Value ($1,000)	Quantity (1,000 lbs.)	Value ($1,000)
* * * * * * *				

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

CONSIDERATION OF ALLEGED MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES

The information presented in this section of the report is based on the questionnaire response of NARCO, the only producer of industrial rayon yarn during the period of investigation. The NARCO data reported in the tables consist of all industrial rayon yarn, which includes industrial rayon single yarn transformed and sold as plied yarn.

U.S. Production, Capacity, and Capacity Utilization

Avtex is believed to have been *** domestic producer of industrial rayon yarn prior to its abrupt shutdown in October 1988, with its 1988 shipments conservatively estimated at ***. When Avtex stopped production, some of its customers switched to NARCO. Although NARCO expanded its industrial rayon

[68] Conference testimony of Beaver official; staff conversation of Apr. 8, 1992.

yarn production and sales from 1988 to 1989, this increase is largely due to the demise of Avtex.

NARCO ***, as it detailed in its final questionnaire response:

* * * * * * *[69]

NARCO produces industrial rayon yarn *** hours a day, *** days a week, *** weeks a year. ***.

Capacity, as reported in the questionnaire and presented in table 5, represents ***. Capacity is, therefore, believed to represent actual short-run production capability of the firm. NARCO officials report that NARCO ***.[70]

*** production and capacity ***, these indicators *** during 1989-91. Capacity, production,[71] and capacity utilization *** from 1989 to 1990, and, while capacity *** from 1990 to 1991, both production and capacity utilization *** during this period.

Table 5
Industrial rayon yarn: NARCO's average-of-period capacity, production, and capacity utilization, 1989-91

Item	1989	1990	1991
* * * * * * *			

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

U.S. Producer's Shipments

The quantity and value of U.S. shipments decreased *** during the period of investigation (table 6). By quantity, domestic shipments of all rayon filament yarn dropped by *** percent from 1989 to 1990 and further fell by *** percent from 1990 to 1991. By value, these figures were *** percent and *** percent, respectively. NARCO reported *** company transfers during the period of investigation.

Although export shipments ***, they ***. NARCO company representatives reported that they are ***.[72] [73]

[69] NARCO's final questionnaire response.
[70] Fieldwork at NARCO, Mar. 19, 1992.
[71] ***.
[72] Fieldwork of Mar. 19, 1992.

Table 6
Industrial rayon yarn: NARCO's shipments, 1989-91

Item	1989		1990		1991	
*	*	*	*	*	*	*

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

The unit value of total U.S. shipments declined from 1989 to 1990, but rose from 1990 to 1991.

U.S. Producer's Inventories

NARCO's industrial rayon yarn inventory levels fell *** in 1990 and then rose in 1991. As a percent of total shipments, inventories *** during the period of investigation, as shown in the following tabulation:

Item	As of December 31-- 1989	1990	1991
Inventories (1,000 lbs.).....	***	***	***
Inventories as a share of total shipments (percent)...	***	***	***

U.S. Employment

NARCO is an employee-owned company. Since 1985, hourly employees have held a 70-percent ownership share, ***.[74] Employees are represented by the United Textile Workers of America (locals 2207 and 2614).

In response to the Commission's questionnaire about whether NARCO manufactures other products using the same production and related workers employed in the production of high-tenacity rayon filament yarn, NARCO ***.

About *** of the total workforce is employed in industrial rayon yarn production. The number of workers, hours worked, wages paid, and total compensation paid all decreased from 1989 to 1990 and further declined from 1990 to 1991 (table 7). Productivity *** during the period of investigation. Hourly wages rose by *** percent overall while hourly total compensation increased by *** percent. Unit labor costs increased *** during the period of investigation.

[74] ***.

Table 7
Industrial rayon yarn: Average number of production and related workers employed by NARCO, hours worked[1] and wages and total compensation paid to such employees, hourly wages and hourly total compensation, productivity, and unit labor costs, 1989-91[2]

Item	1989	1990	1991
*	*	*	*	*	*	*

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

NARCO reported that it *** production and related workers producing industrial rayon yarn by *** workers during 1989-91. Company officials noted that because the employees are the owners of the company, ***. Thus, *** workers were transferred from the industrial rayon yarn production division to other positions within the company.

The company described ***.[75]

Financial Experience of the U.S. Producer

NARCO provided full financial data on its industrial rayon yarn operations and on its overall establishment operations. Industrial rayon yarn accounted for *** percent of NARCO's overall establishment net sales in 1991.

In addition to industrial rayon yarn, NARCO produces ***. An on-site verification was recently performed on NARCO's data. Adjustments to the financial data were not required since no clerical errors were discovered and cost allocation metholodogies were found to be very conservative.

Overall Establishment Operations

Income-and-loss data on NARCO's overall establishment operations are presented in table 8. NARCO had a substantial change in ownership in 1985 when the employees purchased the stock of the corporation through an employee stock option plan (ESOP). ***.

Industrial Rayon Yarn Operations

NARCO's income-and-loss data for its industrial rayon yarn operations are presented in table 9. ***. ***[76]. The per-unit costs of raw materials,

[75] NARCO's final questionnaire response.
[76] ***.

Table 8
Income-and-loss experience of NARCO on its overall establishment operations within which industrial rayon yarn is produced, fiscal years 1989-91[1]

Item	1989	1990	1991
* * * * * * *			

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

Table 9
Income-and-loss experience of NARCO on its industrial rayon yarn operations, fiscal years 1989-91[1]

Item	1989	1990	1991
* * * * * * *			

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

direct labor, and factory overhead may be observed in the following tabulation (in dollars per pound):

Item	1989	1990	1991
* * * * * * *[77]			

The respondents have asserted that NARCO's profitability problems relate to increased environmental costs. *** as shown in the following tabulation (in thousands of dollars):

Item	1989	1990	1991
* * * * * * *			

*** a 1991 report on NARCO's effluent toxicity suggests that industrial rayon yarn production is more of a pollutant than are either textile or carbonized production.[78] Although the exact amounts applicable to the industrial rayon yarn operations cannot be determined from the submitted data, total environmental operating costs as a percentage of total operating

[77] Telephone conversation on Apr. 7, 1992, with ***.
[78] Respondents' postconference brief, ex. 7 at p. 24.

expenses were *** in 1989, 1990, and 1991, respectively. The full amount of capital expenditures does not immediately affect profitability, as the costs are depreciated over time.

* * * * * * *[79]

Investment in Productive Facilities

The value of property, plant, and equipment and total assets and return on total assets for NARCO are presented in table 10.

Table 10
Assets and return on total assets of NARCO as of the end of fiscal years 1989-91

Item	As of the end of fiscal year-- 1989	1990	1991
* * * * * * *			

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

Capital Expenditures

The capital expenditures reported by NARCO are presented in table 11.

Table 11
Capital expenditures by NARCO, fiscal years 1989-91

Item	(In thousands of dollars) 1989	1990	1991
* * * * * * *			

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

[79] Industrial rayon yarn's share ***. NARCO indicated that the allocation to industrial rayon yarn was based on the ***.

Research and Development Expenses

NARCO's industrial rayon yarn research and development expenses are presented in table 12.

Table 12
Research and development expenses of NARCO, fiscal years 1989-91

(In thousands of dollars)

Item	1989	1990	1991
*	*	*	*	*	*	*

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

Capital and Investment

The Commission requested the U.S. producers to describe any actual or potential negative effects on their growth, investment, ability to raise capital, or existing development and production efforts, including efforts to develop a derivative or more advanced version of the product, as a result of imports of industrial rayon filament yarn from Germany. NARCO's response is shown in appendix C.

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 the merchandise, the Commission shall consider, among other relevant economic factors[80]--
>
> > (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),

[80] 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."

(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,

(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 706 or 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.[81]

---

[81] 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

(continued...)

Items (I) and (IX) are not relevant in this investigation. 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 Imports of the Subject Merchandise 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 to an Industry in the United States." 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 other applicable threat indicators (item (VII)) follows.[82]

U.S. Inventories of the Subject Product

During 1989-90, Akzo's end-of-period inventories and its inventory-to-shipments ratio of industrial rayon yarn from Germany ***, then *** in 1991. ***. Akzo's inventories and inventories-to-shipments ratios of the subject imports from Germany are presented in the following tabulation:

Item	As of December 31--			As of March 31--	
	1989	1990	1991	1991	1992
* * *	*	*	*	*	

In addition to inventories held by Akzo, some purchasers maintain imported industrial rayon yarn in stock, including the subject industrial rayon yarn purchased directly from the converters Beaver and Bibb, and non-subject yarn purchased from ***.

Purchasers indicated that they typically ***. ***.[83]

*** told Commission staff that inventory information was unavailable. *** reported it maintains no inventories.[84]

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[81] (...continued)
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."

[82] In response to a telegram from the Commission, the U.S. Embassy in Bonn advised of an "underselling" fine levied on Akzo N.V. by the European Court in July 1991. Counsel for respondents informed the Commission that this action resulted from a review of an antitrust judgment against Akzo in 1985 that involved sales of benzoyl peroxide. (Letter from Tom Schaumberg to Commission staff dated Oct. 3, 1991.)

[83] Staff conversation with ***, June 2, 1992.

[84] Staff conversation with ***, May 22, 1992.

Other purchasers of imported industrial rayon yarn supplied their inventory levels as follows:

Item	As of December 31-- 1989	1990	1991	As of March 31-- 1991	1992
*	*	*	*	*	*	*

Ability of the Foreign Industry to Generate Exports and the Availability of Export Markets other than the United States

Akzo Faser A.G., Wuppertal, Germany, is the sole German producer of high-tenacity rayon filament yarn.[85] The company is a wholly owned subsidiary of Akzo N.V., Arnhem, the Netherlands. Akzo A.G. produces industrial rayon yarn at facilities in Obernburg and Oberbruch, Germany. Its plant in Kelsterbach, Germany, manufactures ***.[86] Akzo ***.[87]

In its final questionnaire response, Akzo A.G. reports that it ***. Akzo A.G. states that its ***.[88]

Akzo A.G. states that *** percent of its total sales in 1991 were of high-tenacity rayon filament yarn and ***.

The data supplied by Akzo A.G. show that *** during the period of investigation. However, Akzo predicts that capacity will *** by *** percent from 1991 to 1992 and *** by *** percent from 1992 to 1993 (table 13). Production *** throughout the period for which data were collected in the investigation. Akzo expects production to *** from 1991 to 1992 and then to *** from 1992 to 1993, to *** 1989 levels. Capacity utilization also *** during the period of investigation, but is projected to *** in 1992 and 1993.

Total shipments *** from 1989 to 1990 and from 1990 to 1991, and are expected to ***. Home markets shipments also *** during the period of investigation, and are expected to *** from 1991 to 1992, and then to *** from 1992 to 1993 to ***. Exports to markets other than the United States *** from 1989 to 1990, *** from 1990 to 1991, and are projected to ***. Akzo A.G.'s export markets are, in declining order of magnitude, ***.[89]

---

[85] Information provided by counsel for Akzo and letter of Sept. 7, 1991 to Mr. Tom Schaumberg of counsel for Akzo from the German Association of Chemical Fibers.

[86] Letter from counsel to Akzo to Commission staff, Mar. 30, 1991.

[87] Information from counsel to Akzo, Apr. 15, 1992.

[88] Akzo A.G.'s final questionnaire response.

[89] Akzo A.G.'s final questionnaire response.

Table 13
Subject industrial rayon yarn: German capacity,[1] production, capacity utilization, home-market shipments,[2] exports to the United States and other markets, and end-of-period inventories, actual 1989-91, and projected 1992-93

(In thousands of pounds, except as noted)

Item	Actual experience			Projections	
	1989	1990	1991	1992	1993
*	*	*	*	*	*	*

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

Akzo's shipments to the United States increased by *** percent from 1989 to 1990[90] and further rose by *** percent from 1990 to 1991. Such shipments are projected to *** in 1992 and 1993, ***. The U.S. market accounted for *** percent of total shipments in any period. The home market is ***, accounting for *** percent of the company's shipments.

Akzo A.G.'s end-of-year inventories *** from 1989 to 1990 and *** from 1990 to 1991, *** 1989 levels. The company projects that its inventories will *** from 1992 to 1993.

CONSIDERATION OF THE CAUSAL RELATIONSHIP BETWEEN IMPORTS OF THE SUBJECT MERCHANDISE AND THE ALLEGED MATERIAL INJURY

U.S. Imports of the Subject Product

The primary source of data on U.S. imports of the subject product, as presented in this report, is the questionnaire response of Akzo, believed to be the only importer of the subject product from Germany during the period of investigation. In support of its preliminary questionnaire data, Akzo provided copies of Customs Form 7501 for *** of its *** entries of the subject product during this entire period. According to the 7501s, the vast majority of Akzo's imports of the subject product were misclassified by the firm's customs broker and entered under HTS subheading 5403.39.00 (statistical reporting number 5403.39.0020).[91] Only a small amount of product, which was cleared by another customs broker, appears to have been properly classified. For this reason, the importer's questionnaire data are believed to be the most accurate and reliable source of information on the subject imports.

As reported by Akzo and presented in table 14, imports from Germany increased *** from 1989 to 1990, ***. From 1990 to 1991 imports rose by ***

[90] Avtex's sudden shutdown in late October 1988 created a temporary shortage of product in the U.S. market and ***.

[91] The Commission staff contacted Customs to verify the alleged misclassification of the subject product. ***.

Table 14
Subject industrial rayon yarn: Akzo's imports from Germany, 1989-91

Item	1989	1990	1991
*	*	*	*	*	*	*

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

percent by quantity, *** by value. Although unit values *** from 1989 to 1990, they *** from 1990 to 1991.

In response to the Commission's question, "has your firm imported, or arranged for the importation of, single high-tenacity rayon filament yarn from Germany for delivery after December 31, 1991," Akzo reported ***.[92]

U.S. Market Penetration by the Subject Imports

Calculated market shares show a substantial increase in the market penetration of the subject imports over the period of investigation, and a corresponding loss of market share by the U.S. industry (table 15). For all industrial rayon yarn, apparent U.S. consumption amounted to *** pounds in 1989, *** pounds in 1990, and *** pounds in 1991.

With regard to consumption of all industrial rayon yarn, the market share of subject imports (Akzo), by quantity, was *** percent in 1989, *** percent in 1990, and *** percent in 1991. NARCO's market share was *** percent in 1989, *** percent in 1990, and *** percent in 1991.

With regard to consumption of single industrial rayon yarn, Akzo accounted for *** percent, *** percent, and *** percent of the market by quantity in 1989, 1990, and 1991, respectively. NARCO captured *** percent of the market in 1989, *** percent in 1990, and *** percent in 1991.

Table 15
Industrial rayon yarn: Apparent U.S. consumption and market shares of the U.S. producer and imports, 1989-91

Item	1989	1990	1991
*	*	*	*	*	*	*

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

[92] Akzo's final questionnaire response and staff conversation with Barbara Murphy of counsel to Akzo, Apr. 14, 1992.

Prices

Market Characteristics

Prices for high-tenacity rayon filament yarn depend primarily on the denier, breaking strength (tenacity), the amount of twist measured in turns-per-inch (TPI), whether an after-finish is applied, and to some extent on the type of package. NARCO publishes a price list,[93] whereas Akzo does not. ***.[94]

During 1989 NARCO quoted selling prices of its U.S.-produced industrial rayon yarn on a delivered basis, but beginning in January 1990 the firm quoted its selling prices on an f.o.b. plant basis.[95] On the other hand, Akzo quoted selling prices of its imported German industrial rayon yarn on a delivered basis throughout the period of investigation.

***.[96] ***.[97] *** are shown in the following tabulation:

Company	1989		1990		1991	
*	*	*	*	*	*	*

Sales terms vary from net 30 days to net 60 days for NARCO and from net 30 days to net 45 days for Akzo. The U.S. producer ***. Akzo requires net 30-day payment on its imported German industrial rayon yarn shipped from its U.S. warehouse and net 45-day payment on the product shipped directly to the U.S. customer from the German plant.[98] Order lead times of the U.S. producer and the importer are similar, ranging from 1 to 2 days for a U.S.-warehoused product; for special or out-of-stock items, delivery ranges from *** weeks for the U.S.-produced products and *** weeks for the imported German products.

Both NARCO and Akzo offer technical assistance in marketing their domestic and imported German industrial rayon yarn.[99] *** are shown in the following tabulation:

---

[93] ***.

[94] ***.

[95] On f.o.b. plant sales for which NARCO arranges the transportation to its customers, the carrier bills the purchasing firm. As a result, NARCO reported that it did not know the exact freight costs to its customers after it switched from quoting delivered to quoting f.o.b. prices.

[96] ***.

[97] NARCO charged in its postconference brief (p. 16) that Akzo's rebates to Beaver mean ***.

[98] Akzo reported that it remains the importer of record of the German industrial rayon yarn whether selling the imported product from its U.S. warehouse in Conyers, GA, or shipping directly to the U.S. customer from plants in Germany. When shipping directly from Germany, the invoice is dated when the goods leave the foreign country and the net 45-day payment term includes the 5-6 week shipment period.

[99] ***.

	1989	1990	1991
NARCO:			
Value (1,000 dollars).....	***	***	***
Unit value ($/pound).....	***	***	***
Akzo:			
Value (1,000 dollars).....	***	***	***
Unit value ($/pound).....	***	***	***

***.[100] [101]

Transportation and Packaging

The U.S. producer sells its industrial rayon yarn nationwide and reported in its questionnaire response that in 1991 it sold about *** percent of the U.S.-produced product to customers more than 500 miles from its plant in Elizabethton, TN.[102] [103] On the other hand, the importer indicated that in 1991 it sold about *** percent of the imported German industrial rayon yarn to U.S. customers located less than 100 miles from its U.S. warehouse in Conyers, GA.[104]

NARCO and Akzo have no minimum quantity requirements for sales of their domestic and imported German industrial rayon yarn. Both the domestic and imported products are shipped by truck. ***.[105]

***.[106] ***.

The petitioner charges the same price per pound whether the industrial rayon yarn is sold on cones or beams, but charges higher prices for sales on tubes where the prices vary depending on the size of the tube. Although NARCO's production is set up to wind the subject yarn on tubes, cones, and beams, additional labor costs are incurred to wind it on tubes because they come in 4 different sizes and are smaller than cones. The importer sells the majority of its imported German industrial rayon yarn on tubes; Akzo does not sell its rayon in the U.S. market on beams. The cones and tubes are cardboard and the beams are stainless steel. NARCO requires its customers to return the

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[100] ***.

[101] ***.

[102] NARCO sells virtually all of its U.S.-produced industrial rayon yarn directly to end users.

[103] ***.

[104] ***.

[105] Individual shipments tend to be substantially smaller than the total quantity in a sale. ***. It is unclear the effect, if any, order size may have on the price of the product.

[106] NARCO indicated that full truckload freight rates, which apply to loads from about 30,000 to 40,000 pounds, are *** than partial truckload rates.

beams, and pays the return freight, which the firm estimates to equal about *** per pound of rayon shipped.[107]

Purchaser Information

All 12 known end users and both converters responded to the Commission's request for product information and purchase prices of domestic and imported high-tenacity rayon filament yarn.[108] Purchasers were requested to address quality differences between the domestic and imported subject product, their ability to use substitute products in current industrial rayon applications, factors in their industrial rayon yarn sourcing decisions, and general price comparisons of the domestic and imported subject product.

End users of high-tenacity rayon filament yarn test the yarn for quality standards and product characteristics specific to their end-use applications. Through this testing process end users qualify the supplier's high-tenacity rayon filament yarn before significant purchases are made. Such testing includes testing physical properties of yarn samples to confirm that specifications are met, evaluating performance of yarn in processing, and evaluation of end product performance. According to questionnaire responses, product approval testing varies between 6 months to 2 years with tire end-use applications requiring 1 year or longer for product qualification.

Seven end users reported in their questionnaires that NARCO's single high-tenacity rayon filament yarn had met their qualification standards,[109] but not necessarily for all rayon yarn applications.[110] *** stated that NARCO was unable to supply product at some time during the period January 1989-December 1991.[111] *** reported that Akzo's imported industrial rayon yarn currently meets their qualification standards.[112] *** purchasers indicated supply complications with industrial rayon yarn from Akzo or qualified converters.[113]

Purchasers generally agreed that the following elements determined quality in their sourcing of industrial rayon yarn: tensile strength, denier, percentage of shrinkage, and processability of the yarn, including consistency of twist, finish, and packaging. Questionnaire responses indicate purchasers generally rank quality as the primary factor in choosing industrial rayon yarn suppliers. In ranking the three most important factors in sourcing the subject product, nine out of 11 purchasers listed quality first.[114] No purchasers listed price as the most important sourcing factor. Four firms ranked price as the second most important factor.

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[107] ***.

[108] These firms did not necessarily respond to all questions or report price information for each product for every quarter of the period examined.

[109] *** reported approving NARCO's single high-tenacity rayon filament yarn.

[110] ***.

[111] ***.

[112] ***.

[113] ***.

[114] *** ranked delivery and service and *** ranked product availability as the most important factor.

In response to an additional question concerning sourcing factors, seven of eight[115] purchasers indicated that product quality was "very important," while one indicated quality as "somewhat important." Three purchasers indicated price as "very important," while the remaining four indicated price as "somewhat important". Both service and speed of delivery were designated as "very important" by six of the eight purchasers.

Purchasers were requested to indicate if single high-tenacity rayon filament yarn from Germany was generally available at a lower price than the domestic product. Six of seven purchasers reported that the imported product was not available at a lower price.[116] Conversely, purchasers were requested to indicate whether the domestically produced single high-tenacity rayon yarn was available at lower price than the German subject product. Six out of seven purchasers reported that domestic product was available at a price lower than the imports from Germany.[117]

Purchasers were also requested to indicate how much higher the price for the imported German product would have to have been before purchasing U.S.-produced industrial rayon yarn. *** purchasers provided price percentages, while *** other firms provided comments.[118] ***.[119] ***.

Several non-rayon fibers are becoming increasingly viable substitutes for industrial rayon yarn in many hose and tire applications. Purchasers most frequently mentioned DSP, nylon, aramid, and PVA fibers as substitute products. According to questionnaire responses, industrial rayon usage has declined in recent years with improvements in the physical properties of non-rayon fibers. Although two purchasers indicated a lack of competitively-priced substitute products in their current rayon applications,[120] nine purchasers indicated that performance, price, and consistent availability factors have accelerated usage of polyester, nylon, PVA, and aramid fibers in many rayon yarn applications. In addition, several purchasers indicated switching to polyester following the closing of Avtex.

Company Profiles[121] [122]

Boston Industrial

Boston Industrial Products Corp., Hohenwald, TN, (Boston) purchases high-tenacity rayon filament yarn for reinforcement in the manufacture of ***. The ***. Boston's purchases of industrial rayon yarn during 1989-91 are presented in the following tabulation:

---

[115] *** did not respond to this particular question.
[116] *** did not respond to this question.
[117] ***.
[118] *** did not respond to this question.
[119] ***.
[120] One of these, ***.
[121] ***.
[122] The first 11 firms are end users; the last 2 (Beaver and Bibb) are converters of high-tenacity rayon filament yarn.

Item	1989	1990	1991
*	*	*	*	*	*	*

Presently, ***.[123] ***, explained that each code[124] of yarn must be approved separately, based on specifications such as denier, number of ends, size of packaging, and number of plies. These codes predominantly are for yarn used in industrial hoses. ***.[125] ***.

In response to a question concerning qualified suppliers' ability to supply product, Boston reported that ***.[126] ***.

Boston reported, in order of importance, ***.

In response to questions concerning general pricing, Boston reported that industrial rayon yarn from Germany ***.

Due to the closure of Avtex in 1988, ***.[127]

Cooper Tire

Cooper Tire and Rubber Corp., Findlay, OH, (Cooper) purchases high-tenacity rayon filament yarn for ***. ***. Cooper's purchases of industrial rayon yarn during 1989-91 are presented in the following tabulation:

Item	1989	1990	1991
*	*	*	*	*	*	*

In response to questions concerning qualification of industrial rayon yarn suppliers and their ability to supply product, Cooper reported that ***.[128]

According to its questionnaire response, Cooper ranked ***.

***

*** a producer of ***, ***. Company representative *** reports that quality is of no concern because he "uses only substandard or off-quality" yarn in making ***.[129] *** industrial rayon yarn.

Dayco

---

[123] Staff conversation with ***.
[124] Codes refer to high-tenacity rayon filament yarn product combinations that vary by denier, amount of twist, type of treatment, and packaging.
[125] Staff conversation ***.
[126] ***. (NARCO's posthearing brief, attachment 1A.)
[127] Staff conversation with ***.
[128] ***. (NARCO's posthearing brief, attachment 1A.)
[129] Staff conversation with ***.

Dayco Products, Inc., Dayton, OH, (Dayco) manufactures automotive, industrial, and hydraulic hoses for sale to original equipment manufacturers and for the automotive and industrial aftermarket. High-tenacity rayon yarn is purchased for reinforcement in hoses manufactured at facilities in Alliance, NE; McCook, NE; Ocala, FL; Waynesville, NC; Bucyrus, OH; and Lexington, TN. The ***. Dayco's purchases of industrial rayon yarn during 1989-91 are presented in the following tabulation:[130]

Item	1989	1990	1991
*	*	*	*	*	*	*

Currently ***.[131] ***.[132]

*** reported that the ***. ***. *** found that ***. In the meantime ***. Its superior characteristics included higher strength, more consistent quality, and more ***. *** concluded that ***.

Dayco reported that, in order of importance, *** are the major factors in choosing a rayon yarn supplier. Dayco also reported that ***.

In response to questions concerning general pricing, Dayco reported that industrial rayon yarn from Germany ***.

According to Dayco's questionnaire response, ***.

***

*** purchases industrial rayon to ***. According to *** questionnaire response, ***. *** purchases of industrial rayon yarn during 1989-91 are presented in the following tabulation:

Item	1989	1990	1991
*	*	*	*	*	*	*

According to its questionnaire response, ***.

In response to questions regarding factors in sourcing decisions for the subject product, *** reported that ***.

*** reported that ***.

---

[130] ***.
[131] Dayco's questionnaire and staff conversation with ***.
[132] NARCO's posthearing brief, p. 10.

Dunlop Tire

Dunlop Tire Corp., Buffalo, NY, (Dunlop) purchases *** denier high-tenacity rayon filament yarn for production of ***. Dunlop's primary supplier of the subject product during the period examined was ***. Dunlop's purchases of industrial rayon yarn during 1989-91 are presented in the following tabulation:

Item	1989	1990	1991
*	*	*	*	*	*	*

In its questionnaire response, Dunlop reported purchasing ***. *** noted quality differences in that there was "better strength" in the *** product, but added that, ***.[133]

Dunlop reported, ***.

According to Dunlop's questionnaire response, there are presently ***.

Gates Rubber

Gates Rubber Co., Denver, CO, (Gates) purchases high-tenacity rayon filament yarn as reinforcement in hose manufacturing. In its questionnaire, Gates reported sourcing the subject product ***. Gates' purchases of industrial rayon yarn during 1989-91 are presented in the following tabulation:

Item	1989	1990	1991
*	*	*	*	*	*	*

Presently, ***.

Gates reported that ***.

Company representatives *** reported that ***. ***.[134] ***.[135] [136]

In its posthearing brief, ***.[137] ***.[138]

Gates reported ***.

In response to questions concerning general pricing, Gates reported that industrial rayon yarn from Germany ***.

---

[133] Staff conversation of Apr. 8, 1992.
[134] Staff conversation, Apr. 8, 1992.
[135] Staff conversation with ***.
[136] In its posthearing brief, ***.
[137] ***.
[138] Staff conversation, June 2, 1992.

Gates reported that ***.

Goodyear

Goodyear Tire and Rubber Co., Akron, OH, (Goodyear) was the *** end-user purchaser of industrial rayon yarn during 1991. Goodyear produces *** at its Cartersville, GA, facility and *** in its Lincoln, NE, facility. ***. Goodyear's reported total purchases of industrial rayon yarn during 1989-91 are presented in the following tabulation:

Item	1989	1990	1991
*	*	*	*	*	*	*

Goodyear processes ***.[139]

Prior to 1990, ***.[140] Goodyear also reported a higher number of defects in ***.

According to its questionnaire response, Goodyear ranked ***.

In response to questions concerning general pricing, Goodyear reported that industrial rayon yarn from Germany ***.

***

*** purchased industrial rayon yarn for *** during the period for which data were collected in the investigation. *** manufactures *** at its *** facility and *** at its *** facility. Prior to the closure of Avtex, *** sourced from ***. *** purchases of industrial rayon yarn during 1989-91 are presented in the following tabulation:

Item	1989	1990	1991
*	*	*	*	*	*	*

***, reported that ***.[141] According to the firm's questionnaire response, ***.[142] ***.[143]

In response to questions concerning general pricing, *** reported that industrial rayon yarn from Germany ***.

---

[139] Conference transcript, Sept. 27, 1991.
[140] See "Lost Sales and Lost Revenue" section for further discussion.
[141] Staff conversation of Apr. 8, 1992.
[142] NARCO reported in its posthearing brief ***.
[143] Staff conversation with ***.

***

*** purchases industrial rayon yarn for ***. During the period January 1989-December 1991, ***. *** purchases of industrial rayon yarn during 1989-91 are presented in the following tabulation:

Item	1989	1990	1991
*	*	*	*

In its questionnaire response *** reported that ***.[144] ***.

Uniroyal Goodrich

The Uniroyal Goodrich Tire Co., Akron, OH, (Uniroyal) purchases high-tenacity rayon filament yarn for its automobile tire applications. During the period examined, nearly all of Uniroyal's purchases of industrial rayon yarn were from ***. Uniroyal's purchases of industrial rayon yarn during 1989-91 are presented in the following tabulation:

Item	1989	1990	1991
*	*	*	*

Uniroyal purchased industrial rayon yarn from ***.

As a result, ***.[145] ***.[146] ***.[147]

Uniroyal reported ***.

Beaver Manufacturing

Beaver Manufacturing Co., Mansfield, GA, (Beaver) is a converter of high-tenacity rayon filament yarn for resale to end-use customers. Purchases of industrial rayon yarn from ***. Beaver's purchases of industrial rayon yarn during 1989-91 are presented in the following tabulation:

Item	1989	1990	1991
*	*	*	*

According to Beaver's questionnaire response, ***. Company representative *** reported that ***. A further quality concern arose with ***. ***.

---

[144] ***.
[145] ***.
[146] Affidavit of *** of Uniroyal Goodrich, submitted May 8, 1992.
[147] Staff conversations with ***.

***.

***.[148] Since 1989 Beaver has ***.

According to its questionnaire response, Beaver ranked ***.

Bibb

The Bibb Co., Atlanta, GA, (Bibb) is a rayon converter that primarily purchases its rayon from ***. Bibb's purchases of industrial rayon yarn during 1989-91 are presented in the following tabulation:

Item	1989	1990	1991
*	*	*	*	*	*	*

According to Bibb's questionnaire response, ***.

***. ***.

***.[149] Currently, ***.

According to its questionnaire response, Bibb ranked product ***.

Bibb indicated that ***.

Questionnaire Price Data

The Commission requested quarterly pricing data during January 1989-December 1991 for the four industrial rayon yarn products described below.[150] All four products are high-tenacity (4-6 grams/denier) rayon filament yarn of viscose rayon made from high-alpha cellulose, with a twist of 2-4 turns per inch (or equivalent if in meters).[151]

PRODUCT 1: High-tenacity rayon filament yarn with single ends, 1650 denier with spin-finish, but no after-finish.

PRODUCT 2: High-tenacity rayon filament yarn with single ends, 2200 denier with spin-finish, but no after-finish.

---

[148] Staff conversations of Apr. 8, 1992.

[149] Staff conversation of Apr. 8, 1992.

[150] The petitioner and importer provided the product descriptions during preparation of the questionnaires and indicated that these four industrial rayon yarn products constituted a large share of U.S. consumption of the subject product and represented competition between U.S.-produced and the subject imported industrial rayon yarn. ***.

[151] Product 4 is a plied product made from single strands of high-tenacity rayon filament yarn. Information gathered in the investigation suggests that there are no plied high-tenacity rayon filament yarn imports from Germany.

PRODUCT 3: High-tenacity rayon filament yarn with single ends, 2200 denier with after-finish.

PRODUCT 4: High-tenacity rayon filament yarn with two or more ends, 1650 denier with spin-finish, but no after-finish.

U.S. Producer's and Importer's Prices

The price data were requested on a net U.S. f.o.b. and delivered price basis for the responding firms' largest sale and total quarterly sales. The U.S. producer provided the requested price data for all four products.[152] All the reported U.S.-produced products were Super 2 yarn. The U.S. importer provided the requested price data only for products 1 and 2 from Germany,[153] for both Super 2 and Super 3 products. ***.[154] ***.[155] ***.[156] Akzo asserts that its Super 3 products 1 and 2 are 13 percent stronger than either the U.S. Super 2 products 1 and 2, or the imported Super 2 products 1 and 2.[157] ***.

Price Trends

Price trends of the U.S.-produced and imported German industrial rayon yarn are based on the net f.o.b. selling prices of the U.S. producer and the importer that were reported in questionnaire responses.[158] Quarterly selling

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[152] NARCO reported prices for product 4 with an after-finish because it made no shipments of product 4 without after-finish. In addition to the four requested products, NARCO reported prices for high-tenacity rayon filament yarn with two or more ends, 2200 denier with after-finish.

[153] Akzo reported in its questionnaire response that the firm does not ***.

[154] ***.

[155] ***.

[156] All other things being equal, additional twist performed on the same machinery is more expensive to produce than less twist because of the extra production time required. However, it is not clear if the cost would be higher if twisting is performed on different machinery, nor is it clear if 3.75 TPI commands a price premium over 2.5 TPI. ***. ***. Akzo reported a *** percent difference in cost to produce Super 2 yarn with 2.5 TPI or 3.8 TPI. Akzo based the cost difference on production data verified by Commerce.

[157] The U.S. producer indicated that the Super 3 products are more expensive to produce, and that the strength of the Super 3 products was only about 10 percent greater than the strength of petitioner's Super 2 products (Fieldwork on Sept. 23, 1991).

[158] For a majority of the investigative period, the U.S. producer quoted selling prices f.o.b. its plant in Elizabethton, TN, and it knew its net f.o.b. value when quoting delivered prices in 1989. However, the firm did not know delivery charges to its customers during the period it quoted f.o.b. prices. The importer quoted selling prices on a delivered basis throughout the period of investigation. Because the importer sold most of its product within a relatively short distance of its warehouse and delivery costs were *** percent, changes in delivery costs should not have a large effect on trends in import prices.

prices of the specified industrial rayon yarn products 1 and 2 are shown in tables 16 and 17 for sales of the domestic and German product to end users. Quarterly selling prices of the specified industrial rayon yarn products 3 and 4 from the domestic producer are shown in table 18.[159] Quarterly selling prices of the specified industrial rayon yarn products 1 and 2 for sales to converters are shown in tables 19 and 20. The price information provided by the U.S. producer for products 1-4 accounted for *** percent by weight of total domestic shipments of U.S.-produced industrial rayon yarn during January 1989-December 1991. The price information provided by the importer for products 1 and 2 accounted for *** percent by weight of reported U.S. imports of the industrial rayon yarn from Germany during the period examined, according to questionnaire responses.

Quarterly prices of the U.S.-produced and subject imported German industrial rayon yarn products increased over the period January 1989-December 1991, but increases typically had occurred by the end of 1990; thereafter prices generally remained stable.[160]

End users.--Selling prices for domestic products 1-4 sold to end users were reported in 45 of the 48 quarters for which prices were requested.

Table 16
Product 1:[1] Net f.o.b. selling prices and quantities reported by U.S. producers and importers for sales of industrial rayon yarn bought by end users, and margins of underselling, by quarter, January 1989-December 1991[2]

* * * * * * *

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

Table 17
Product 2:[1] Net f.o.b. selling prices and quantities reported by U.S. producers and importers for sales of industrial rayon yarn bought by end users, and margins of underselling/(overselling), by quarter, January 1989-December 1991[2]

* * * * * * *

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

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[159] No prices were reported for imported products 3 and 4.

[160] Prices of all four domestic products remained stable between October-December 1990 and January-March 1991, while prices for products 3 and 4 remained stable throughout 1991.

Table 18
Net f.o.b. selling prices and quantities of U.S.-produced industrial rayon yarn bought by end users and converters, by specified product and by quarter, January 1989-December 1991[1]

* * * * * * *

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

Table 19
Product 1:[1] Net f.o.b. selling prices and quantities reported by U.S. producers and importers for sales of industrial rayon yarn bought by converters, and margins of underselling, by quarter, January 1989-December 1991[2]

* * * * * * *

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

Table 20
Product 2:[1] Net f.o.b. selling prices and quantities reported by U.S. producers and importers for sales of industrial rayon yarn bought by converters, and margins of underselling, by quarter, January 1989-December 1991[2]

* * * * * * *

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

Selling prices to end users for German industrial rayon yarn for the specified products were only reported for German Super 3 yarn product 2.

***.[161] ***.

Prices of domestic product 2 ***.

[161] In the preliminary investigation NARCO also reported quarterly net f.o.b. selling prices of the domestically produced product 1 (1650 denier) with an after-finish; these reported prices are not shown in table 16. ***.

Prices of domestic product 3 bought by end users ***.[162] Prices of domestic product 4 bought by end users ***.[163] [164]

Converters.--NARCO has made few sales of industrial rayon yarn to converters since 1989. Selling prices to converters for domestic industrial rayon yarn were reported by NARCO ***.

Akzo's quarterly net f.o.b. selling prices of the imported German industrial yarn, products 1 and 2 (Super 2 and 3) bought by converters ***.

***.

Prices of the imported Super 2 product 2 bought by converters ***. No price comparisons were possible between domestic and imported industrial yarn from Germany bought by converters.

Purchaser Price Data

Purchase prices for domestically produced and imported high-tenacity rayon filament yarn from Germany were based on average net f.o.b. prices reported by end users in questionnaire responses. Of the 12 known end users purchasing domestic and/or German industrial rayon yarn, 10 provided usable price data for January 1989-December 1991, but not necessarily for each product or for each quarter of the period.[165] Prices for purchases of domestic product and for German industrial rayon yarn bought from converters by end users are presented in tables 21-23. Purchase prices for domestic industrial rayon yarn and German product sold by the importer directly to end users are presented in tables 24 and 25.

Weighted-average purchase prices for domestic industrial rayon yarn increased over the period examined. Purchase prices for NARCO's products 1-3 increased *** during January 1989-December 1991. Purchase prices for Akzo Super 2 industrial rayon yarn sold by converters *** percent for product 1, while prices for Super 2 products 2 and 3 ***, during the period examined. Prices for German Super 3 industrial rayon yarn sold by converters for products 1-3 *** during the period examined. Conversely, purchase prices for German Super 3 industrial rayon yarn sold directly to end users *** for both products 1 and 2, by ***, over the period examined.

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[162] Reported net f.o.b. selling prices of the domestic products 1 and 2 with no after-finish averaged about ***, respectively, than product 3 with after-finish.

[163] Average quantities, on a quarterly basis, for shipments of product 4 were *** percent of average quantities for products 1 and 2, respectively.

[164] NARCO indicated that the increases in prices of its industrial rayon yarn during 1989 and the first quarter of 1990 were accompanied by sharp increases in its raw material costs during this period. (See appendix D for further discussion.)

[165] ***.

Table 21
Product 1:[1] Weighted-average purchase prices, f.o.b. U.S. point of shipment, quantities reported by end users for U.S.- and German-produced[2] industrial rayon yarn, and margins of underselling/(overselling), by quarter, January 1989-December 1991

* * * * * * *

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

Table 22
Product 2:[1] Weighted-average purchase prices, f.o.b. U.S. point of shipment, quantities reported by end users for U.S.- and German-produced[2] industrial rayon yarn, and margins of underselling/(overselling), by quarter, January 1989-December 1991

* * * * * * *

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

Table 23
Product 3:[1] Weighted-average purchase prices, f.o.b. U.S. point of shipment, quantities reported by end users for U.S.- and German-produced[2] industrial rayon yarn, and margins of underselling/(overselling), by quarter, January 1989-December 1991

* * * * * * *

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

Table 24
Product 1:[1] Weighted-average purchase prices, f.o.b. U.S. point of shipment, quantities reported by end users for the specified products from the domestic producer and importer[2], and margins of underselling/(overselling), by quarter, January 1989-December 1991

* * * * * * *

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

Table 25
Product 2:[1] Weighted-average purchase prices, f.o.b. U.S. point of shipment, quantities reported by end users for the specified products from the domestic producer and importer,[2] and margins of underselling/(overselling), by quarter, January 1989-December 1991

* * * * * * *

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

Purchases from converters.--Weighted-average purchase prices for domestic industrial rayon yarn product 1 ***. ***.

Price comparisons were possible between domestic and German Super 2 industrial rayon yarn and between domestic and German Super 3 product purchased by end users in each of the 12 quarters of the period examined. In all comparisons of Super 2 product 1, and in 8 of the 12 comparisons between domestic and German Super 3 product 1, the domestic product was priced lower than the German product. The margins of overselling for German Super 2 product ranged from *** percent during the period examined. Margins of overselling for German Super 3 ranged from *** percent; in four quarters revealing margins of underselling, the margin of underselling ranged from *** to *** percent.

Weighted-average purchase prices for product 2 bought from NARCO increased unevenly during the period examined. Prices fluctuated between *** per pound, but increased *** percent from *** per pound in January-March 1989 to *** per pound in October-December 1991. Reported quantities purchased of domestic product ranged from *** on a quarterly basis during the period examined.

Weighted-average purchase prices for German Super 2 industrial rayon bought from converters ***[166] *** percent. Reported quantities purchased of German Super 2 yarn ***. Purchase prices for German Super 3 yarn bought from converters were reported by ***. These prices *** per pound during the first quarter of 1989 to *** per pound during the third quarter of 1989, and to *** during the third quarter of 1990, ***. Reported purchase quantities of German Super 3 industrial rayon yarn were generally *** those of German Super 2 yarn.

Price comparisons were possible between domestic and German Super 2 industrial rayon yarn in 11 quarters and between domestic and German Super 3 product in each of the 12 quarters of the period examined. In 10 of the 11 comparisons of Super 2 and in 10 of the 12 comparisons between domestic and German Super 3 product, the domestic industrial rayon yarn was priced lower than the German product. These margins of overselling for German Super 2 product ranged from *** to *** percent during the period examined. During January-March 1990 the domestic and imported product were priced the same. Margins of overselling for the German Super 3 product ranged from *** percent.

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[166] No data were reported for January-March 1989.

In *** instances the imported German Super 3 product was priced lower than the domestic product Super 2 yarn by *** percent.

Weighted-average purchase prices for domestic product 3 ***.

Weighted-average purchase prices for German Super 2 industrial rayon yarn bought from converters were *** through April-June 1990,[167] then *** per pound in July-September 1990, *** October-December 1991, *** percent during the period examined. Reported total purchase quantities of German Super 2 yarn *** pounds per quarter and were *** than those reported for domestic product. Purchases prices for German Super 3 yarn bought from converters were reported by ***. These prices *** per pound during the first quarter of 1989 to *** per pound during July-September 1990, then *** per pound the following quarter, and *** October-December 1991. Overall, prices *** percent during the period examined. Reported quantities sold for German Super 3 industrial rayon yarn were *** than those of German Super 2 yarn, but generally *** reported domestic quantities.

Price comparisons were possible between domestic and German Super 2 industrial rayon yarn and between domestic and German Super 3 yarn product 3 in each of the 12 quarters of the period examined. In 9 of the 12 comparisons of Super 2 and in 9 of the 12 comparisons between domestic and German Super 3 product, the German industrial rayon yarn was priced higher than the domestic product. The margins of overselling for German Super 2 product ranged from *** percent during the period examined. During ***, German Super 2 yarn was priced lower than the domestic product by margins of *** percent. Margins of overselling for the German Super 3 product ranged from *** to *** percent. In *** instances German Super 3 yarn was priced lower than the domestic product by margins of *** percent.

Direct sales to end users--Weighted-average purchase prices for German Super 3 industrial rayon yarn product 1 bought directly by end users *** during the period examined.

Price comparisons were possible between domestic and German Super 3 product 1 purchased by end users directly from Akzo in each of the 12 quarters of the period examined.[168] In 8 of the 12 comparisons between domestic and German Super 3 yarn product 1, the German product was priced lower than the domestic product. These margins of underselling for product 1 ranged from *** percent, with margins *** in the latter half of 1991. In four instances the domestic product was priced lower than German Super 3 industrial rayon. The margins of overselling for the German product, ***, ranged from *** percent.

Weighted-average purchase prices for German Super 3 industrial rayon yarn product 2 bought directly by end users *** during July-December 1989 to *** per pound during April-June 1990, or by *** percent. Thereafter, prices *** per pound, or by *** percent during January-March 1991, and *** through 1991.

---

[167] ***.

[168] No purchasers reported purchase prices of Akzo Super 2 industrial rayon yarn for products 1-4 and Super 3 product for products 3 and 4.

Total reported quantities for German Super 3 industrial rayon yarn bought directly by end users were ***.

Price comparisons were possible between domestic and German Super 3 industrial rayon yarn purchased by end users directly from Akzo in 9 of the 12 quarters of the period examined. In four of these nine comparisons between domestic and German Super 3 yarn product 2, the German product was priced lower than the domestic product. These margins of underselling, ***, ranged from *** to *** percent. In the other five instances, the domestic product was priced lower than German industrial rayon. These margins of overselling, occurring ***, for German Super 3 yarn, ranged from *** to *** percent.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that during January-March 1989 through October-December 1991 the nominal value of the German mark fluctuated, appreciating 13.5 percent overall relative to the U.S. dollar (table 26).[169] Adjusted for movements in producer price indexes in the United States and Germany, the real value of the German currency showed an overall appreciation of 14.8 percent for the period January 1989 through December 1991.

[169] International Financial Statistics, March 1992.

Table 26
Exchange rates:[1] Indexes of nominal and real exchange rates of the German mark and indexes of producer prices in the United States and Germany,[2] by quarter, January 1989-December 1991

Period	U.S. producer price index	German producer price index	Nominal exchange rate index	Real exchange rate index[3]
1989:				
January-March.....	100.0	100.0	100.0	100.0
April-June.....	101.8	100.8	95.6	94.7
July-September.....	101.4	101.0	96.1	95.7
October-December....	101.8	101.7	102.0	102.0
1990:				
January-March.....	103.3	101.8	109.4	107.9
April-June.....	103.1	102.4	110.2	109.5
July-September.....	104.9	102.9	116.1	113.9
October-December....	108.1	103.5	123.2	117.9
1991:				
January-March.....	105.9	104.0	120.8	118.6
April-June.....	104.8	104.7	106.6	106.4
July-September.....	104.7	105.8	106.0	107.2
October-December....	104.8	106.0	113.5	114.8

[1] Exchange rates expressed in U.S. dollars per German mark.
[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 Germany.

Note.--January-March 1989 = 100.

Source: International Monetary Fund, International Financial Statistics, March 1992.

Lost Sales

* * * * * * *[170] [171] [172]

Lost Revenues

* * * * * * *[173] [174] [175] [176]

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[170] ***.
[171] According to its questionnaire response ***.
[172] ***.
[173] ***.
[174] ***.
[175] ***.
[176] ***.

APPENDIX A

FEDERAL REGISTER NOTICES

[A-421-802]

Notice of Preliminary Determination of Sales at Not Less Than Fair Value: High-Tenacity Rayon Filament Yarn From the Netherlands

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

EFFECTIVE DATE: February 20, 1992.

FOR FURTHER INFORMATION CONTACT: Cynthia Thirumalai, 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) 377-8498.

PRELIMINARY DETERMINATION

We preliminarily determine that high-tenacity rayon filament yarn from the Netherlands is not being, nor is it likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

Case History

Since the publication of our notice of initiation on September 26 1991, (56 FR 49378, October 2, 1991), the following events have occurred.

On October 21, 1991, the U.S. International Trade Commission (ITC) issued an affirmative preliminary injury determination in this case (56 FR 55930, October 30, 1991).

On November 1, 1991, the Department presented sections A, B, C, and D of the Department's questionnaire to Akzo Faser B.V. and Akzo Fibers, Inc. (hereafter jointly referred to as "Akzo"), both subsidiaries of Akzo N.V. As the only know producer of the subject merchandise in the Netherlands, Akzo is the only respondent in this investigation.

On November 8, 1991, Akzo made a submission in which it reported that it does not export the merchandise subject to this investigation from its facilities in the Netherlands. The Department then informed Akzo that it would be required to complete only relevant portions of section A of the Department's questionnaire.

We received Akzo's response to section A of the questionnaire on November 25, 1991. In this response, Akzo asserted that all of its exports classified under the Harmonized Tariff Schedule ("HTS") item 5403.30.10.40 (the subcategory under the subject merchandise is reported) were misclassified. Textile-quality rayon yarns (not the subject of this investigation) that should have been classified elsewhere had been consistently misclassified under HTS 5403.10.30.40. As a result of these misclassifications, the import statistics gave the appearance that there were imports of the subject merchandise from the Netherlands during 1989 and 1990.

We issued a deficiency questionnaire for section A on December 11, 1991. Akzo responded to the deficiency questionnaire on December 23, 1991. On January 17, 1992, we issued a second deficiency questionnaire to which Akzo responded on February 3, 1992.

In its petition filed September 6, 1991, petitioner alleged the existence of critical circumstances. The Department requested information on shipments from respondent in its November 1, 1991 questionnaire. See the "Critical Circumstances" section of this notice below.

Scope of the Investigation

The product covered by this investigation is high-tenacity rayon filament yarn. High-tenacity rayon filament yarn is a multifilament single yarn of viscose rayon with a twist of five turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tex. This yarn is currently classifiable under HTS item 5403.10.30.40. Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

On November 27, 1991, petitioner requested that the Department include imports of high-tenacity rayon yarn from the Netherlands that had been entered under HTS 5403.30.0020. Akzo reported that this product is not a single yarn, but, rather, a multiple yarn that is not within the scope of the investigation. Petitioner has not requested a change in the scope of the investigation. (*See*, memorandum from Acting Director/OAI to DAS/I, February 10, 1991.)

Period of Investigation

The period of investigation (POI) is April 1, 1991, through September 30, 1991.

Fair Value Comparisons

In order to determine whether sales of subject merchandise to the United States by a respondent were made at less than fair value, the Department compares the United States price to the foreign market value (FMV). Akzo reported no sales of or offers to sell the subject merchandise during the POI. Accordingly, there are no United States prices with which to compare foreign market value.

Critical Circumstances

Petitioners allege that "critical circumstances" exist with respect to imports of high-tenacity rayon filament yarn from the Netherlands. Section 733(e)(1) of the Act provides that critical circumstances exist when we determine that there is a reasonable basis to believe or suspect the following:

"(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 investigation at less than its fair value, and

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

Since Akzo has reported that it did not sell or make offers to sell the merchandise under investigation, we find that there is no reasonable basis to believe or suspect that critical circumstances exist with respect to high-tenacity rayon filament yarn from the Netherlands.

Verification

As provided in section 776(b) of the Act, we will verify the information used in making our final determination.

Estimated Dumping Margins

Producer/ manufacturer/ exporter	Weighted-average margin percentage	Critical circumstances
Akzo	00.00	No.
All others	00.00	No.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than April 10, 1992, and for rebuttal briefs no later

than April 14, 1992. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on April 16, 1992, at 10 a.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15.

Dated: February 13, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3982 Filed 2-19-92; 8:45 am]

BILLING CODE 3510-DS-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-530 (Final)]

High-Tenacity Rayon Filament Yarn From Germany; Institution and Scheduling of a Final Antidumping Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investingation No. 731-TA-530 (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 Germany of high-tenacity rayon filament yarn,[1] provided for in subheading 5403.10.30 of the Harmonized Tariff Schedule of the United States.

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 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: February 20, 1992.

FOR FURTHER INFORMATION CONTACT: Janine Wedel (202-205-3178), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impared persons can obtain information on this matter by contacting the Commission's TDD terminal of 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of high-tenacity rayon filament yarn from Germany 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 September 6, 1991 by North American Rayon Corp., Elizabethton, TN.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. 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.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is 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 BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on April 17, 1992, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

[1] High-tenacity rayon filament yarn is a multifilament single yarn of viscose rayon with a twist of five turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tex. Imports of this product fall under statistical reporting number 5403.10.3060 of the Harmonized Tariff Schedule of the United States.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on May 1, 1992, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before April 27, 1992. 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 April 28, 1992, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is April 27, 1992. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is May 8, 1992; witness testimony must be filed no later than three (3) days before the hearing. 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 May 8, 1992. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with § 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

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

By Order of the Commission.

Issued: March 16, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-6890 Filed 3-24-92; 8:45 am]

BILLING CODE 7020-02-M

[A-421-802]

Termination of Antidumping Duty Investigation: High-Tenacity Rayon Filament Yarn From The Netherlands

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

EFFECTIVE DATE: April 2, 1992.

FOR FURTHER INFORMATION CONTACT: Cynthia Thirumalai or Edward Easton, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-8498 or (202) 377-1777, respectively.

Scope of Investigation

The product covered by this investigation is high-tenacity rayon filament yarn. High-tenacity rayon filament yarn is a multifilament single yarn of viscose rayon with a twist of five turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tex. This yarn is classified currently under item 5403.10.30.40 of the Harmonized Tariff Schedule ("HTS"). Although the HTS subheading is provided for convenience and customs purposes, the Department's written description of the scope of this proceeding is dispositive.

Termination of Investigation

On February 20, 1992, the Department of Commerce (the Department) published its preliminary antidumping duty determination in the **Federal Register** (57 FR 6091). In a letter dated March 6, 1992, petitioner notified the Department of the withdrawal of its September 6, 1991, petition and requested termination of the antidumping investigation.

In accordance with 19 CFR 353.17(a), upon the petitioner's withdrawal of the petition, the Department may terminate an investigation after notice to all parties to the proceeding and after consultation with the International Trade Commission (ITC). Furthermore, the Department may not terminate an investigation unless it concludes that termination is in the public interest. We have notified all parties to the proceeding and consulted with the ITC. In addition, we have concluded that termination of the investigation is in the public interest. Accordingly, we are terminating the antidumping duty investigation of high-tenacity rayon filament yarn from the Netherlands. This action is taken pursuant to section 734(a)(1) of the Tariff Act of 1930, as amended.

Dated: March 26, 1992.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-7635 Filed 4-1-92; 8:45 am]

BILLING CODE 3510-DS-M

[Investigation No. 731-TA-530 (Final)]

High-Tenacity Rayon Filament Yarn From Germany; Commission Determination to Conduct a Portion of the Hearing In Camera

AGENCY: U.S. International Trade Commission.

ACTION: Closure of a portion of a Commission hearing to the public.

SUMMARY: Upon request of respondents Akzo Faser AG and Akzo Fibers Inc. ("Akzo") in the above-captioned final investigation, the Commission has unanimously determined to conduct a portion of its hearing scheduled for May 1, 1992, *in camera*. See Commission rules 201.13 and 201.35(b)(3) (19 CFR 201.13 and 201.35(b)(3)). The remainder of the hearing will be open to the public.

FOR FURTHER INFORMATION CONTACT: Rhonda M. Hughes, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-3083. Hearing-impaired persons are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission believes that Akzo has demonstrated good cause justifying the closure of the hearing so that it may present information primarily obtained from third parties and covered by the Commission's Administrative Protective Order (APO). This information concerns the quality and price of the domestic like product as compared to the subject imported product. The Commission has determined that a full discussion of the domestic industry and of the indicators that it examines in assessing material injury by reason of the subject imports could only take place if at least part of the hearing were held *in camera*. In making this decision, the Commission nevertheless affirms its belief that wherever possible its business should be conducted in public.

The hearing will begin with the public presentation by petitioner, followed by questioning of petitioner by the Commission. Respondents will then make public arguments and be questioned as appropriate by the Commission. Following respondents' public presentation and questioning, an *in camera* session concerning the above-described business proprietary information (BPI) will begin. For this discussion the room will be cleared of all persons except: (1) Those who have been granted access to BPI under the APO and are included on the Commission's APO service list in this investigation, (2) persons who will be presenting *in camera* testimony on behalf of the parties, and (3) personnel of the Commission, including the court reporter. Any representatives of the petitioner eligible to attend the session may respond and be questioned by the Commission as appropriate.

After respondents' *in camera* presentation, petitioner's representatives will be given the opportunity to present an *in camera* rebuttal to respondents' presentation. A short recess may be necessary to enable preparation of the rebuttal.

Following the *in camera* session, the Commission would reopen the hearing to the public for concluding statements or for additional public questioning by the Commission. The time for the parties' presentations in the *in camera* sessions will be taken from their respective overall allotments for the hearing. All persons planning to attend the *in camera* portion of the hearing should be prepared to present proper identification.

Authority: The General Counsel has certified, pursuant to Commission Rule 201.39 (19 CFR 201.39) that, in her opinion, a portion of the Commission's hearing in *High-tenacity Rayon Filament Yarn from Germany*, Inv. No. 731-TA-530 (Final), may be closed to the public to prevent the disclosure of BPI as described in Commission Rule 201.36(b)(4) (19 CFR 210.36(b)(4)).

Issued: April 30, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-10552 Filed 5-5-92; 8:45 am]

BILLING CODE 7020-02-M

[A-428-810]

Final Determination of Sales at Less Than Fair Value: High-Tenacity Rayon Filament Yarn From Germany

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

EFFECTIVE DATE: May 22, 1992.

FOR FURTHER INFORMATION CONTACT: Edward Easton or Cynthia Thirumalai, 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) 377-1777 or (202) 377-8498, respectively.

FINAL DETERMINATION: We determine that high-tenacity rayon filament yarn is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the issuance of our notice of preliminary determination (published in the Federal Register on February 20, 1992 (57 FR 6088)), the following events have occurred.

On February 19, 1992, the North American Rayon Corporation, petitioner in this proceeding, requested that the scope of investigation be clarified to eliminate the single-yarn limitation stated in the notice of initiation and to include items covered by Harmonized Tariff Schedule (HTS) item number 5403.10.60.00. On February 28, 1992, Respondent, Akzo Faser AG and Akzo Fibers Inc. (collectively Akzo), objected to a revision of the scope language.

On March 20, 1992, Akzo submitted additional information in response to the Department of Commerce's (the Department's) February 7, 1992, request. On March 30, Akzo corrected an earlier response to the Department's questionaire. It also submitted revised home market, purchase price, and exporter sales price (ESP) databases, and cost of production (COP) and constructed value (CV) datasets on April 6, 1992. This submission incorporated all of the revisions it had made to its questionnaire responses.

Sales verification took place March 9-13, 1992, at the corporate headquarters of Akzo NV (the parent company of Akzo Faser AG and Akzo Fibers Inc.) in Arnhem, the Netherlands, and at Akzo Faser AG in Wuppertal, Germany. The ESP verification was held March 30-31, 1992, at Akzo Fibers Inc., in Conyers, Georgia. The COP verification took place March 16-20, 1992, at Akzo NV in Arnhem and at Akzo Faser AG in Obernburg, Germany.

Based on Akzo's April 1, 1992, request, we postponed the final determination until May 15, 1992 (57 FR 14385, April 20, 1992).

We received requests for a public hearing from respondent on February 25, 1992, and from petitioner on February 28, 1992. Both petitioner and respondent filed case briefs on April 20, 1992, and rebuttal briefs on April 22, 1992. A public hearing was held on April 27, 1992, during which petitioner requested the opportunity to address additional issues. Petitioner's request was granted and on April 28, 1992, it submitted a supplemental rebuttal brief on April 28, 1992.

Scope of Investigation

The product coverd by this investigation is high-tenacity rayon filament yarn. High-tenacity rayon filament yarn is a multifilament single yarn of viscose rayone with a twist of five turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tex. This yarn is currently classifiable under subheading 5403.10.30.40 of the HTS. Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1991, through September 30, 1991.

Such or Similar Comparisons

When possible, product comparisons were made between sales of identical merchandise. For those U.S. sales transactions for which there was no above-cost, identical comparison product, we made our comparions to similar products adjustd for differences in merchandise.

Fair Value Comparisons

Tjo determine whether sales of high-tenacity rayon filament yarn from Germany to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We calculated USP using the methodology described in the preliminary determination. Based on our findings at verification, we modified respondent's U.S. databases as follows: Credit expenses on purchase price sales and inventory carrying expenses for all U.S. sales were recalculated to reflect changes in respondent's home market short-term interest rate; non-U.S. indirect selling expenses were recalculated to remove certain expenses that respondent was unable to support at verification; and U.S. indirect selling expenses on ESP sales were corrected to eliminate the double-counting of certain expenses. Missing payment dates for U.S. sales were set at the date of this determination, May 15, 1992.

Foreign Market Value

In accordance with section 773(a)(1)(B) of the Act, we found that the home market was viable for sales of high-tenacity rayon filament yarn.

We calculated FMV using the methodology described in the preliminary determination. Based on our findings at verification, we made changes to the home market database as follows: Home market credit expenses and inventory carrying costs were modified to reflect the recalculation of respondent's home market short-term interest rate; reported third party payments to a customer not found to be eligible for the same were disregarded; and a portion of indirect selling expenses was disallowed because respondent was unable to demonstrate its accuracy at verification.

Cost of Production

Petitioner alleged that respondent's home market sales of high-tenacity rayon filament yarn were made at prices below COP.

Based on our COP analysis, we found that between ten and 90 percent of respondent's sales were at prices above the total COP of high-tenacity rayon filament yarn. Respondent provided no information demonstrating that costs would be recovered over a reasonable period of time. Therefore, we disregarded the below-cost sales and

limited FMV to respondent's above-cost home market sales.

Critical Circumstances

Petitioner alleged that critical circumstances exist with respect to imports of high-tenacity rayon filament yarn from Germany. In our preliminary determination, we concluded that critical circumstances existed. For the final determination, based on the methodology described in the preliminary determination and including an analysis of five-month comparison periods, we find that imports have been massive over a relatively short period of time and that knowledge of dumping exists. As such, we continue to find that critical circumstances exist in accordance with 19 CFR 353.16 with respect to imports of high-tenacity rayon filament yarn from Germany. (See Comment 2.)

Currency Conversion

We made all currency conversions in accordance with 19 CFR 353.60 by using the exchange rates certified by the Federal Reserve Bank of New York.

Verification

As provided in section 776(b) of the Act, we verified information provided by respondent by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Interested Party Comments

Comment 1: Petitioner argues that the petition filed with the Department and the International Trade Commission (ITC) should be read to cover high-tenacity rayon filament yarn, whether or not the yarn is a single yarn or a piled (or cabled) yarn.

On February 19, 1992, petitioner submitted a "clarification" of the product scope in its petition. The clarification sought to add merchandise classified under HTS item 5043.10.60.00 to the types of high-tenacity rayon yarn covered by this investigation. In its case brief, petitioner also argued that high-tenacity rayon filament yarn, whether single or piled (or cabled) is one class or kind of merchandise within the criteria set forth in *Diversified Products Corporation* v. *United States* (*Diversified Products*), 572. F. Supp. 883 (CIT 1983), and *Kyowa Gas Chemical Industry Company, Ltd.* v. *United States* (*Kyowa Gas*), 582 F. Supp. 887 (CIT 1984). At the public hearing, petitioner further argued that because both single yarn and plied (or cabled) yarn comprise one class or kind of merchandise, an amendment to the Department's scope of investigation is not necessary.

Respondent states that the petition explicitly limited the scope of covered imports to certain single yarns covered by HTS item 5403.10.30.40. Further, respondent argues that the Explanatory Notes to the HTS limit this item to single yarn only.

DOC Position: We agree with respondent. The petition alleged only that certain of the single yarns classified under HTS item 5043.10.30.40 were being, or were likely to be, sold in the United States at less than fair value. At no time during the investigation did petitioner amend the petition to submit information and/or allegations that imports of any particular products of non-single, high-tenacity rayon filament yarn from Germany were being, or were likely to be, sold in the United States at less than fair value. The Department has been provided no basis upon which to expand the original scope of investigation. Moreover, petitioner's reliance on the argument that the single and plied (or cabled) yarns constitute a single class or kind of merchandise within the meaning of the *Diversified Products* and *Kyowa Gas* cases is misplaced. These cases involve the analysis required to determine whether or not a particular product should be included within the scope where ambiguity exists. In this investigation, there is no question that the scope is limited to certain single yarn within HTS item 5403.10.30.40. Accordingly, plied (or cabled) yarns are outside the scope of this proceeding.

Comment 2: Petitioner asserts that the Department should conclude for the final determination that critical circumstances exist with respect to imports of high-tenacity rayon filament yarn from Germany. According to petitioner, imports of high-tenacity rayon filament yarn into the United States by respondent increased significantly during the period subsequent to the filing of the petition (by examination of both three-month and five-month comparisons periods). Petitioner also contends that the Department should continue to use the weighted-average benchmark used in the preliminary determination to compare to the estimated dumping margin in determining whether importers knew, or should have known, that the product was being imported at less than fair value.

Respondent contends that the Department's use of the weighted-average benchmark was a significant departure from its past practice and had the effect of lowering the established standard for imputing importer knowledge on purchase price sales. According to respondent, the Department should maintain its practice of imputing importer knowledge on purchase price sales when the estimated dumping margin is greater than or equal to 25 percent (see Final Determination of Sales at Less Than Fair Value: Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy (52 FR 24198, June 29, 1987)).

Respondent also states that the increase in shipment volume after the filing of the petition was attributable to large fluctuations in monthly shipment volumes typical of the industry and to lower-than-usual shipment levels in the months preceeding the filing of the petition. Respondent asserts that this latter situation was relied upon by the Department in its negative determination on critical circumstances in the Preliminary Determination of Sales at Less Than Fair Value: Sodium Thiosulfate from the People's Republic of China (*Sodium Thiosulfate*) (55 FR 51140, December 12, 1990). In that determination, the Department found that imports were not massive because the increase was attributable to abnormally low volume in the previous month. Respondent contends that the Department should find that the imports in this investigation, like those in the *Sodium Thiosulfate* case, have not been massive. Respondent also argues that the yearly shipment volume for 1991, compared with that for 1992, further demonstrates that imports were not massive.

DOC Position: We agree with petitioner that imports were massive within the meaning of 19 CFR 353.16(a)(2). While large variations in monthly shipment levels were found to be typical, an analysis of respondent's shipment data showed a marked increase in monthly shipment levels during the period between the filing of the petition and the preliminary determination. This increase is apparent when compared with the smaller shipment levels exhibited for a number of months before the filing of the petition. In *Sodium Thiosulfate*, the decrease in shipment volume during the month preceding the filing of the petition was contrasted with normally steady shipment levels. Furthermore, respondent has not provided information indicating that the relatively small shipment levels during the preceding months were atypical.

We also agree with petitioner that using the weighted-average benchmark is appropriate in situations where, as here, there are both purchase price and

ESP transactions and the Department must determine whether importers knew, or should have known, that the merchandise was being imported at less than fair value. In this case, both the purchase price sales and the resales by Akzo Fibers Inc. were made to a limited number of converters and end users during the POI. It would make no sense for the Department to limit, in effect, its critical circumstances analysis only to those shipments from Akzo's Georgia warehouse while contemporaneous shipments directly from U.S. ports were taking place. In any event, the margin percentage on purchase price sales is sufficiently close to the 25 percent purchase price benchmark for the Department to find that importers knew, or should have known, that the merchandise was being sold at less than fair value.

Therefore, we find that critical circumstances exist under 19 CFR 353.16 with respect to imports of high-tenacity rayon filament yarn from Germany.

Comment 3: Petitioner contends that respondent did not report all of its selling expenses for purposes of calculating COP. In addition to sales by departments in Arnhem, the Netherlands, within the Industrial Fibers business unit for which selling expense were reported, there were home market sales made by Akzo Faser AG through a business unit of the Fibers Division of its parent company (Akzo NV), also located in Arnhem. Petitioner argues that the selling expenses of Akzo NV must be included in Akzo Faser's COP calculation. Furthermore, petitioner contends that selling expenses for Akzo Faser's subsidiary, Kuag Textil GmbH (Kuag), also should be reported because there were sales by Kuag of the subject merchandise during the POI. In addition, petitioner states that respondent did not include in its COP information an allocation of general and administrative (G&A) expenses of Akzo NV. Petitioner proposes that the Department disregard respondent's reported selling, general and administrative (SG&A) expenses and instead use Akzo's 1990 consolidated financial statement to calculate these expenses as the best information available (BIA).

Respondent states that the sales departments in Arnhem responsible for sales of subject merchandise in Germany are part of Akzo Fibers BV because they are physically located in the Netherlands. On a consolidated basis, they are also part of Akzo NV. They are not, however, separate sales departments. According to respondent, expenses relating to these sales departments were properly included in those attributable to the Industrial Fibers business unit. Expenses of the Industrial Fibers business unit were then allocated to different products based on respondent's established accounting system. Respondent agrees with petitioner that it did not report any additional selling expenses for Kuag operations; however, it did not claim an adjustment to home market price for these sales either. Since Kuag sales of industrial rayon (including merchandise not subject to this investigation) amounted to approximately 0.2 percent of total reported home market sales during the POI, inclusion or exclusion of these expenses could not affect the calculation of dumping margins. Finally, respondent argues that using the consolidated financial statement of a diversified, multi-product company such as Akzo to calculate average SG&A expenses would not properly reflect selling expenses associated with a particular product line.

DOC Position: We agree with respondent that SG&A expenses of Akzo Faser AG and Akzo BV include costs that were allocated on a product-specific basis during the normal course of business. The expenses of different divisions and the corporate office are allocated to all operating units on a prescribed basis. We verified the items allocated and the allocation methodology, which we determined to be reasonable. We also verified that the administrative expenses of the parent company were included and allocated to the operating units. With regard to the selling expenses of Kuag, respondent reported its total sales during the POI on January 21, 1992. We determined that the selling expenses of Kuag, when allocated to the subject merchandise, are immaterial.

Comment 4: Petitioner asserts that respondent's reported actual costs are understated. This assertion is based on petitioner's comparison of two verification exhibits. The first is an annual income statement for all fiber products, and the second consists of monthly cost data.

Respondent asserts that the differences in costs noted by petitioner result from the fact that the figures in the first exhibit apply to all industrial rayon products while the data in the second relate only to the production of yarn.

Department's Position: We agree with respondent. The Department verified the submitted COP data for the subject merchandise. The alleged discrepancies result from an inappropriate comparison of cost data concerning multiple products with cost data relating to a single product.

Comment 5: Respondent argues that for the final determination, the Department should allow an adjustment to home market price for interest revenue when conducting the cost test because such an adjustment would reflect actual revenues received, not imputed amounts.

Petitioner contends that interest revenues are akin to credit expenses and, as such, are normally treated as circumstance of sale (COS) adjustments. Since the Department does not make COS adjustments when comparing foreign market prices to COP, an adjustment for interest should not be made to home market prices. If the Department were to adjust home market prices for interest revenue received, then it should also deduct credit expenses. Petitioner also points out that the interest expense used to calculate COP was computed net of interest revenue. Therefore, any adjustment to home market price would result in adjusting both COP and the price compared with COP (*i.e.*, double counting).

DOC Position: We agree in part with both petitioner and respondent. Home market prices should be adjusted for interest revenue for purposes of the cost test. Respondent offers its customers an early payment discount and allows them this discount if payment is made by an interest-bearing note. At verification, we found that at the date of payment by note, the principal amount, interest rate and duration of customers' interest-bearing drafts were set. Therefore, the interest revenues received were actual, not imputed, amounts. The payment of interest on drafts amounted to a premium on the price paid in exchange for the use of certain payment terms and the availability of early payment discounts. Accordingly, the interest revenue was a component of the price that the customer agreed to pay for the product and it is appropriate for the Department to include it in the net price to be compared to COP. To eliminate any double counting of interest revenues, we deducted the amount of interest revenue attributable to sales of the subject merchandise from the short-term interest revenue on the consolidated financial statement allocated to the subject merchandise. The latter was then used as an offset to the total interest expense in the COP calculation.

Comment 6: Respondent asserts that actual purchase prices for raw material inputs paid to related parties should be used to calculate COP and CV. It

maintains that the transfer prices are arm's length market prices and are above the related producer's production cost.

Department's Position: We agree with respondent in part. The Department verified that the transfer prices were above the production cost and are at market prices. Although the Department normally uses the actual production cost for purchases from entities which are under common control, any adjustment from the purchase price to the production cost in this case would result in insignificant changes to the calculation of COP and, therefore, was not made.

Comment 7: Petitioner asserts that restructuring costs for plant closings should be included in G&A expenses because, according to U.S. generally accepted accounting principles (GAAP), losses from plant closings are not extraordinary and do not provide a future benefit.

Respondent maintains that the restructuring in this case is related to organizational changes intended to rationalize its corporate operations. Such restructuring costs are considered non-recurring, extraordinary expenses under Netherlands GAAP and are reflected as such in its financial statements. Respondent contends that its restructuring differs from the plant closing described in the Final Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from Taiwan, (55 FR at 34596–34597, August 23, 1990). In that case there was a single isolated plant closing. Therefore, the Department should not include any of the restructuring costs in calculating COP or CV. Respondent also claims that exclusion of the restructuring costs is consistent with Antidumping Policy Paper B (written in the early 1980s) that had been prepared by the Department's Office of Policy. However, should the Department include any restructuring expenses, respondent argues that it should offset the expense with the gains incurred from divestments.

DOC Position: We agree in part with both petitioner and respondent. Respondent incurred gains and losses on divestments and restructuring. These net losses represent expenses of the entire corporation. Although these restructuring expenses are treated as extraordinary in respondent's financial statements, COP must recapture all costs incurred by the corporation. Therefore, the Department included the net expenses before taxes, and allocated these expenses, based on cost of sales, over the entire corporation.

Comment 8: Petitioner claims that respondent has not reported any direct selling expenses for its U.S. operations by referencing respondent's submission of December 16, 1991 (at page 44). Also, petitioner asserts that respondent's cumulation of U.S. indirect selling expenses failed to include indirect selling expenses of Akzo America Inc., the U.S. parent company of Akzo Fibers Inc. In addition, some of the items classifed as indirect selling expenses should properly have been classified as direct selling expenses. Petitioner also objects to respondent's failure to allocate U.S. indirect selling expenses based on a fixed percentage. Finally, petitioner contends that respondent's U.S. selling expenses are underreported and that the amount reported for indirect selling expenses does not reconcile to Akzo Industrial Fibers' December 31, 1991, year-to-date income statement. Petitioner proposes that the Department disregard respondent's reported selling expenses and, instead, rely upon entity-wide selling expenses as BIA.

Respondent asserts that in its December 16, 1991, submission, it stated that "Akzo does not incur any direct selling expense in the United States *not already reported elsewhere* [emphasis added] in this response." With respect to indirect selling expenses of the parent company, respondent asserts that while Akzo America did not engage in any selling functions in connection with rayon, Akzo Fibers did include all appropriate corporate costs in its calculation of U.S. indirect selling expenses. Respondent states that the expenses which petitioner argues should have been classified as direct selling expenses were either properly reported as indirect selling expenses or were so small as to have been immaterial. With regard to the allocation of U.S. indirect selling expenses, respondent argues that its methodologies were based on an examination of the individual expenses, were reasonable, and were verified by the Department. Respondent also contends that since the POI was only six months, the total of its reported selling expenses should not correspond to those found on Akzo Industrial Fibers' December 1991 year-to-date income statement which included expenses for the full year.

DOC Position: We agree with respondent. We reviewed both the direct and the indirect expenses reported by respondent, and verified the items that were allocated and the allocation methodologies used. We determined that the allocations were reasonable. Although an audited financial statement for Akzo America Inc., did not exist for 1991, we were able to trace the data reported for the POI to the 1991 year-end summary of the monthly income statements or Akzo Industrial Fibers and another business unit within Akzo Fibers Inc., for consolidation by Akzo Fibers Inc.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directly the Customs Service to continue to suspend liquidation of all entries of high-tenacity rayon filament yarn that are entered, or withdrawn from warehouse, for consumption on or after November 20, 1991, which is 90 days before the date of publication of our preliminary determination in the **Federal Register**. The Customs Service shall require a cash deposit or bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Producer/ manufacturer/exporter	Weighted-Average margin percentage	Critical circumstances
Akzo	24.58	Yes.
All Others	24.58	No

ITC Notification

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

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.35(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: May 15, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc 92–12091 Filed 5–21–92; 8:45 am]

BILLING CODE 3510–DS–M

APPENDIX B

CALENDAR OF THE PUBLIC HEARING

CALENDAR OF PUBLIC HEARING

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

Subject	:	HIGH-TENACITY RAYON FILAMENT YARN FROM GERMANY
Inv. No.	:	731-TA-530 (Final)
Date and Time	:	May 1, 1992 - 9:30 a.m.

Sessions were held in connection with the investigation 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:

Economic Consulting Services, Inc. (ECS)
Washington, D.C.
On behalf of

North American Rayon Corporation
Elizabethton, TN

Charles K. Green, President and CEO

Richard Reagan, Vice President, Sales and Marketing Research

Phil Huff, Industrial Yarn Sales Manager

George Gill, (Retired) Former Technical Manager for Tire Textiles and Industrial Products at Uniroyal

Mark W. Love, Vice President, (ECS)

Daniel C. Cannistra, Senior Economist (ECS)

Those in Opposition to Imposition of Antidumping Duties:

Adduci, Mastriani, Meeks & Schill
Washington, D.C.
On behalf of

Akzo Faser AG

Akzo Fibers Inc.

Lowell D. Bivens, General Manager, Industrial Fibers Group, Akzo Fibers Inc.

Trade Resources Company

Thomas D. Emrich

Seth Kaplan

Barbara A. Murphy)
) **--OF COUNSEL**
Larry L. Shatzer, II)

Beaver Manufacturing
Mansfield, Georgia

Edward W. Needham, President and CEO

Dr. Thomas C. Allen, Senior Manager, Research and Development

APPENDIX C

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

Response of the U.S. producer to the following questions:

1. Since January 1, 1988, has your firm experienced any actual negative effects on its growth, investment, ability to raise capital, or existing development and production efforts, including efforts to develop a derivative or more advanced product, as a result of imports of single high-tenacity rayon filament yarn from Germany?

   NARCO--"Yes"--

   * * * * * * *

2. Does your firm anticipate any negative impact of imports of single high-tenacity rayon filament yarn from Germany?

   NARCO--"Yes"--

   * * * * * * *

3. Has the scale of capital investments undertaken been influenced by the presence of imports of single high-tenacity rayon filament yarn from Germany?

   NARCO--"Yes"--

   * * * * * * *

APPENDIX D

NARCO'S COSTS OF WOOD PULP AND CAUSTIC SODA

***.[1] [2] [3] [4] [5]

Table D-1
NARCO's costs of wood pulp[1] and caustic soda used by the firm to produce its industrial rayon yarn, by quarter, January 1989-December 1991[2]

Period	Wood pulp			Caustic soda		
	Cost per metric ton of material purchased	Cost per pound of industrial yarn produced		Cost per short ton of material purchased	Cost per pound of industrial yarn produced	
		Cost	Index		Cost	Index
	*	*	*	*	*	*

[1] ***, the high-alpha wood pulp used to produce industrial rayon yarn.
[2] ***.

Note: January-March 1989=100.

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

[1] Field trip to NARCO on Sept. 20, 1991.
[2] ***.
[3] ***.
[4] ***.
[5] ***.