Saccharin From China and Korea

Investigations Nos. 731-TA-675 and 676 (Preliminary)

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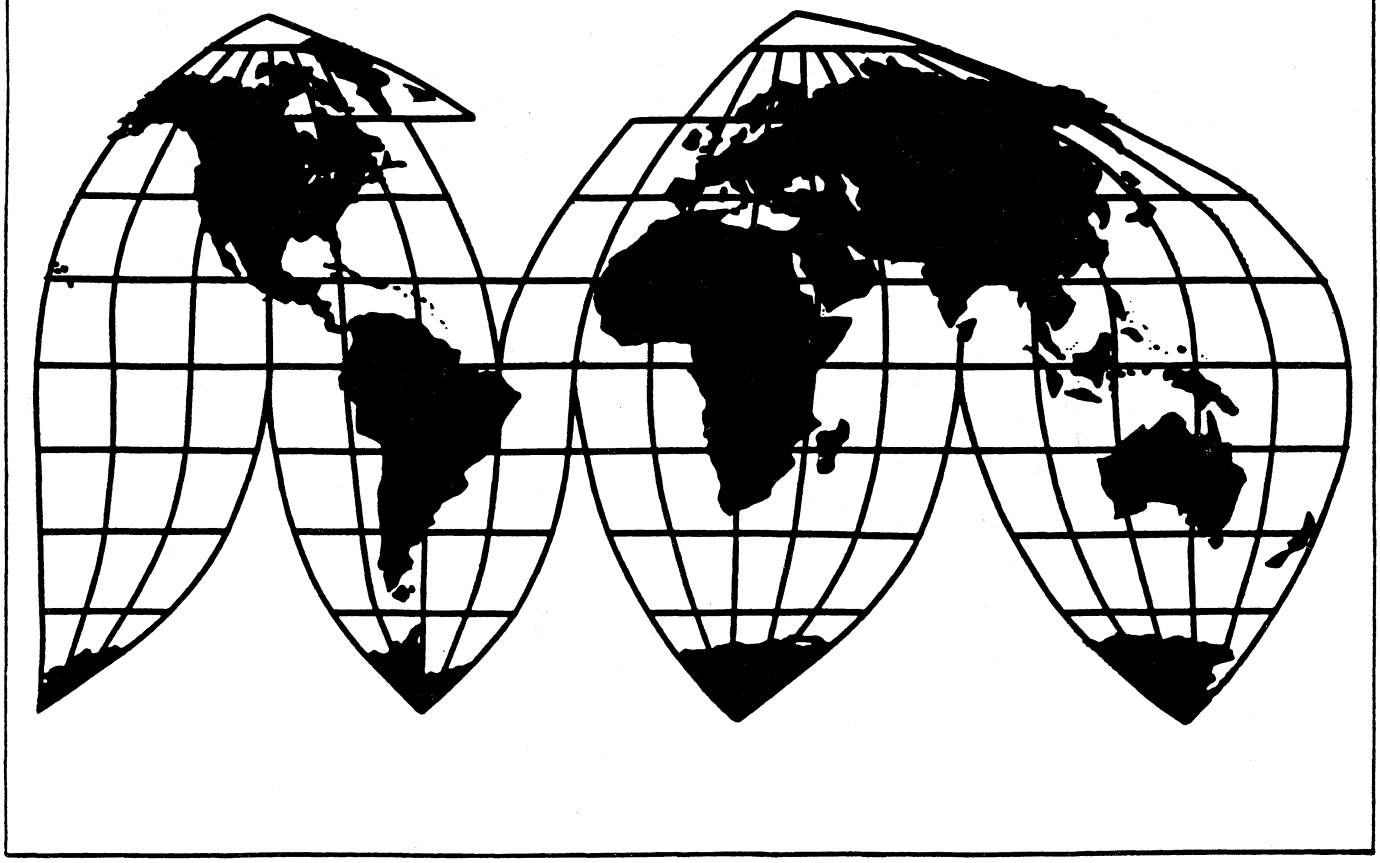

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U.S. International Trade Commission

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PART I: DETERMINATIONS AND VIEWS OF THE COMMISSION

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-675 and 676 (Preliminary)

SACCHARIN FROM CHINA AND KOREA

Determinations

On the basis of the record[1] developed in the subject investigations, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China and Korea of saccharin, provided for in subheading 2925.11.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On November 18, 1993, a petition was filed with the Commission and the Department of Commerce by PMC Specialties Group, Cincinnati, OH, alleging that an industry in the United States is materially injured by reason of LTFV imports of saccharin from China and Korea. Accordingly, effective November 18, 1993, the Commission instituted antidumping investigations Nos. 731-TA-675 and 676 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of November 29, 1993 (58 F.R. 62682). The conference was held in Washington, DC, on December 9, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

VIEWS OF THE COMMISSION

Based on the record in these preliminary investigations, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of saccharin from the People's Republic of China (China) and the Republic of Korea (Korea) that allegedly are sold in the United States at less than fair value (LTFV).[1]

I. THE LEGAL STANDARD FOR PRELIMINARY INVESTIGATIONS

The legal standard in preliminary antidumping duty investigations requires the Commission to determine, based upon the best information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury by reason of the allegedly LTFV imports.[2] In applying this standard, the Commission weighs the evidence before it to determine whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of material injury; and (2) no likelihood exists that any contrary evidence will arise in a final investigation."[3] The U.S. Court of Appeals for the Federal Circuit has held that this interpretation of the standard "accords with clearly discernible legislative intent and is sufficiently reasonable."[4]

II. LIKE PRODUCT

To determine 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 (the "Act") defines the relevant industry as the "domestic producers as a whole of the like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product. . . ."[5] In turn, like product is defined as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation. . . ."[6]

The Commission's like product determinations are factual, and the Commission applies the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[7] The Commission looks for clear dividing lines between like products,[8] and has found minor

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[1] 19 U.S.C. § 1673b(a). Whether the establishment of an industry in the United States is materially retarded is not an issue in these investigations.

[2] 19 U.S.C. § 1673b(a). See also American Lamb Co. v. United States, 785 F.2d 994 (Fed. Cir. 1986); Calabrian Corp. v. United States, 794 F. Supp. 377, 386 (Ct. Int'l Trade 1992).

[3] American Lamb, 785 F.2d at 1001. See also Torrington Co. v. United States, 790 F. Supp. 1161, 1165 (Ct. Int'l Trade 1992).

[4] American Lamb, 785 F.2d at 1004.

[5] 19 U.S.C. § 1677(4)(a).

[6] 19 U.S.C. § 1677(10).

[7] The Commission generally considers a number of factors in analyzing like product issues, including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities and production employees; (5) customer and producer perceptions; and, where appropriate, (6) price. See, e.g., Calabrian, 794 F. Supp. 377 (Ct. Int'l Trade 1992); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991); Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1170 n.7 (Ct. Int'l Trade 1988) (hereinafter Asocoflores). No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a given investigation.

[8] See, e.g., Compact Ductile Iron Waterworks Fittings and Accessories Thereof From the People's Republic of China, Inv. No. 731-TA-621 (Final), USITC Pub. 2671 (August 1993).

distinctions to be an insufficient basis for finding separate like products.[9]

The Department of Commerce has defined the imported products subject to these investigations as follows:

> [s]accharin . . . a non-nutritive sweetener used in beverages and foods, personal care products such as toothpaste, table-top sweeteners, animal feeds, and metalworking fluids. Three forms of saccharin are typically available as referenced in the American Chemical Society's Chemical Abstract Service (CAS). These forms are sodium saccharin (CAS # 128-44-9), calcium saccharin (CAS # 6485-34-3), and acid (or insoluble) saccharin (CAS # 81-07-2) . . . The scope of these investigations includes all types of saccharin . . . including research and specialized grades.[10]

Saccharin is an artificial, non-nutritive sweetener manufactured from petroleum-based organic chemicals and, by weight, is approximately 350 times sweeter than sugar. Saccharin is used in the United States as a commercial sugar substitute and in various food applications as well as non-food applications such as brightening metal.[11]

The principal like product issues in these investigations are whether all types or grades of saccharin should be treated as one like product[12] and whether another artificial sweetener, namely aspartame, should be included in the like product. Both petitioner and respondents agree that there should be one like product consisting of all types of saccharin[13] and excluding aspartame.[14] We determine that there is one like product consisting of all types of saccharin and excluding all other artificial sweeteners.

The record indicates that all types of saccharin share certain basic physical characteristics and uses,[15] are generally interchangeable,[16] are distributed through essentially the same channels of distribution,[17] generally are perceived by purchasers as the same product,[18] and share common manufacturing facilities and employees for at least a great portion of their production process.[19] Generally, the Commission has been reluctant to find separate like products based only on the

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[9] Asocoflores, 693 F. Supp. at 1168-69; S. Rep. 249, 96th Cong., 1st Sess. 90-91 (1979). "It is up to [the Commission] to determine objectively what is a minor difference."

[10] See 58 Fed. Reg. 62682 (November 29, 1993).

[11] Confidential Report (hereinafter, "CR") at I-5-7; Public Report (hereinafter, "PR") at II-4-6.

[12] In addition to the three principal forms of saccharin, certain specialty or laboratory grades are imported in very small quantities. No such grades are produced domestically. CR at I-5 n. 5; PR at II-4 n.5. The various types of saccharin are readily available in several physical forms including granular, powder, spray dried, and liquid (except for insoluble acid saccharin) form. The record does not indicate that the differences in form are significant for the purposes of like product analysis. Petitioner's Post-Conference Brief at 13 and exhibit 2.

[13] Petitioner's Post-Conference Brief at 11; Post-Conference Brief of Rit-Chem Co. and Helm Chemical Co. at 3 (hereinafter "Importer Respondents"). Respondent Jeil Moolsan Co., Inc. (a foreign exporter, hereinafter "Exporter") expressed no opinion on the definition of the like product. Exporter's Post-Conference Brief at 1.

[14] Petitioner's Post-Conference Brief at 11; Importer Respondents' Post-Conference Brief at 4. Exporter expressed no opinion as to whether aspartame should be part of the like product. See Exporter's Post-Conference Brief at 1. A relatively recent entrant to the market, acesulfame-K, has been approved by the Food and Drug Administration (FDA) for limited use in food applications. Importer Respondents' Post-Conference Brief at app. 4. Based on the record, we find that acesulfame-K is not part of the like product.

[15] See Petitioner's Post-Conference Brief at 13-14 and exhibit 4; Conference Transcript (hereinafter, "Tr.") at 15-16.

[16] Petition at 12-13.

[17] CR at I-11, PR at II-8.

[18] Tr. at 28-29; Petitioner's Post-Conference Brief at 14 and exhibit 2.

[19] Petition at 13; Tr. at 29-30; Petitioner's conference exhibits 2 and 3.

existence of differing grades.[20]

Aspartame and saccharin are physically and chemically different,[21] and are often used in distinct applications. For example, aspartame is not used in such applications as personal health care products, fountain soft drinks, animal feeds, tobacco, and electroplating.[22] Such applications generally account for the majority of the saccharin market.[23] Petitioner noted that even in applications where aspartame can be interchanged with saccharin, such exchange may require extensive product reformulation.[24] Although the channels of distribution for saccharin and aspartame are similar, most customers are distinct.[25] Furthermore, saccharin and aspartame are produced by different firms with distinct facilities and workers.[26] Aspartame's patent expired in late 1992 allegedly leading to a price drop; however, the price of aspartame still exceeds the price of saccharin by 15 to 20 times.[27]

Based on the above, we find that aspartame is not part of the like product. We therefore find one like product consisting of all types of saccharin in these preliminary investigations.

III. DOMESTIC INDUSTRY AND RELATED PARTIES

Having found one like product consisting of saccharin, we find that the domestic industry consists of the sole domestic producer of saccharin, PMC Specialties Group (PMCSG).

Under section 771(4)(B) of the Tariff Act of 1930, producers who are related to exporters or importers, or who are themselves importers of allegedly dumped or subsidized merchandise, may be excluded from the domestic industry in appropriate circumstances.[28] The record indicates that PMCSG was a related party during the period of investigation in these investigations.[29] We must, therefore, decide whether appropriate circumstances exist to exclude it from the domestic industry.[30]

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[20] See e.g., Silicon Carbide from the People's Republic of China, Inv. No. 731-TA-651 (Preliminary), USITC Pub. 2668 (August 1993) at 9 and n.31; Ferrosilicon from Brazil and Egypt, Inv. Nos. 731-TA-641-642 (Preliminary), USITC Pub. 2605 (February 1993) at 7 n.24.

[21] Saccharin is about 350 times sweeter than sugar, is heat, time, and pH stable, and has no calories. CR at I-5, I-8-9, PR at II-4, II-6-7; Importer Respondents' Post-Conference Brief at app. 4. Aspartame is only about 150 to 200 times sweeter than sugar, degrades easily under heated or acidic (low pH) conditions, and has the same amount of calories as sugar -- four calories per gram. CR at I-5, I-8-9, PR at II-4, II-6-7; Importer Respondents' Post-Conference Brief at app. 4. Further, while saccharin must carry a cancer warning, aspartame must carry a warning label to individuals who suffer from the rare genetic disease, phenylketonuria (PKU), because the product contains phenylalanine. CR at I-9 n.12, PR at II-7 n.12; Importer Respondents' Post-Conference Brief at app. 4.

[22] CR at I-8-9, PR at II-6-7; see also Petitioner's Post-Conference Brief at exhibit 4.

[23] CR at I-6, PR at II-5.

[24] Tr. at 22-23; Petitioner's Post-Conference Brief at 15-16.

[25] Petitioner's Post-Conference Brief at 15-16.

[26] CR at I-13, PR at II-8.

[27] CR at I-8-9, PR at II-7; Tr. at 48, 71.

[28] 19 U.S.C. § 1677(4)(B).

[29] CR at I-14, PR at II-9. PMCSG imported small volumes of saccharin to produce an intermediate product for use in an unrelated industry.

[30] The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude related parties include:

> (1) the percentage of domestic production attributable to related producers;
>
> (2) the reason why importing producers choose to import the articles under investigation -- to benefit from the unfair trade practice or to enable them to continue production and compete in the domestic market; and
>
> (3) the competitive position of the related domestic producer vis-a-vis other domestic producers.

(continued...)

As discussed above, PMCSG accounted for all domestic production during the period of investigation. Furthermore, PMCSG functions principally as a producer of saccharin.[31] Based on the above considerations and other information contained in the record, we find that appropriate circumstances do not exist to exclude PMCSG as a related party.[32]

IV. CONDITION OF THE DOMESTIC INDUSTRY

In assessing whether there is a reasonable indication of material injury to a domestic industry by reason of allegedly dumped imports, the Commission considers all relevant economic factors which have a bearing on the state of the industry in the United States. These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development.[33] No single factor is determinative, and the Commission considers all relevant factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[34]

Saccharin has for a number of years faced competition in certain food and beverage applications from aspartame, an alternative artificial sweetener.[35] Aspartame does not compete with saccharin in such applications as personal health care products, animal feeds, and electroplating.[36] Since 1977, saccharin has been subject to the requirement that a warning of the risk of cancer be displayed in certain applications.[37] [38]

The quantity of apparent U.S. consumption of saccharin rose slightly from 1990 to 1992 but declined in the nine-month interim 1993 period as compared with interim 1992.[39] The value of apparent U.S. consumption declined from 1990 to 1992 and was lower in interim 1993 as compared with interim 1992.[40]

U.S. production capacity remained stable throughout the period of investigation.[41] Production declined from 1990 to 1992, and was lower in interim 1993 as compared with interim 1992.[42] Thus, capacity utilization declined between 1990 and 1992, and was lower in interim 1993 compared with

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[30] (...continued)

See Torrington Co. v. United States, 790 F. Supp. at 1168; Empire Plow Co. v. United States, 675 F. Supp. 1348, 1353 (Ct. Int'l Trade 1987). The Commission has also considered whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 at 12 (January 1986).

[31] CR at I-13, PR at II-8.

[32] See Sebacic Acid from the People's Republic of China, Inv. No. 731-TA-653 (Preliminary), USITC Pub. 2676 at 8-10 (September 1993).

[33] 19 U.S.C. § 1677(7)(C)(iii).

[34] 19 U.S.C. § 1677(7)(C)(iii). No argument addressing the business cycle was raised by any of the parties to these investigations.

[35] CR at I-8-9, PR at II-6-7.

[36] CR at I-8-9, PR at II-6-7. Saccharin is sometimes used with aspartame in blends. CR at I-6, PR at II-4; Tr. at 24-26.

[37] CR at I-9 n.12, PR at II-7 n.12.

[38] Commissioner Brunsdale and Commissioner Crawford find that recent drops in the price of aspartame may have put downward pressure on saccharin prices; aspartame's price has fallen after the expiration of its patent in late 1992. See Tr. at 48, 71. The price difference between saccharin and aspartame may be due in part to saccharin's warning label. CR at I-9 n.12, PR at II-7 n.12. Commissioner Brunsdale and Commissioner Crawford intend to further explore the relationship between the prices of aspartame and saccharin in any final investigations.

[39] See Table 1, CR at I-12, PR at II-9. We have not used precise figures to avoid disclosing proprietary data.

[40] See Table 1, CR at I-12, PR at II-9.

[41] See Table 2, CR at I-15, PR at II-10.

[42] See Table 2, CR at I-15, PR at II-10.

interim 1992.[43]

Domestic shipments of saccharin declined from 1990 to 1992 and were lower in interim 1993 as compared with interim 1992.[44] Domestic inventories rose between 1990 and 1992 and were lower in interim 1993 compared with interim 1992, although 1993 inventories remained higher than 1990 levels.[45]

Although certain employment-related factors, such as total compensation and hourly wages, exhibited increases, the number of production and related workers and the number of hours worked declined throughout the period of investigation.[46] Productivity declined from 1990 to 1992 and was lower in interim 1993 as compared with interim 1992.[47]

The quantity and value of domestic sales of saccharin dropped throughout the period of investigation.[48] The cost of goods sold decreased in absolute terms but increased in relation to net sales in interim 1993 compared with interim 1992.[49] Gross profit fell from 1990 to 1992 and became a loss in interim 1993 compared with interim 1992.[50] A small operating income in 1990 turned into losses in 1991 and 1992 continuing through interim 1993 compared with interim 1992.[51] Cash flow also fell from 1990 to 1992 and was lower in interim 1993 compared with interim 1992.[52]

Capital expenditures fell from 1990 to 1992, although they were higher in interim 1993 compared with interim 1992.[53] Return on total assets declined from 1990 to 1992 and was lower in interim 1993 compared with interim 1992.[54] Research and development expenses for saccharin rose from 1990 to 1992 and were higher in interim 1993 compared with interim 1992.[55] [56]

V. CUMULATION

In determining whether there is a reasonable indication of material injury by reason of LTFV imports, the Commission is required to "cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market."[57] [58] Cumulation is

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[43] See Table 2, CR at I-15, PR at II-10.
[44] See Table 3, CR at I-17, PR at II-10.
[45] See Table 4, CR at I-17, PR at II-11.
[46] See Table 5, CR at I-19, PR at II-11.
[47] See Table 5, CR at I-19, PR at II-11.
[48] See Table 6, CR at I-21, PR at II-12.
[49] See Table 6, CR at I-21, PR at II-12.
[50] See Table 6, CR at I-21, PR at II-12.
[51] See Table 6, CR at I-21, PR at II-12. Vice Chairman Watson notes that the majority of these additional losses in interim 1993 can be accounted for by PMCSG's increased labor and factory costs and depreciation expense. Increased labor and factory costs similarly affect cash flow and gross profits. See Tables 7 and 10, CR at I-22, I-27, PR at II-12-13.
[52] See Table 6, CR at I-21, PR at II-12.
[53] See Table 10, CR at I-27, PR at II-13.
[54] See Table 9, CR at I-26, PR at II-13.
[55] See Table 12, CR at I-27, PR at II-14.
[56] Based on significant declines in domestic production, shipments, net sales, employment and profitability over the period of investigation, Chairman Newquist and Commissioner Rohr find a reasonable indication that the industry is being materially injured.
[57] 19 U.S.C. § 1677(7)(C)(iv)(I); Chaparral Steel Co. v. United States, 901 F.2d 1097 (Fed. Cir. 1990).
[58] To determine whether subject imports compete with each other and with the domestic like product, the Commission has generally considered four factors:

> (1) the degree of fungibility between the imports from different countries and the domestic like product, including consideration of specific customer requirements and other quality related questions;

(continued...)

not required, however, when imports from a subject country are negligible and have no discernible adverse impact on the domestic industry.[59]

Petitioner argued that imports of saccharin from China and Korea should be cumulated.[60] Respondents made no argument as to cumulation. No party argued that the subject imports fail to satisfy the "competition" requirement for cumulation, and we find that the record demonstrates that this requirement is satisfied. Some importers reported that Chinese and Korean saccharin are of poor quality, while other importers reported that Chinese and Korean saccharin are superior to, or preferred over, the domestic product. Still other importers reported that there is no difference in quality between Chinese saccharin, Korean saccharin, or the domestic product.[61] [62] Regardless of source, however, all saccharin used in food in the United States must meet or exceed specifications of the FDA described in the Food Chemical Codex and United States Pharmacopeia.[63] Chinese, Korean, and domestic saccharin generally are marketed nation-wide.[64] Imports from both China and Korea have been present in the domestic market throughout the period of investigation.[65] Channels of distribution for imported and domestic saccharin generally are similar.[66] We accordingly find that the subject imports compete with each other and with the domestic like product. Consequently, in these preliminary investigations, we cumulate the subject imports from China with those from Korea.

VI. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS

In making a preliminary determination in an antidumping investigation, the Commission is to determine whether there is a reasonable indication that an industry in the United States is materially

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[58] (...continued)

(2) the presence of sales or offers to sell in the same geographic markets of imports from different countries and the domestic like product;

(3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and

(4) whether the imports are simultaneously present in the market.

See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1988), aff'd, Fundicao Tupy S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988). Only a "reasonable overlap" of competition is required. See Wieland Werke, AG v. United States, 718 F. Supp. 50, 52 (Ct. Int'l Trade 1989); Granges Metallverken AB v. United States, 716 F. Supp. 17, 21-22 (Ct. Int'l Trade 1989); Florex v. United States, 705 F. Supp. 582, 592 (Ct. Int'l Trade 1989).

[59] 19 U.S.C. § 1677(7)(C)(v). No party has alleged that any of the subject imports are negligible. Imports from China and from Korea each captured a higher share of the U.S. market than the Commission has historically considered to be negligible during the period of investigation. See Table 16, CR at I-37, PR at II-18.

[60] Petitioner's Post-Conference Brief at 19-20.

[61] CR at I-41-42, PR at II-20-21.

[62] Chairman Newquist notes that, in his view, once a like product determination is made, that determination establishes an inherent level of fungibility within that like product. Only in exceptional circumstances could Chairman Newquist find products to be "like" and then turn around and find that, for purposes of cumulation, there is no "reasonable overlap of competition" based on some roving standard of substitutability. See Addition and Dissenting Views of Chairman Newquist in Flat-Rolled Steel Products, USITC Pub. No. 2664 (August 1993).

[63] CR at I-7-8, PR at II-5; see also Tr. at 33-34, 59, 69; Petitioner's Post-Conference Brief at 12, 19-20.

[64] CR at I-40, PR at II-20.

[65] See Table 15, CR at I-35, PR at II-18.

[66] CR at I-11, I-40, PR at II-8, II-20.

injured "by reason of" the imports under investigation.[67] The Commission must consider the volume of imports, their effect on prices for the like product, and their impact on domestic producers of the like product.[68] Although the Commission may consider causes of injury other than the allegedly LTFV imports, it is not to weigh causes.[69] [70] [71] For the reasons discussed below, we find that there is a reasonable indication that the domestic saccharin industry is materially injured by reason of allegedly LTFV imports of saccharin from China and Korea. The volume and market share of subject imports were substantial, especially during 1992 and in interim 1993. The subject imports increased in quantity[72] and value[73] from 1990 to 1992 and were higher in interim 1993 compared with interim 1992. The market share of subject imports, by quantity and value, also increased.[74] Thus, we find the volume of the subject imports and their market share to be significant in these preliminary investigations.[75]

The record further indicates that the subject imports generally were perceived to be substitutable for the domestic like product.[76] [77] Petitioner asserts that since saccharin is a

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[67] 19 U.S.C. § 1673b(a).

[68] 19 U.S.C. § 1677(7)(B)(i).

[69] See, e.g., Citrosuco Paulista, S.A. v. United States, 704 F.Supp. 1075, 1101 (Ct. Int'l Trade 1988). Chairman Newquist, Commissioner Rohr and Commissioner Nuzum further note that the Commission need not determine that imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249, 96th Cong., 1st Sess. 57, 74 (1979). Rather, a finding that imports are a cause of material injury is sufficient. See, e.g., Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741 (Ct. Int'l Trade 1989); Citrosuco Paulista, 704 F. Supp. at 1101.

[70] Vice Chairman Watson notes that the courts have interpreted the statutory requirement that the Commission consider whether there is material injury "by reason of" the subject imports in a number of different ways. Compare United States Engineering & Forging v. United States, 779 F. Supp. 1375, 1391 (Ct. Int'l Trade 1991) ("[I]t must determine whether unfairly-traded imports are contributing to such injury to the domestic industry...Such imports, therefore, need not be the only cause of harm to the domestic industry") (citations omitted) with Metallverken Nederland B.V. v. United States, 728 F.Supp. at 741 (affirming a determination by two Commissioners that "the imports were a cause of material injury") and USX Corp. v. United States, 682 F. Supp. 60, 67 (Ct. Int'l Trade 1988) ("any causation analysis must have at its core the issue of whether the imports at issue cause, in a non de minimis manner, the material injury to the industry"). Accordingly, Vice Chairman Watson has determined to adhere to the standard articulated by Congress, in the legislative history of the pertinent provisions, which states that "the Commission must satisfy itself that, in light of all the information presented, there is a sufficient causal link between the less-than-fair-value imports and the requisite injury." S. Rep. No. 249 at 75.

[71] Commissioners Brunsdale and Crawford note that the statute requires that the Commission determine whether a domestic industry is "materially injured by reason of" the allegedly LTFV imports. They find that the clear meaning of the statute is to require a determination on whether the domestic industry is materially injured by reason of LTFV imports, not by reason of LTFV imports among other things. Many, if not most domestic industries, are subject to injury from more than one economic factor. Of these factors, there may be more than one that independently is causing material injury to the domestic industry. It is assumed in the legislative history that the "ITC will consider information which indicates that harm is caused by factors other than less-than-fair-value imports." S. Rep. No. 249 at 74. However, the legislative history makes it clear that the Commission is not to weigh or prioritize the factors that are independently causing material injury. Id.; H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979). The Commission is not to determine if the allegedly LTFV imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249 at 74. Rather, it is to determine whether any injury "by reason of" the alleged LTFV imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effect of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry." S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987) (emphasis added).

[72] See Table 15, CR at I-35, PR at II-18.

[73] See Table 15, CR at I-35, PR at II-18.

[74] See Table 16, CR at I-37, PR at II-18.

[75] Compare Table 1, CR at I-12, PR at II-9, with Table 16, CR at I-37, PR at II-18.

[76] See CR at I-41-42, PR at II-20-21; Tr. at 33-34. We note, however, that lead times differ for imports and domestic products. CR at I-39, PR at II-20.

standardized, commodity product that is homogeneous in quality, price competition is a major determinant of sales success.[78] However, some purchasers indicated a preference for domestic, Chinese, or Korean product.[79]

The Commission was unable to obtain pricing data for a significant portion of the subject imports, especially with respect to imports from China.[80] Accordingly, we have examined the pricing data with caution.[81] Of the seven saccharin products for which pricing data were sought, pricing data were reported for one product imported from China and for six products imported from Korea.[82] The majority[83] of price comparisons showed underselling by the subject imports.[84] With respect to product no. 1, the most significant product in terms of U.S. consumption, 13 of the 29 price comparisons obtained showed underselling by the subject imports. Those 13 comparisons accounted for a major proportion of the imports of that product for which pricing was provided.[85] For three other products, all available comparisons showed underselling by subject imports.[86] A significant portion of the instances of overselling by subject imports was accounted for by small lot purchases by long-term customers who reportedly did not contact other suppliers to seek lower prices.[87]

The record indicates that the domestic producer's prices for two of the products, including product no. 1, generally declined during the period of investigation.[88] In view of the underselling and price declines that we have found and the substitutability of the subject imports and the domestic product, we find in these preliminary determinations sufficient information to indicate that the subject imports depressed domestic prices to a significant degree.[89] [90]

There is a reasonable indication that the subject imports adversely affected the domestic industry, particularly as revealed through the industry's declining performance.[91] Given that the

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[77] (...continued)

[77] Chairman Newquist notes that in most investigations the like product analysis and determination based on characteristics and uses establishes a reasonable degree of substitutability between the subject imports and the domestic product. Thus, in his view, further inquiry into substitutability issues is not usually warranted.

[78] CR at I-42, PR at II-20-21; Petitioner's Post-Conference Brief at 4.

[79] CR at I-41-42, PR at II-21.

[80] See American Lamb, 785 F.2d at 1003 (requiring the Commission's preliminary determination be based on the "best information available to it").

[81] Vice Chairman Watson notes that average unit values of PMCSG's net sales were flat throughout the period of investigation. He intends to investigate in any final investigation whether this is the result of pricing strategy or coincidence. See Table 6, CR at I-21, PR at II-12.

[82] See Tables 17-23, CR at 44-50, PR at II-22-23.

[83] Of the 67 comparisons obtained, 36 showed underselling. See Tables 17-23, CR at I-44-50, PR at II-22-23.

[84] Commissioner Brunsdale and Commissioner Crawford do not rely on underselling data in this case, and they do not join any discussion based on these direct price comparisons. They note that many importers indicated a perceived quality difference between the subject imports and the domestic like product, and that lead times are substantially different. CR at I-39, I-41-42, PR at II-20-21. In addition, it is not clear that comparing the largest sale in each period gives an accurate account of overall price differentials.

[85] See Table 17, CR at I-44, PR at II-22.

[86] See Tables 19, 20, 23, CR at I-46-47, I-50, PR at II-22-23.

[87] CR at I-55, PR at II-23.

[88] See Figures 3-5, CR at I-51-53, PR at II-23.

[89] Vice Chairman Watson finds the data in these preliminary investigations insufficient to draw such a conclusion.

[90] While Commissioner Brunsdale and Commissioner Crawford do not consider underselling, they note that, as the sole domestic producer, petitioner may have more leverage with respect to prices in the marketplace. In any final investigations they would seek more information about the role of fairly-traded imports in the domestic market place.

[91] Commissioner Brunsdale and Commissioner Crawford believe that, given the extremely large dumping margins alleged in this case, subject imports would not be sold in the U.S. market at fairly traded prices. CR at I-11, PR at II-7-8. They believe that because of existing excess capacity, the volume of petitioner's sales

(continued...)

domestic and imported products are close substitutes, the loss by the domestic industry of market share and the concomitant gain of market share by the subject imports are significant.[92] Moreover, the Commission was able to confirm one instance in which the domestic industry has lost revenue to the subject imports due to the lower price of those imports.[93] [94]

Respondents argued that competition from aspartame after the expiration of its patent, saccharin's warning label, and the domestic industry's aggressive pricing strategy,[95] rather than the subject imports, account for the industry's declining market share. The price of aspartame has fallen since the expiration of its patent.[96] However, the record does not establish a link between the declining price of aspartame and declines in the price of domestic saccharin. As discussed above, the warning label is a factor of long standing. We find that the roles of aspartame, the warning label, and petitioner's pricing strategy do not fully explain the declining performance of the domestic industry during the period of investigation.[97]

CONCLUSION

The record in these preliminary investigations -- particularly the significant volume and increasing market share of the subject imports from China and Korea, and the adverse price and volume effects of the subject imports, in light of the domestic industry's declining performance during the period of investigation -- establishes a reasonable indication that the domestic industry producing saccharin is materially injured by reason of the allegedly LTFV imports from China and Korea.

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[91] (...continued)
would likely increase. See Table 2, CR at I-15, PR at II-10. If the domestic producer tried to raise its price rather than increase its volume of sales, customers could switch to purchasing fairly traded imports, which already have a strong presence in the U.S. market. In addition, some purchasers may switch to using aspartame as the price differential between the two products narrows. Thus, they believe it is more likely that the dumping of subject imports reduced domestic output rather than domestic prices.

[92] See Table 16, CR at I-37, PR at II-18. Petitioner alleges that the subject imports have adversely affected its development and production efforts. CR at G-2, PR at G-2.

[93] CR at I-57, PR at II-24.

[94] Commissioner Brunsdale and Commissioner Crawford do not rely on isolated anecdotal evidence.

[95] Vice Chairman Watson, Commissioner Brunsdale, and Commissioner Crawford note that the domestic producer appears to price its exports below its cost of goods sold, raising questions as to its pricing strategy. See Table 6, CR at I-21, PR at II-12. They plan to investigate this issue further in any final investigations.

[96] See Tr. at 48, 71.

[97] CR at I-9 and n.12, PR at II-7 and n.12. We plan to more fully investigate the role of aspartame in the market in any final investigations, however.

PART II: INFORMATION OBTAINED IN THE INVESTIGATIONS

II-1

INTRODUCTION

On November 18, 1993, PMC Specialties Group (PMCSG), Cincinnati, OH, filed petitions with the United States International Trade Commission (Commission) and the United States Department of Commerce (Commerce) alleging that an industry in the United States is materially injured by reason of imports from China and Korea of saccharin, provided for in subheading 2925.11.00 of the Harmonized Tariff Schedule of the United States (HTS), that are alleged to be sold in the United States at less than fair value (LTFV). Accordingly, effective November 18, 1993, the Commission instituted investigations Nos. 731-TA-675 and 676 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Notice of the institution of the Commission's investigations, and of the public conference to be held in connection therewith, was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of November 29, 1993 (58 F.R. 62682).[1] The Commission transmitted its determinations in these investigations to the Secretary of Commerce on January 3, 1994.

BACKGROUND

A summary of the data collected in these investigations regarding saccharin is presented in appendix C. As discussed below, saccharin is one of two major artificial sweeteners approved by the Food and Drug Administration (FDA) for use in the United States. Aspartame is the other major artificial sweetener approved by the FDA. The Commission's producers' and importers' questionnaires were developed to collect information on both saccharin and aspartame. Summary data on the U.S. market for aspartame are presented in appendix D. Summary data on saccharin and aspartame combined are presented in appendix E.

PREVIOUS COMMISSION INVESTIGATIONS CONCERNING SACCHARIN

The Commission conducted two other investigations concerning saccharin. These investigations were conducted in 1977 under the provisions of the Antidumping Act of 1921 and involved Japan and Korea. The Commission made negative determinations in these investigations.[2]

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[1] Copies of relevant Federal Register notices are presented in app. A. A list of witnesses appearing at the conference is presented in app. B.

[2] The Commission unanimously determined that "an industry in the United States is not being injured and is not likely to be injured, and is not prevented from being established, by reason of the importation of saccharin from Japan or from the Republic of Korea that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended" (U.S. International Trade Commission, Saccharin from Japan and the Republic of Korea, USITC publication 846, Dec. 1977, p. 2).

THE PRODUCT

Description

Saccharin is an artificial, non-nutritive sweetener manufactured from petroleum-based organic chemicals. It is technically known as 3-oxo-2,3-dihydro-1,2-benzisothiazole 1,1-dioxide.[3] Discovered in 1879, saccharin has been used in the United States as a commercial sugar substitute since 1885.[4] Saccharin, by weight, is approximately 350 times sweeter than sugar.

Saccharin is available in three chemical forms: sodium saccharin (CAS Registry No. 128-44-9); calcium saccharin (CAS Registry No. 6485-34-3); and acid saccharin or insoluble saccharin (CAS Registry No. 81-07-2).[5] [6] Sodium saccharin is commercially available in four physical forms: granular, powder, spray-dried powder, and liquid. Calcium saccharin and acid saccharin are available only as spray-dried powders.[7] Sodium saccharin accounts for over 60 percent of the current sales of saccharin in the U.S. market. Although one distinctive attribute of saccharin is a bitter after-taste, this problem may be significantly moderated by the use of small amounts of another sweetener, such as aspartame or fructose.

Uses

Although the major application for saccharin is as a non-nutritive sweetener, a significant volume of saccharin is consumed in non-food applications, such as a metal brightener in the electroplating industry. The following tabulation provides an indication of the size of the respective markets for saccharin as indicated by the petitioner (in percent):[8]

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[3] Also known by the following names: 1,2-benz-*iso*-thiazol-3-(2H)-one-1,1-dioxide; 2,3-dihydroxy-3-oxobenz-*iso*-sulfonazole; *ortho*-benzosulfimide; *ortho*-sulfobenzimide; and 1,2-dihydro-2-ketobenz-*iso*-sulfonazole.

[4] The use of saccharin in the United States was temporarily banned in 1912 because of the fear that people using saccharin would be depriving themselves of a requisite nutritional value.

[5] A fourth form, research grade saccharin, was initially excluded from the petition. An amendment to the petition dated December 23, 1993, brought research grades within the scope of the petition. According to the petition, research or lab grades of saccharin account for less than 0.08 percent of the U.S. market (petition, p. 9). Furthermore, there is no U.S. production of research grade saccharin. Only small amounts of research grade saccharin are imported into the United States--from *** and *** (staff interview with ***, Nov. 29, 1993).

[6] Commerce's notice of initiation defined the product and the scope of its investigations as follows: "Saccharin is a non-nutritive sweetener used in beverages and foods, personal care products such as toothpaste, table-top sweeteners, animal feeds, and metalworking fluids. Three forms of saccharin are typically available as referenced in the American Chemical Society's Chemical Abstract Service (CAS). These forms are sodium saccharin (CAS #128-44-9), calcium saccharin (CAS #6485-34-3), and acid (or insoluble) saccharin (CAS #81-07-2). Saccharin is classified in subheading 2925.11.00 of the Harmonized Tariff Schedule of the United States (HTS). The scope of these investigations includes all types of saccharin imported under this HTS subheading including research and specialized grades" (Commerce's Notice of Initiation (see app. A)).

[7] Data on apparent U.S. consumption of saccharin, by chemical and physical forms, are presented in app. F.

[8] Petitioner's postconference brief, p. 18.

Market segment	Share of total sales
Table-top sweeteners	***
Personal care products	***
Soft drinks (primarily fountain)	***
Non-food applications[1]	***
Pharmaceuticals	***
Animal feed	***
Tobacco	***
Food mix	***
Miscellaneous	***

[1] E.g. metal brightener.

Production Processes

There are two processes currently in use to produce commercial quantities of saccharin (see figure 1). The older of the two processes, known as the Remsen-Fahlberg process, uses ortho-toluenesulfonamide, a known carcinogen, as the basic starting material.[9] This method is believed to still be the major route of saccharin synthesis of most producers. The notable exception to this process is the Maumee process, developed and implemented by the Maumee Corp. (which later became a part of Sherwin-Williams Co. and now is PMCSG). This process uses methyl anthranilate (a chemical used in significant quantities by the flavor and fragrance industry) as its basic starting material. The Maumee process also allows for a continuous production operation,[10] which can offer cost savings over batch production processes.

There are no major differences between the products of these two methods; all saccharin used in food in the United States must meet or exceed specifications of the FDA described in the Food Chemical Codex (FCC) and United States Pharmacopeia (USP). The Remsen-Fahlberg process may require a greater number of crystallization purifications than does the material produced by the Maumee process; however, the end products from both processes are viewed as equivalent in quality by purchasers.

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[9] Robert Mazur, GD Searle and Co., "Sweeteners," Kirk-Othmer Encyclopedia of Chemical Technology, 3rd Edition (Vol. 22), 1983, pp. 448-464.

[10] A "continuous" production operation means that a constant stream of product material may be taken from the end of the production line while basic starting material is simultaneously added at the beginning to maintain a continuous flow. On the other hand, "batch" production involves a series of chemical reactions, occurring independently, that make up the total process. The starting materials and any other necessary reaction materials are combined in one reaction vessel, with the main product requiring separation and purification before the next reaction may be executed.

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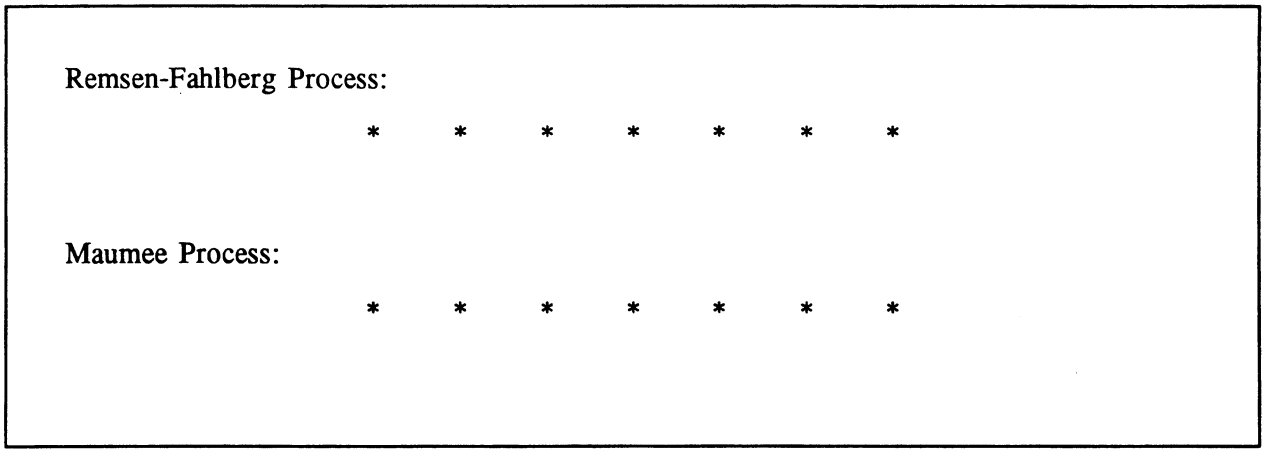
Figure 1
Saccharin production processes



Substitute Products

In addition to saccharin, the other major synthetic sweetener currently employed in the U.S. market as a sugar substitute is aspartame, a synthetic nutritive sweetener made from the two amino acids lysine and aspartic acid.[11] Aspartame's sweetness ranges from 150 to 200 times that of sugar, and roughly two-thirds that of saccharin. A characteristic of aspartame that has influenced its patterns of usage involves its lack of stability under certain circumstances, such as exposure to heat or various levels of acidity, and its tendency to lose its sweetness over time. In many cases, extra expense is associated with the use of aspartame, involving such processes as encapsulation to protect its functionality. Those markets that are particularly unavailable to substitution by aspartame because of questions regarding aspartame's stability are fountain soft drinks, sports drinks, and certain food applications such as army rations. These markets account for about *** percent of the saccharin market.

[11] Aspartame is produced in a completely different chemical process and bears no chemical relationship to saccharin. It is a nutritive sweetener with a caloric count to weight ratio comparable to that of sugar. It is practical as a sugar substitute because it is approximately 200 times sweeter than sugar. Most firms producing aspartame, both in the United States and overseas, do not also produce saccharin.

Currently, the cost of aspartame to food and beverage processors is believed to be 15 to 20 times greater than that for saccharin (for the equivalent sweetening capacity). Notwithstanding the cost, the major motivation among users of artificial sweeteners to have replaced saccharin with aspartame is presumed to be the warning label that is mandated to be on products that contain saccharin.[12] Many potential markets for saccharin, particularly the non-fountain soft drink market, were lost because of the stigma associated with this label. However, the soft drink markets for aspartame and saccharin appear to have been stable for the last 5 years, with aspartame and saccharin serving two distinct segments.

The domestic saccharin producer maintains that, because of the large difference in price and the limited heat endurance of aspartame, the two sweeteners do not compete for the same sweetener markets. One market that is unavailable to aspartame substitution primarily because of the difference in cost of the two sweeteners is personal care products.

Additionally, there are certain applications in which aspartame does not accomplish the same function as saccharin; these include animal feeds (animal taste processes are notably physiologically different from human processes), the pharmaceutical industry, the tobacco industry, and the electroplating industry.

U.S. Tariff Treatment

U.S. imports of saccharin and its salts (i.e. sodium and calcium) from countries entitled to the column 1-general (most-favored-nation) duty rate, including China and Korea, enter with a duty rate of 6.9 percent ad valorem. Eligible imports may enter free of duty under the Generalized System of Preferences (GSP),[13] the United States-Canada Free-Trade Agreement,[14] the Caribbean Basin Economic Recovery Act, the United States-Israel Free Trade Area Implementation Act, and the Andean Trade Preference Act. The column 2 rate of duty is 15.4 cents per kilogram plus 61 percent ad valorem, and is applicable to imports from those countries specified in general note 3(b) to the HTS.[15]

THE NATURE AND EXTENT OF ALLEGED SALES AT LTFV

The petitioner contends that, because China is a nonmarket economy, Commerce must select a surrogate country to value the factors of production and arrive at a foreign market value. In calculating alleged dumping margins for China, petitioner used India as a surrogate country in its analysis of foreign market values and U.S. price quotes from the major U.S. importer of saccharin from China, Sino American Information and Trade Center, Inc. In addition, because the Chinese producers use both the Remsen-Fahlberg and Maumee processes to produce saccharin, the petitioner calculated foreign market values for both production methods. The resulting price comparisons yielded alleged dumping margins of 95 percent and 391 percent for the Remsen-Fahlberg production method and the Maumee method, respectively.[16]

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[12] The FDA banned the use of saccharin in food and beverage applications in 1977, but a moratorium on the ban was imposed by Congress. However, along with the moratorium in the Saccharin Study and Label Act (recently renewed through May 1, 1997), Congress mandated that the following warning be placed prominently on the labels of all products that contain saccharin: "Use of this product may be hazardous to your health. This product contains saccharin which has been determined to cause cancer in laboratory animals."

[13] Imports from India are not eligible for duty-free entry under the GSP.

[14] To be suspended upon entry into force of the North American Free Trade Agreement between the United States and Canada.

[15] Aspartame enters under subheading 2924.29.07 of the HTS. The column 1-general duty rate for aspartame is 11.9 percent ad valorem, and the column 2 rate of duty is 15.4 cents per kilogram plus 58 percent ad valorem.

[16] Petition, p. 27, as adjusted by Commerce; see Commerce's Federal Register notice in app. A.

According to petitioner, Korean producers use the Remsen-Fahlberg method to produce saccharin. A comparison of constructed value and Customs unit value data for the U.S. price resulted in an alleged dumping margin for Korea of 133 percent.[17]

Petitioner also alleges that critical circumstances exist by reason of massive imports from China and Korea and has requested Commerce to suspend liquidation on entries made within 90 days preceding Commerce's preliminary determination, which is scheduled for April 27, 1994.[18] Commerce, however, declined to initiate an investigation of critical circumstances.[19]

THE U.S. MARKET

Channels of Distribution

The majority of saccharin is sold directly to end users. The following tabulation presents data from Commission questionnaires on shipments of saccharin to distributors and end users during 1992 (in 1,000 pounds):

Item	Distributors		End users	
	Related	Unrelated	Related	Unrelated
U.S.-produced	0	***	0	***
Imported from China	0	***	0	***
Imported from Korea	0	***	0	***

Apparent U.S. Consumption

Apparent U.S. consumption of saccharin increased from *** million pounds in 1990 to *** million pounds in 1991, or by *** percent (table 1).[20] In 1992, consumption fell to *** million pounds, or by nearly *** percent from the level attained in 1991. During January-September 1993, consumption of saccharin fell by *** percent compared with the year-earlier period.

On the basis of value, consumption increased by *** percent from 1990 to 1991 before falling by *** percent in 1992. During January-September 1993, consumption on a value basis fell by over *** percent compared with the corresponding period of 1992.

U.S. Producers

As noted above, PMCSG is the only U.S. producer of saccharin.[21] PMCSG is wholly owned by PMC, Inc., Sun Valley, CA. PMC, Inc., purchased the saccharin producing operations of Sherwin-Williams Co. in 1985. Sherwin-Williams Co. began producing saccharin in 1966 when it purchased the Cincinnati, OH, saccharin plant of Maumee Chemical Co. Numerous other firms, including Monsanto Co., St. Louis, MO; Lakeway Chemical Co., Muskegon, MI; and Pillsbury Co., Minneapolis, MN, previously produced saccharin in the United States. All of these firms terminated production by 1972.

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[17] Ibid, p. 33, as adjusted by Commerce.
[18] Petition, p. 1.
[19] Commerce's Notice of Initiation (app. A).
[20] As noted above, data on apparent U.S. consumption of saccharin, by types and by forms, are presented in app. F.
[21] NutraSweet Co., Inc., a wholly owned subsidiary of Monsanto Co., St. Louis, MO, is the only U.S. producer of aspartame. NutraSweet Co. is located in Deerfield, IL.

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Table 1
Saccharin: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.-- 1992	1993
	Quantity (*1,000 pounds*)				
Producers' U.S. shipments	***	***	***	***	***
U.S. imports from--					
China	211	259	448	309	316
Korea	562	1,143	1,226	922	953
Subtotal	773	1,402	1,674	1,230	1,269
Other sources	908	976	675	499	415
Total	1,681	2,377	2,349	1,729	1,684
Apparent consumption	***	***	***	***	***
	Value (*1,000 dollars*)				
Producers' U.S. shipments	***	***	***	***	***
U.S. imports from--					
China	385	463	715	503	512
Korea	1,749	2,944	2,959	2,224	2,263
Subtotal	2,134	3,407	3,674	2,727	2,775
Other sources	3,006	3,135	2,506	1,793	1,489
Total	5,140	6,541	6,181	4,519	4,263
Apparent consumption	***	***	***	***	***

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

U.S. Importers

The Commission mailed importers' questionnaires to PMCSG, the 20 U.S. importers of saccharin identified by petitioner,[22] and to 18 companies identified by the Customs Net Importer File identified as importers of saccharin from all countries but which were not identified by petitioner.[23] Fourteen firms, which staff believes accounted for virtually all U.S. imports of saccharin from China and Korea, returned completed importers' questionnaires. Eighteen firms believed to import saccharin responded to the Commission's importers' questionnaire indicating that they did not import saccharin from any country during the period covered by the investigations. Seven firms did not respond to the questionnaire.[24]

* * * * * * *

[22] These importers included firms that imported saccharin from China, Korea, and Japan.
[23] An importers' questionnaire was also sent to NutraSweet Co. and Holland Sweetener, Atlanta, GA, which are believed to be the major U.S. importers of aspartame.
[24] The Commission was unable to obtain telephone numbers for two of these firms.

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

U.S. Production, Capacity, and Capacity Utilization

Table 2 details capacity and production of saccharin. As noted above, PMCSG is the only U.S. producer of saccharin. During the period covered by the Commission's questionnaires, PMCSG did not report any changes in its saccharin production capability. Petitioner's production of saccharin increased by *** percent between 1990 and 1991, before falling by *** percent in 1992. During January-September 1993, PMCSG's production of saccharin fell by *** percent compared with the year-earlier period. Capacity utilization of PMCSG's saccharin operations fell irregularly from *** percent in 1990 to *** percent in 1992. During January-September 1993, PMCSG's capacity utilization fell to *** percent, its lowest level during the reporting period and down from *** percent during the corresponding period of 1992.

Table 2
Saccharin: U.S. capacity, production, and capacity utilization, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

PMCSG produced all types of saccharin: sodium, calcium, and acid. During the period covered by the Commission's investigation, PMCSG produced sodium saccharin in four physical forms: granular, powder, spray-dried powder, and liquid. Its production of calcium and acid saccharin were only in the spray-dried form.

U.S. Producer's Shipments

PMCSG's domestic shipments of saccharin fell from nearly *** pounds in 1990 to *** pounds in 1991, or by *** percent (table 3).[25] The decline continued in 1992 as domestic shipments fell to *** pounds, a level *** percent below that reported in 1991. During the interim periods, domestic shipments fell by *** percent.

Unlike domestic shipments, export shipments increased by *** percent during 1990-92, from *** pounds to *** pounds. Exports, however, fell by approximately *** percent during the interim periods. PMCSG reported exports to ***. In spite of the reported gains in exports during 1990-92, total shipments fell by *** percent during the same period.

During 1990-92, the value of domestic shipments followed an identical pattern to that based on quantity. Therefore, unit values of domestic shipments remained steady at $*** per pound. During January-September 1993, unit values fell to $*** per pound from $*** per pound during the year-earlier period, or by nearly *** percent. The unit value of export shipments was consistently lower than that of domestic shipments and fell from $*** per pound in 1990 to $*** per pound during January-September 1993.

Table 3
Saccharin: Shipments by PMCSG, by types of shipments, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

[25] PMCSG ***.

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U.S. Producer's Inventories

The level of end-of-period inventories of saccharin held by PMCSG increased by *** percent from 1990 to 1991 and then increased in 1992 to a level *** percent above that reported in 1991 (table 4). As of Sept. 30, 1993, inventories of saccharin had fallen by *** percent from those reported as of the same time in 1992. As a share of production, inventories increased from *** percent in 1990 to *** percent in 1992.

Table 4
Saccharin: End-of-period inventories of PMCSG, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

U.S. Producer's Employment

The number of production and related workers (PRWs) employed by PMCSG in the production of saccharin fell from *** in 1990 to *** in 1992 (table 5).[26] During January-September 1993 the number of PRWs fell to ***. Hours worked by such workers fell by *** percent during 1990-92. During the interim periods, hours worked fell by nearly *** percent. During 1990-92, wages and total compensation paid to PRWs producing saccharin increased by *** and *** percent, respectively. Hourly total compensation paid increased by *** percent during 1990-92. Productivity fell irregularly by *** percent during 1990-92, and fell by nearly *** percent during the interim periods. Unit labor costs involved in producing saccharin increased by over *** percent during 1990-92, and increased by nearly *** percent during the interim periods.

In its questionnaire, the Commission requested PMCSG to provide detailed information concerning reductions in the number of PRWs producing saccharin during January 1990-September 1993 if such reductions involved at least 5 percent of the workforce, or 50 workers. PMCSG reported that during this period a total of *** workers were permanently layed off due to ***.[27]

Table 5
Average number of U.S. production and related workers producing saccharin, hours worked, wages and total compensation paid to such employees, and hourly wages, productivity, and unit production costs, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

[26] The PRWs at PMCSG are represented by the International Brotherhood of Teamsters union.
[27] PMCSG's producers' questionnaire response, p. 18.

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Financial Experience of U.S. Producers

PMCSG, the only U.S. producer of saccharin in 1992, supplied income-and-loss data on its operations on saccharin and on its overall establishment.

Saccharin Operations

The income-and-loss data of PMCSG on its U.S. saccharin operations are presented in table 6. Data on the major components of the cost of goods sold on its U.S. saccharin operations are presented in table 7. Total net sales value declined by *** percent from 1990 to 1992 and further fell by *** percent from January-September 1992 to January-September 1993. Total net sales in pounds followed a similar trend, declining by *** percent from 1990 to 1992 and by *** percent from interim 1992 to interim 1993.

Export sales accounted for about *** percent of the total quantity of net sales in 1990, *** percent in 1991, *** percent in 1992, and *** percent in January-September 1993. Export sales in pounds rose by *** percent from 1990 to 1992 and declined by *** percent from January-September 1992 to January-September 1993. Average net export sales value per pound fell by *** percent from $*** in 1990 to $*** in 1991, by *** percent to $*** in 1992, and by *** percent from $*** in interim 1992 to $*** in interim 1993. Average net domestic sales value per pound, which was higher than the export sales value, remained at the same level during 1990-92. Such value declined by *** percent from January-September 1992 to January-September 1993.

PMCSG reported operating losses in each period except in 1990, when it earned an operating income margin of *** percent. The operating loss margin fell from *** percent in 1991 to *** percent in 1992 and then jumped from *** percent in January-September 1992 to *** percent in January-September 1993. In 1991, the average net total sales value per pound dropped by *** cents, due to ***, whereas the cost of goods sold increased by *** cents, mainly because of ***. The selling, general, and administrative (SG&A) expenses per pound remained at about the same level, at *** cents during 1990-92, resulting in an operating loss of *** cents per pound in 1991. In 1992, operating loss per pound improved by *** cents mainly due to ***. During interim 1993, operating loss per pound jumped because of ***.

Table 6
Income-and-loss experience of PMCSG on its operations producing saccharin, calendar years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

Table 7
Major components of PMCSG's cost of goods sold on its saccharin operations, calendar years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

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Overall Establishment Operations

The income-and-loss data of PMCSG on its overall U.S. establishment operations are presented in table 8. Saccharin's total net sales accounted for about *** percent of overall establishment net sales during the period for which data were reported; other products produced in the establishment, and their respective shares of total sales, include ***. Establishment operations ***.

Table 8
Income-and-loss experience of PMCSG on the overall operations of its establishment wherein saccharin is produced, calendar years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

Investment in Productive Facilities

PMCSG's investment in property, plant, and equipment and return on assets are shown in table 9. The operating and net returns on saccharin operations generally followed the same trend as did the ratios of operating and net income to total net sales in all reporting periods.

Table 9
Value of assets and return on assets of PMCSG's operations producing saccharin, calendar years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

Capital Expenditures and Environmental Costs

Capital expenditures on PMCSG's operations are shown in table 10, and environmental costs are presented in table 11. All of the capital expenditures related to saccharin were for ***. Such capital expenditures declined from $*** in 1990 to only $*** in 1992, and then rose to $*** in January-September 1993.

Table 10
Capital expenditures by PMCSG, by products, calendar years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

Table 11
Environmental costs of PMCSG, by products, calendar years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

Research and Development Expenses

Research and development expenses are shown in table 12. Such expenses on saccharin operations increased in each period.

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Table 12
Research and development expenses of PMCSG, by products, calendar years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

Capital and Investment

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of saccharin from China and/or Korea on their growth, investment, ability to raise capital, and existing development and production efforts (including efforts to develop a derivative or improved version of saccharin). The producers' responses are presented in appendix G.

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[28]--
>
> > (I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),
> >
> > (II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,
> >
> > (III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,
> >
> > (IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,
> >
> > (V) any substantial increase in inventories of the merchandise in the United States,
> >
> > (VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

[28] 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."

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(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.[29]

Subsidies (item (I)) and agricultural products (item (IX)) are not issues in these investigations; 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 appendix G. 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) above); any other threat indicators, if applicable (item (VII)); and any dumping in third-country markets, follows.

U.S. Importers' Inventories

Table 13 presents data on U.S. importers' inventories of saccharin from China, Korea, and from other sources.

Table 13
Saccharin: End-of-period inventories of U.S. importers, by sources, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

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

Ability of Foreign Producers to Generate Exports and the Availability of Export Markets Other Than the United States

Producers in China

According to information presented in the petition, there are five major Chinese producers of saccharin.[30] Most of the producers in China use the Remsen-Fahlberg method of saccharin production; one uses the Maumee process.[31] None of the Chinese producers was represented by counsel in the investigations. Using a telegram from the U.S. Department of State, the Commission staff requested the U.S. embassy in Beijing and the American consulates in the Chinese provinces of Guangzhou, Shanghai, and Shenyang to provide information on the industry in China. Staff was unable to obtain FAX numbers for any of the Chinese producers to contact the producers directly and in a more timely manner than would be possible using postal services.

* * * * * * *

Producers in Korea

The petition named one major producer of saccharin in Korea, Jeil Moolsan Co., Inc. (JMC).[32] As in the case of China, a telegram was sent through the Department of State requesting data on the operations of JMC and any other producer(s) of saccharin in Korea. JMC is the only foreign producer represented by U.S. counsel in these investigations. A foreign producers' questionnaire was transmitted to JMC's counsel, and a request was also made directly to the company using a facsimile telephone number presented in the petition. A response from JMC was received by the Commission on December 17, 1993. In addition, counsel for two importers of saccharin submitted limited data on another, smaller Korean producer, Kum Yang Co., Ltd. (Kum Yang). The available data regarding the industry in Korea are presented in table 14.

These data show that during 1990-92, production fell irregularly from *** pounds to *** million pounds, or by *** percent.[33] During January-September 1993, production increased by *** percent compared with the year-earlier period. Capacity utilization fell irregularly from *** percent in 1990 to *** percent in 1992. During January-September 1993, capacity utilization increased to *** percent. Home market shipments of saccharin fell from *** pounds in 1990 to *** pounds in 1992, or by *** percent.[34] During 1990-92, exports to the United States increased by over *** percent. Exports to the United States fell by *** percent during January-September 1993 when compared with the corresponding period of 1992. Exports to the United States increased from *** percent of Korean production in 1990 to *** percent in 1992.

Table 14
Saccharin: Korean production capacity, production, capacity utilization, shipments, and inventories, 1990-92, Jan.-Sept. 1992, Jan.-Sept. 1993, and projections for 1993 and 1994

* * * * * * *

---

[30] Petition, app. D.

[31] Ibid., p. 17. For a discussion of these processes, see the section of this report entitled "Production Processes."

[32] According to data submitted by its counsel, JMC accounted for approximately *** percent of total production of saccharin in Korea in 1992 and approximately *** percent of total Korean exports to the United States in 1992. Counsel for JMC also indicated that exports by JMC are not subject to antidumping findings or remedies in any member-country of the General Agreement on Tariffs and Trade (GATT).

[33] Petitioner indicates that JMC uses the Remsen-Fahlberg process to produce saccharin (petition, p. 17). The process used by Kum Yang is unknown.

[34] According to the petition, in 1993, the Government of Korea banned the use of saccharin in home market sales of food and beverages (petition, p. 28).

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

U.S. Imports

Table 15 and figure 2 present U.S. import data on saccharin, by sources. These data show that imports of saccharin from China increased from 211,000 pounds in 1990 to 259,000 pounds in 1991, or by 23 percent. In 1992, imports from China increased by another 73 percent and, during January-September 1993, they increased by 2 percent from the corresponding period of 1992. During 1990-92, the value of imports from China increased at a lower rate than the quantity of imports. As a result, unit values of imports from China fell from $1.83 per pound in 1990 to $1.60 per pound in 1992, or by 13 percent. Between January-September 1992 and 1993, unit values fell slightly.

Imports of saccharin from Korea more than doubled between 1990 and 1991, from 562,000 pounds to 1.1 million pounds. In 1992, imports from Korea increased by more than 7 percent from the level attained in 1991. During January-September 1993, imports from Korea increased by 3 percent compared with the year-earlier period. As with the case of China, during 1990-92, the value of imports from Korea increased at a lower rate than did the corresponding quantities. The resulting unit values fell from $3.11 per pound in 1990 to $2.41 per pound in 1992, or by 22 percent. During January-September 1993, unit values fell to $2.37 per pound from $2.41 per pound in the corresponding period of 1992, representing a decline of nearly 2 percent.

Cumulative imports of saccharin from China and Korea increased by 81 percent during 1990-91. In 1992, cumulative imports increased by 19 percent from the level attained in 1991. During January-September 1993, cumulative imports increased by 3 percent from the year-earlier period. During 1990-92, cumulative imports of saccharin from China and Korea steadily increased from 46 percent of total imports to 71 percent of total imports. During the period for which data are presented, Japan was the other major source of U.S. imports of saccharin.

Total U.S. imports of saccharin increased from 1.7 million pounds in 1990 to 2.4 million pounds in 1991, or by 41 percent. Imports from China and Korea accounted for approximately 90 percent of this increase. In 1992, total U.S. imports declined by 1 percent from the level attained in 1991.

U.S. Market Shares

Shares of the U.S. saccharin market, by sources, are presented in table 16.[35] During every period for which data were collected, imports of saccharin from China and Korea increased their shares of U.S. consumption. On the basis of quantity, imports from China increased from *** percent of consumption in 1990 to *** percent in 1992. On the basis of value, this share increased from *** percent of consumption in 1990 to *** percent in 1992. Imports from Korea increased from *** percent of quantity-based consumption in 1990 to *** percent in 1992. On the basis of value, imports from Korea increased from *** percent of consumption in 1990 to *** percent in 1992. Cumulative imports from China and Korea increased from *** percent of quantity-based consumption in 1990 to *** percent in 1992. Similar increases were reported on the basis of value.

[35] As noted above, consumption and market shares of saccharin by chemical and physical forms are presented in app. F.

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Table 15
Saccharin: U.S. imports, by sources, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.-- 1992	1993
	Quantity (*1,000 pounds*)				
China	211	259	448	309	316
Korea	562	1,143	1,226	922	953
Subtotal	773	1,402	1,674	1,230	1,269
Other sources	908	976	675	499	415
Total	1,681	2,377	2,349	1,729	1,684
	Value (*1,000 dollars*)				
China	385	463	715	503	512
Korea	1,749	2,944	2,959	2,224	2,263
Subtotal	2,134	3,407	3,674	2,727	2,775
Other sources	3,006	3,135	2,506	1,793	1,489
Total	5,140	6,541	6,181	4,519	4,263
	Unit value (*per pound*)				
China	$1.83	$1.79	$1.60	$1.63	$1.62
Korea	3.11	2.58	2.41	2.41	2.37
Average	2.76	2.43	2.19	2.22	2.19
Other sources	3.31	3.21	3.71	3.59	3.58
Average	3.06	2.75	2.63	2.61	2.53

Note.--Because of rounding, figures may not add to the totals shown; unit values are calculated from unrounded figures.

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

Table 16
Saccharin: U.S. market shares, by sources, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

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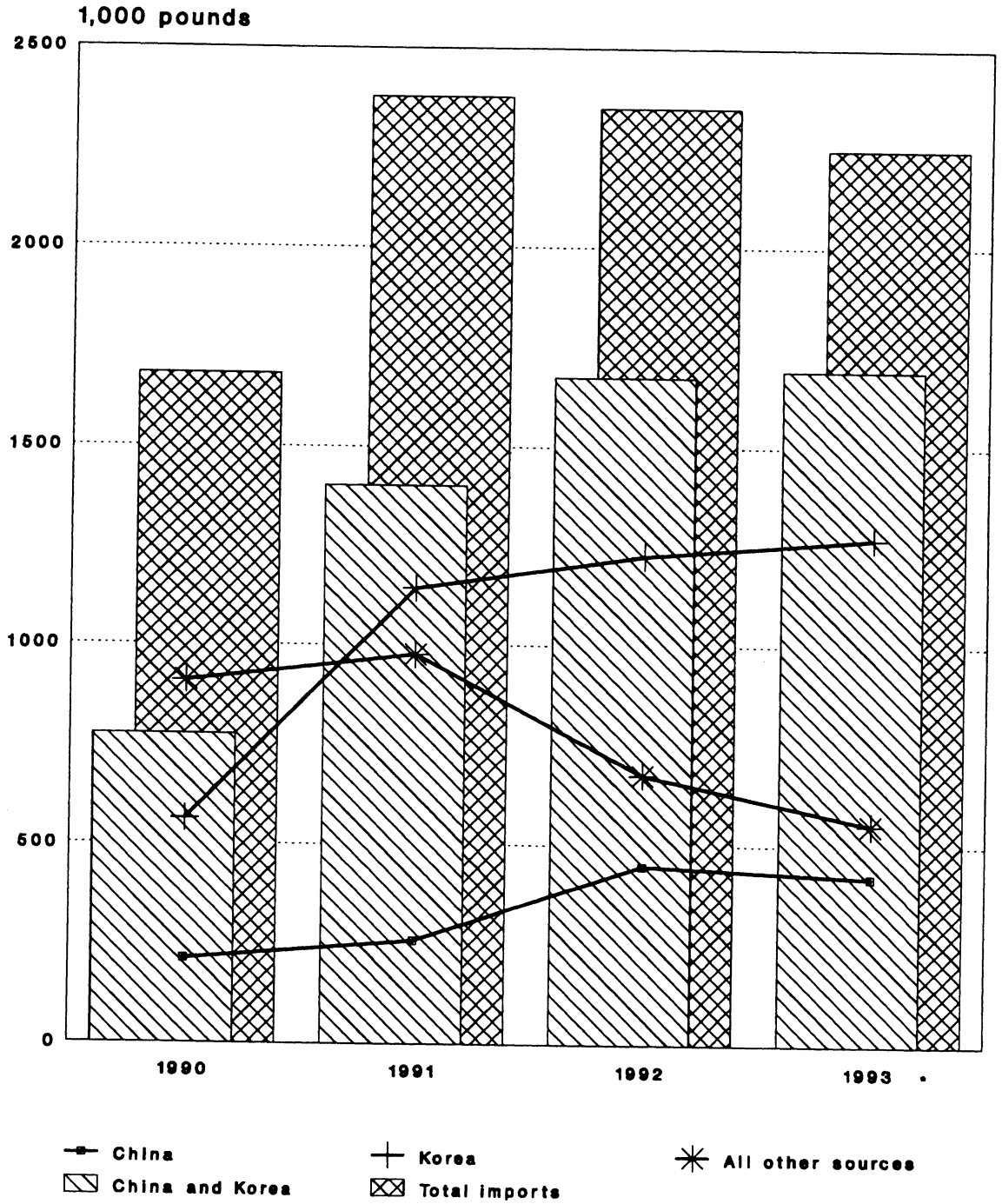
Figure 2
Saccharin: U.S. imports,
by sources, 1990-93



Source: Table 15.

* Annualized based on Jan.-Sept. 1993.

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Pricing and Marketing Considerations

PMCSG, the sole U.S. producer of saccharin, reported publishing price lists for its sales to customers in the U.S. market. List prices are quoted ***.

Importers, by contrast, do not publish price lists. All of the nine responding importers reported that they do not use price lists for their sales of saccharin in the U.S. market and instead negotiate prices with their customers based on prevailing market prices or on reported quotes from competing suppliers. Responses from importers were mixed regarding freight prepayment terms. Three importers reported quoting only delivered prices to their customers; two reported quoting only net f.o.b. prices at the U.S. port-of-entry or from their storage facility; and the remainder of importers split their responses fairly evenly between delivered and f.o.b. quotes. Virtually all importers reported sales terms of net 30 days.

Importers reportedly import under several different arrangements. Six of nine questionnaire respondents indicated that between 5 and 100 percent of their total 1992 sales were accounted for by saccharin that was imported, maintained in inventory, and resold to customers from stock. Additionally, five importers reported that between 25 and 100 percent of their total 1992 sales were accounted for by product that was specifically ordered for a particular customer.

Average lead times between order from the foreign manufacturer and delivery to the customer in the United States for the imported products were reported to range between 45 and 90 days for saccharin imported from China, and between 30 and 120 days for the product imported from Korea. Those importers that maintain inventories in the United States reported that lead times generally range between 2 and 10 days on shipments to their U.S. customers. PMCSG reported an average lead time between order and delivery of *** days for its U.S. shipments.

Although most importers reported that U.S. inland transportation costs are not a significant factor in their customers' sourcing decisions for saccharin--inland transportation costs reportedly account for less than 5 percent of the total delivered cost of the imported product--importers tend to sell a majority of their product to local or regional markets such as Brooklyn, NY, the Midwest, or the Southern United States. Seven of nine importers reported between 70 and 100 percent of their total 1992 sales to customers located within 100 miles from their port-of-entry or storage facility, and only one importer, ***, reported any sales to customers located greater than 1,000 miles from its port-of-entry or storage facility.

PMCSG reported that U.S. inland transportation costs account for less than *** percent of the total delivered cost of saccharin and stated that ***. Correspondingly, the company sells to a national market--*** percent of total 1992 sales went to customers located between 100 and 1,000 miles from PMCSG's production or storage facility.

Virtually all of PMCSG's 1992 sales were made to ***, while importers provided somewhat mixed responses. One importer reported selling exclusively to distributors,[36] two more reported selling exclusively to end users, and the remaining responses were fairly evenly mixed for sales to the two types of customers.

According to PMCSG's questionnaire response, ***. ***, all of the six importers responding to the question stated that the overall U.S. demand for saccharin has decreased over the past 5 years, mostly because of the increased availability and use of aspartame in a number of new applications. Responses were mixed from these importers when addressing demand for their firm's products. *** reported that demand for saccharin imported by their firms has increased because of factors such as improved quality, closer cooperation with suppliers, and wider availability of the product. Two importers of saccharin from Korea stated that ***.

Among four importers comparing the quality of domestic and Chinese saccharin, two indicated that quality differences are not a factor in their sales of the Chinese product, whereas two

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[36] ***.

stated that quality differences are a factor in their sales. One stated that the Chinese product is inferior to the domestic product because of its poor packaging, inconsistent granule size, and high levels of impurities; the other respondent stated that the Chinese product is superior to the domestic product because it has fewer impurities and is less susceptible to lumping. Two importers stated that domestic and Chinese saccharin can be used interchangeably, whereas one reported that certain end users cannot use the Chinese product.

Two of six responding importers indicated that differences in quality between domestic and Korean saccharin are a significant factor in their sales of the imported product. One reported that its customer prefers the overall quality of Korean soluble saccharin over the domestic product, whereas one stated that the Korean product is inferior to the domestic product because of poor packaging, non-uniform granule size, and higher levels of impurities. The remaining four importers stated that any differences in quality between the domestic and Korean products are not an important factor in their sales of the imported product. Two importers stated that the domestic and Korean products are not interchangeable in their end uses primarily because of their perceived quality differences; two other importers stated that the domestic and Korean products are used interchangeably.

PMCSG reported that any differences in quality between saccharin produced in the United States and saccharin imported from China or Korea are not a significant factor in its sales of the domestic product, and both countries' products are interchangeable with the domestic product in most end uses.

Prices

U.S. producers and importers were requested to report quantity and net f.o.b. pricing data for their largest single quarterly sale and total quarterly sales of each of the products listed below to unrelated U.S. end users over the period from January 1990 through September 1993. Pricing data were requested for sales of the following domestic and imported products believed to be sold in competition in the U.S. market:

Product 1: Sodium saccharin, granular, sized or unsized, FCC, 10-17 percent water

Product 2: Sodium saccharin, powder, FCC, 3-6 percent water

Product 3: Sodium saccharin, spray-dried powder, FCC, less than 3 percent water

Product 4: Acid or insoluble saccharin, spray-dried powder, FCC

Product 5: Calcium saccharin, spray-dried powder, FCC

Product 6: Acid or insoluble saccharin, crude grade

Product 7: Sodium saccharin, granular, sized or unsized, non-food grade, 10-17 percent water

Questionnaire responses containing pricing data were received from PMCSG, from two importers of saccharin from China, and from six importers of the product from Korea. These data appear in tables 17 to 23 and figures 3 to 5. Reported total quantities corresponding to PMCSG's pricing data accounted for close to 100 percent of total reported 1992 domestic shipments of granular, powder, and spray-dried powder forms of sodium saccharin, and of spray-dried powder forms of calcium and

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acid saccharin; total quantities associated with importers' reported pricing data for all products accounted for 7.7 percent of total 1992 imports of saccharin from China and 40.4 percent of total 1992 imports of saccharin from Korea.

PMCSG provided complete pricing data for products 1 to 5 and product 7 sold to end users during the period January 1990-September 1993.[37] Prices for PMCSG's product 1 and product 7 declined during this period by *** percent and *** percent, respectively; prices for the remaining products 2 to 5 fluctuated and increased over the period in a range from *** percent for product 2 to *** percent for product 4.

Table 17
Product 1: Net f.o.b. prices for domestic product and weighted-average net f.o.b. prices for imported products sold to end users, and margins of underselling (overselling), by quarters, Jan. 1990-Sept. 1993

* * * * * * *

Table 18
Product 2: Net f.o.b. prices for domestic product sold to end users, by quarters, Jan. 1990-Sept. 1993

* * * * * * *

Table 19
Product 3: Net f.o.b. prices for domestic product and weighted-average net f.o.b. prices for Korean products sold to end users, and margins of underselling, by quarters, Jan. 1990-Sept. 1993

* * * * * * *

Table 20
Product 4: Net f.o.b. prices for domestic product and weighted-average net f.o.b. prices for Korean products sold to end users, and margins of underselling, by quarters, Jan. 1990-Sept. 1993

* * * * * * *

Table 21
Product 5: Net f.o.b. prices for domestic product and weighted-average net f.o.b. prices for Korean products sold to end users, and margins of underselling (overselling), by quarters, Jan. 1990-Sept. 1993

* * * * * * *

[37] Pricing data were also reported in three quarters for product 6.

Table 22
Product 6: Net f.o.b. prices for domestic product and weighted-average net f.o.b. prices for Korean products sold to end users, and margins of (overselling), by quarters, Jan. 1990-Sept. 1993

* * * * * * *

Table 23
Product 7: Net f.o.b. prices for domestic product and weighted-average net f.o.b. prices for Korean products sold to end users, and margins of underselling, by quarters, Jan. 1990-Sept. 1993

* * * * * * *

Figure 3
Price trends for domestic products

* * * * * * *

Figure 4
Price trend for Chinese product

* * * * * * *

Figure 5
Price trends for Korean products

* * * * * * *

Product ***, *** saccharin, is the only product for which pricing data were reported for sales to end users of imports from China.[38] Quarterly prices for this product ***.[39] Comparison of the domestic and Chinese prices for product 1 showed the Chinese product priced higher than the domestic product in four quarters, with margins of overselling ranging from 4.4 to 10.6 percent, and below the domestic product in the remaining 10 quarters by margins ranging from 1.8 to 25.2 percent.

Pricing data were received from importers for sales of Korean products 1 and 3 to 7 to end users in the United States. Prices for products 1, 3, 4, and 5 all declined in a range from 4.0 percent to 13.5 percent between January 1990 and September 1993. Prices for product 6 increased by 5.9 percent over the same period, and for product 7 increased by 12.7 percent between January 1990 and September 1991. A comparison of domestic and Korean prices for these six products showed the Korean products priced above the domestic product in 27 quarters and below the domestic product in a total of 26 quarters. Margins of overselling ranged from 0.2 percent to 89.2 percent, while margins of underselling ranged from 0.1 to 39.4 percent. ***.

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[38] As noted previously, ***.

[39] Prices for this product are the actual data reported in the questionnaire responses and are not a weighted average. Two importers provided data but not in any of the same quarters.

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Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that during January-March 1990 through July-September 1993, the nominal value of the Chinese yuan depreciated by 18.2 percent against the U.S. dollar, while the nominal value of the Korean won decreased by 14.6 percent over the same period (figures 6 and 7). Adjusted for relative movements in producer prices in the United States and Korea, the real value of the Korean currency showed an overall decrease of 6.8 percent against the U.S. dollar from the first quarter of 1990 through the second quarter of 1993. The real value of the Chinese currency is not shown because producer price information for China is not available.

Lost Sales and Lost Revenues

PMCSG provided the Commission with *** allegations of lost sales to suppliers of saccharin from China for a total of *** pounds valued at $***; and *** allegations of lost sales to suppliers from Korea totalling *** pounds and $***. PMCSG also supplied the Commission with *** allegations of lost revenues due to Chinese suppliers for a total of $*** on *** pounds of material;[40] and *** lost revenue allegations due to Korean suppliers totalling $*** on *** pounds of saccharin.

The Commission staff was able to contact two purchasers involved in two lost revenue allegations totalling $52,800 and three purchasers involved in six lost sales allegations totalling $1,007,500.

* * * * * * *

[40] ***.

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Figure 6:
Nominal and real exchange rates: Value of Korean won, by quarters

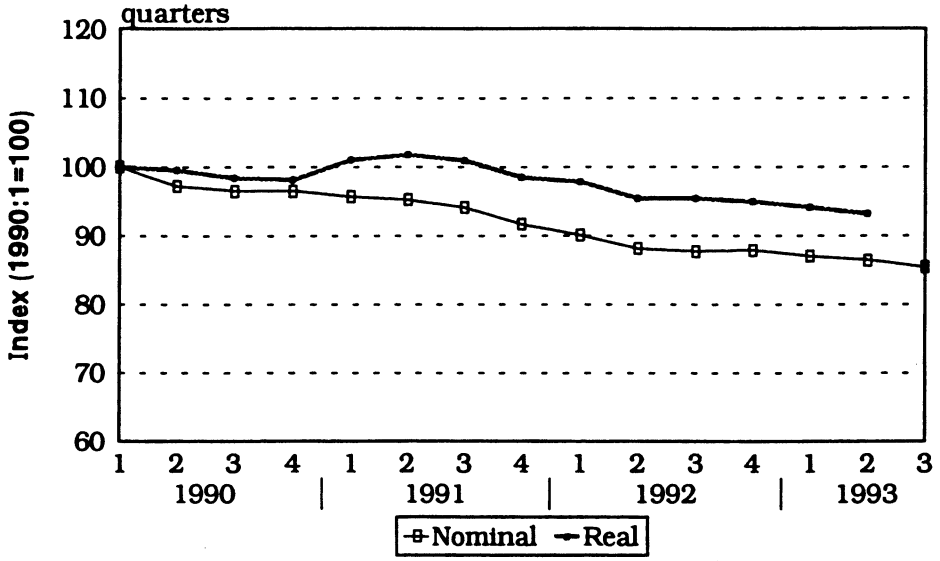
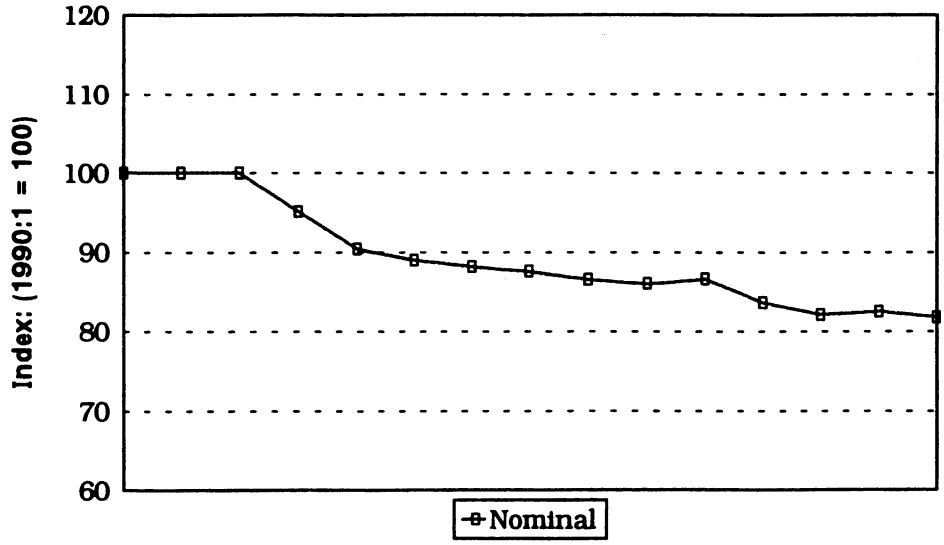


Figure 7:
Nominal exchange rate: Value of Chinese yuan, by quarters



APPENDIX A

FEDERAL REGISTER NOTICES

A-1

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–675 and 676 (Preliminary)]

Saccharin From China and Korea; Preliminary Antidumping Investigations

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of preliminary antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigations Nos. 731–TA–675 and 676 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China and Korea of saccharin, provided for in subheading 2925.11.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by January 3, 1994.

For further information concerning the conduct of these investigations 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 B (19 CFR part 207).

EFFECTIVE DATE: November 18, 1993.

FOR FURTHER INFORMATION CONTACT: Brian Walters (202–205–3198), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 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

These investigations are being instituted in response to a petition filed on November 18, 1993, by PMC Specialties Group, Rocky River, OH.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven (7) 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 these investigations 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 these preliminary investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on December 9, 1993, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Brian Walters (202–205–3198) not later than December 7, 1993, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before December 14, 1993, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must 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 investigations must be served on all other parties to the investigations (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: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules.

Issued: November 23, 1993.
By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 93–29145 Filed 11–23–93; 1:04 pm]
BILLING CODE 7020–02–P

A-2

[A-570-828, A-580-823]

Initiation of Antidumping Duty Investigations: Saccharin From the People's Republic of China and Republic of Korea

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

EFFECTIVE DATE: December 14, 1993.

FOR FURTHER INFORMATION CONTACT: The following officials of the Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230 may be contacted for further information: Gary Bettger (202) 482-2239 for the People's Republic of China (PRC); or Julie Anne Osgood (202) 482-0167 for the Republic of Korea (Korea).

INITIATION OF INVESTIGATION:

The Petition

On November 17, 1993, we received a petition filed by the PMC Specialties Group ("petitioner"), the sole U.S. producer of saccharin. However, the International Trade Commission ("ITC") did not receive the petition filed in proper form until November 18, 1993. Therefore, consistent with 19 CFR 353.12(c), we consider the petition to have been officially filed with the Department on November 18, 1993.

In accordance with 19 CFR 353.12, petitioner alleges that imports of saccharin from the People's Republic of China ("PRC") and the Republic of Korea ("Korea") are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that such imports are materially injuring, or threatening material injury to, a U.S. industry.

Petitioner states that it has standing to file the petition because the PMC Specialties Group is an interested party, as defined under section 771(9)(C) of the Act, and it is the sole domestic producer of saccharin. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, it should file a written notification with the Assistant Secretary for Import Administration.

Scope of Investigation

Saccharin is a non-nutritive sweetener used in beverages and foods, personal care products such as toothpaste, table-top sweeteners, animal feeds, and metalworking fluids. Three forms of saccharin are typically available as referenced in the American Chemical Society's Chemical Abstract Service (CAS). These forms are sodium saccharin (CAS #128-44-9), calcium saccharin (CAS #6485-34-3), and acid (or insoluble) saccharin (CAS #81-07-2). Saccharin is classified under subheading 2925.11.00 of the Harmonized Tariff Schedule of the United States (HTS). The scope of these investigations includes all types of saccharin imported under this HTS subheading including research and specialized grades.

Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

United States Price and Foreign Market Value

The People's Republic of China

Petitioner based United States Price ("USP") on 1993 price quotes made on a packed, f.o.b. China Main Port basis from a U.S. sales agent representing a Chinese chemical plant. Petitioner made no adjustment to the prices.

Petitioner contends that the foreign market value ("FMV") of PRC-produced imports subject to this investigation must be determined in accordance with section 773(c) of the Act, which concerns non-market economy ("NME") countries. The Department has determined the PRC to be an NME, within the meaning of section 771(18)(A) of the Act, in previous cases (see e.g., *Final Determination of Sales at Less Than Fair Value: Certain Compact Ductile Iron Waterworks Fittings and Accessories Thereof from the PRC*, 58 FR 37908 (July 14, 1993)) ("*CDIW Fittings*"). In accordance with 771(18)(C) of the Act, that determination continues to appiy for purposes of this initiation.

In the course of this investigation, parties will have the opportunity to address this NME determination and provide relevant information and argument on this issue. In addition, parties will have the opportunity in this investigation to submit comments on whether FMV should be based on prices or costs in the PRC consistent with section 773(c)(1)(B) of the Act (see *Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order: Chrome-Plated Lug Nuts from the People's Republic of China*, 57 FR 15052 (April 24, 1992)).

Because of the extent of central government control in an NME, the Department further considers that a single antidumping margin, should there be one, is appropriate for all exporters from the NME. Only if individual NME exporters are free of central government ownership and can demonstrate an absence of central governmental control with respect to the pricing of exports, both in law and in fact, will they be considered eligible for separate, owner-specific deposit rates. (See *Final Determination of Sales at Less Than Fair Value: Helical Spring Lock Washers from the People's Republic of China*, 58 FR 48833 (September 20, 1993) for a discussion of the information the Department considers appropriate to warrant calculation of separate rates.)

In accordance with section 773(c) of the Act, FMV in NME cases is based on NME producers' factors of production valued in a market economy country. Petitioner calculated FMV by valuating the factors of production for the two methods used to produce the subject merchandise, Maumee and Remsen-Fahlberg, based on information from an Indian producer which uses the Maumee process and information obtained from a patent description for the Remsen-Fahlberg process.

In valuing the factors of production, petitioner used India and Pakistan as surrogate countries. For purposes of this initiation, we have, pursuant to section 773(c)(4) of the Act, accepted India and Pakistan as appropriate surrogate countries because their economies are at a level of development comparable to the PRC's. (See Memorandum to David L. Binder, Director—Division II, Office of Antidumping Investigations from David P. Mueller, Director, Office of Policy, dated August 1993, regarding non-market economy status and surrogate country selection on file in Room B-099 of the Department of Commerce.) However, petitioner was unable to obtain values for all factors in India and Pakistan. For some of these factors, petitioner supplied alternative sources (e.g., international world prices). Based upon our analysis, we have found these sources to be acceptable except in the following instance.

To value the raw material sodium bichromate, petitioner provided a price from a Chinese exporter. Because the Department considers the PRC to be an NME, this price is unacceptable and we are using an average of Indian import and export prices to value this input.

In accordance with section 773(c)(1)(B) of the Act, petitioner's FMV consisted of the sum of values assigned to materials, labor, energy, and overhead. To this, petitioner added general expenses and profit.

Petitioner adjusted certain factor values to reflect inflation and currency exchange rates between the dates of the U.S. price quote and the dates of the reported data. In cases where petitioner did not correctly adjust factor values or made certain numerical calculation errors, we have made the proper adjustments. (For a more detailed discussion, see the Memorandum to Barbara R. Stafford from Team dated December 8, 1993, on file in the Central Records Unit of the Main Commerce Building.)

Pursuant to sections 773(c)(1) and (e)(1) of the Act, petitioner added to the labor and material costs the statutory minima of 10 percent for general expenses and eight percent for profit.

The dumping margin for saccharin from PRC based on a comparison of USP and FMV alleged by petitioner ranges from 95 percent to 391 percent.

Republic of Korea

Petitioner explained that it was unable to obtain actual sales price information on which to base USP. Petitioner, therefore, based USP on import statistics from the Department of Commerce IM–145 reports. These customs values are exclusive of transportation, insurance, import duties and other costs associated with shipments to the United States. Petitioner made no adjustments to the USP.

Petitioner based FMV on constructed value. Petitioner derived raw material costs from a variety of sources. Although we have accepted the majority of petitioner's cost estimates, we have recalculated the cost of certain raw materials used in the production process to reflect either an average of two price quotes or a Korean import price. We have revised the constructed value to account for these changes. (For a more detailed discussion, see the Memorandum to Barbara R. Stafford from Team dated December 8, 1993, on file in the Central Records Unit of the Main Commerce Building.)

The dumping margin for saccharin from Korea based on a comparison of USP to FMV alleged by petitioner is 133 percent.

Initiation of Investigations

We have examined the petition on saccharin and have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of saccharin from the PRC and Korea are being, or are likely to be, sold in the United States at less than fair value.

Critical Circumstances:

Petitioner alleges that critical circumstances exist by reason of massive imports. However, to document this allegation, petitioner provides only general import volumes and values from the PRC over the past few years without attempting to link its claim of massive imports to any particular event relating to these investigations. Furthermore, petitioner does not address the issue of knowledge or history of dumping. Therefore, since petitioner has not met the requirements of 19 CFR 353.16, we are not initiating an investigation of critical circumstances.

ITC Notification

Section 732(d) of the Act requires us to notify the ITC of these actions; and we have done so.

Preliminary Determination by the ITC

The ITC will determine by January 3, 1994, whether there is a reasonable indication that imports of saccharin from the PRC and Korea are materially injuring, or threaten material injury to, a U.S. industry. A negative ITC determination on either of these will result in the investigation being terminated; otherwise, each of these investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: December 8, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–30488 Filed 12–13–93; 8:45 am]

BILLING CODE 3510–DS–P

A-4

APPENDIX B

CALENDAR OF PUBLIC CONFERENCE

B-1

CALENDAR OF PUBLIC CONFERENCE

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

Subject	:	SACCHARIN FROM CHINA AND KOREA
Invs. Nos.	:	731-TA-675 & 676 (Preliminary)
Date and Time	:	December 9, 1993 - 9:30 a.m.

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

In Support of Imposition of
Antidumping Duties:

PMC Specialties Group, Cincinnati, OH

Robert J. Gilbert, Gilbert Development Group, Inc.

Jack DeChellis, Controller, PMC Specialties Group

Ron Pearson, Director of Research and Development, PMC Specialties Group

Gordon McCullough, Vice President of Sales, PMC Specialties Group

Kim Pohlman, Project Manager, PMC Specialties Group

In Opposition to the Imposition of
Antidumping Duties:

Miller, Canfield, Paddock and Stone
Washington, DC
On behalf of

Rit-Chem Co., Inc., Pleasantville, NY

Helm Chemicals Co., Piscataway, NJ

Wayne Ritell, Vice President Sales and Marketing, Rit-Chem Co., Inc.

William E. Perry) --OF COUNSEL

B-2

APPENDIX C

SUMMARY DATA ON SACCHARIN

C-1

Table C-1
Saccharin: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

(Quantity=*short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit COGS are *per short ton*; period changes=*percent*, except where noted)

Item	Reported data					Period changes			
				Jan.-Sept.--					Jan.-Sept.
	1990	1991	1992	1992	1993	1990-92	1990-91	1991-92	1992-93
U.S. consumption quantity:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share 1/	***	***	***	***	***	***	***	***	***
Importers' share: 1/									
China	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share 1/	***	***	***	***	***	***	***	***	***
Importers' share: 1/									
China	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. importers' imports from--									
China:									
Imports quantity	211	259	448	309	316	+112.3	+22.7	+73.0	+2.3
Imports value	385	463	715	503	512	+85.7	+20.3	+54.4	+1.8
Unit value	$1.83	$1.79	$1.60	$1.63	$1.62	-12.6	-2.1	-10.7	-0.6
Ending inventory qty	***	***	***	***	***	***	***	***	***
Korea:									
Imports quantity	562	1,143	1,226	922	953	+118.1	+103.4	+7.3	+3.4
Imports value	1,749	2,944	2,959	2,224	2,263	+69.2	+68.3	+0.5	+1.8
Unit value	$3.11	$2.58	$2.41	$2.41	$2.37	-22.5	-17.2	-6.3	-1.6
Ending inventory qty	***	***	***	***	***	***	***	***	***
Subject sources:									
Imports quantity	773	1,402	1,674	1,230	1,269	+116.6	+81.4	+19.4	+3.2
Imports value	2,134	3,407	3,674	2,727	2,775	+72.2	+59.7	+7.8	+1.8
Unit value	$2.76	$2.43	$2.19	$2.22	$2.19	-20.5	-12.0	-9.7	-1.3
Ending inventory qty	***	***	***	***	***	***	***	***	***
Other sources:									
Imports quantity	908	976	675	499	415	-25.7	+7.5	-30.8	-16.8
Imports value	3,006	3,135	2,506	1,793	1,489	-16.6	+4.3	-20.1	-17.0
Unit value	$3.31	$3.21	$3.71	$3.59	$3.58	+12.2	-2.9	+15.6	-0.3
Ending inventory qty	0	0	0	0	0	0	0	0	0
All sources:									
Imports quantity	1,681	2,377	2,349	1,729	1,684	+39.7	+41.4	-1.2	-2.6
Imports value	5,140	6,541	6,181	4,519	4,263	+20.3	+27.3	-5.5	-5.7
Unit value	$3.06	$2.75	$2.63	$2.61	$2.53	-14.0	-10.0	-4.4	-3.2
U.S. producer's--									
Average capacity qty	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***
Capacity utilization 1/	***	***	***	***	***	***	***	***	***

See footnote at end of table.

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Table C-1--Continued
Saccharin: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

(Quantity=*short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit COGS are *per short ton*; period changes=*percent*, except where noted)

Item	Reported data					Period changes			
				Jan.-Sept.--					Jan.-Sept.
	1990	1991	1992	1992	1993	1990-92	1990-91	1991-92	1992-93
U.S. producer's--Continued--									
U.S. shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	$***	$***	$***	$***	$***	***	***	***	***
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Exports /shipments 1/	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	$***	$***	$***	$***	$***	***	***	***	***
Ending inventory qty	***	***	***	***	***	***	***	***	***
Inventory/shipments 1/	***	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***	***	***	***
Total comp. ($1,000)	***	***	***	***	***	***	***	***	***
Hourly total compensation	$***	$***	$***	$***	$***	***	***	***	***
Productivity (lbs./hour)	***	***	***	***	***	***	***	***	***
Unit labor costs	$***	$***	$***	$***	$***	***	***	***	***
Net sales--									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***
Gross profit (loss)	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***
Operating income (loss)	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***
Unit COGS	$***	$***	$***	$***	$***	***	***	***	***
COGS/sales 1/	***	***	***	***	***	***	***	***	***
Op.income (loss) /sales 1/	***	***	***	***	***	***	***	***	***

1/ 'Reported data' are in percent, and 'period changes' are in percentage-point.

Note.--Period changes are derived from the unrounded data. Period changes involving negative period data are positive if the amount of the negativity decreases and negative if the amount of the negativity increases. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

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

Figure C-1
Saccharin: Salient data of the U.S. industry, 1990-92

* * * * * * *

C-3

APPENDIX D

SUMMARY DATA TABLE ON ASPARTAME

D-1

Table D-1
Aspartame: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

(Quantity=*short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit COGS are *per short ton*; period changes=*percent*, except where noted)

Item	Reported data					Period changes			
				Jan.-Sept.--					Jan.-Sept.
	1990	1991	1992	1992	1993	1990-92	1990-91	1991-92	1992-93
U.S. consumption quantity:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share 1/	***	***	***	***	***	***	***	***	***
Importers' share: 1/									
China	0	0	0	0	0	0	0	0	0
Korea	0	0	0	0	***	0	0	0	***
Subtotal	0	0	0	0	***	0	0	0	***
Italy	***	0	0	0	0	***	***	0	0
Japan	***	***	***	***	***	***	***	***	***
The Netherlands	0	0	***	0	***	***	0	***	***
Other sources	***	***	***	0	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share 1/	***	***	***	***	***	***	***	***	***
Importers' share: 1/									
China	0	0	0	0	0	0	0	0	0
Korea	0	0	0	0	***	0	0	0	***
Subtotal	0	0	0	0	***	0	0	0	***
Italy	***	0	0	0	0	***	***	0	0
Japan	***	***	***	***	***	***	***	***	***
The Netherlands	0	0	***	0	***	***	0	***	***
Other sources	***	***	***	0	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. importers' imports from--									
China:									
Imports quantity	0	0	0	0	0	0	0	0	0
Imports value	0	0	0	0	0	0	0	0	0
Unit value	2/	2/	2/	2/	2/	2/	2/	2/	2/
Ending inventory qty	3/	3/	3/	3/	3/	3/	3/	3/	3/
Korea:									
Imports quantity	0	0	0	0	25	0	0	0	2/
Imports value	0	0	0	0	614	0	0	0	2/
Unit value	2/	2/	3/	2/	$24.25	2/	2/	2/	2/
Ending inventory qty	3/	3/	3/	3/	3/	3/	3/	3/	3/
Subject sources:									
Imports quantity	0	0	0	0	25	0	0	0	2/
Imports value	0	0	0	0	614	0	0	0	2/
Unit value	2/	2/	3/	2/	$24.25	2/	2/	2/	2/
Ending inventory qty	3/	3/	3/	3/	3/	3/	3/	3/	3/
Italy:									
Imports quantity	730	0	0	0	0	-100.0	-100.0	0	0
Imports value	25,613	0	0	0	0	-100.0	-100.0	0	0
Unit value	$35.10	2/	2/	2/	2/	2/	2/	2/	2/
Ending inventory qty	3/	3/	3/	3/	3/	3/	3/	3/	3/

See footnotes at end of table.

D-2

Table D-1--Continued
Aspartame: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

(Quantity=*short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit COGS are *per short ton*; period changes=*percent*, except where noted)

Item	Reported data			Jan.-Sept.--		Period changes			Jan.-Sept.
	1990	1991	1992	1992	1993	1990-92	1990-91	1991-92	1992-93
U.S. importers' imports from--Continued--									
Japan:									
Imports quantity	1,348	4,292	3,747	2,993	3,558	+178.0	+218.4	-12.7	+18.9
Imports value	22,847	66,789	63,845	52,135	64,232	+179.4	+192.3	-4.4	+23.2
Unit value	$16.95	$15.56	$17.04	$17.42	$18.05	+0.5	-8.2	+9.5	+3.6
Ending inventory qty	3/	3/	3/	3/	3/	3/	3/	3/	3/
The Netherlands:									
Imports quantity	0	0	107	0	18	2/	0	2/	2/
Imports value	0	0	3,522	0	550	2/	0	2/	2/
Unit value	2/	2/	$32.94	2/	$30.69	2/	2/	2/	2/
Ending inventory qty	3/	3/	3/	3/	3/	3/	3/	3/	3/
Other sources:									
Imports quantity	2	4/	102	0	49	5/	-97.0	5/	2/
Imports value	13	6	1,352	0	501	5/	-53.8	5/	2/
Unit value	$7.36	$100.95	$13.20	2/	$10.21	+79.3	5/	-86.9	2/
Ending inventory qty	3/	3/	3/	3/	3/	3/	3/	3/	3/
All sources:									
Imports quantity	2,079	4,292	3,956	2,993	3,651	+90.3	+106.4	-7.8	+22.0
Imports value	48,473	66,794	68,719	52,135	65,898	+41.8	+37.8	+2.9	+26.4
Unit value	$23.31	$15.56	$17.37	$17.42	$18.05	-25.5	-33.2	+11.6	+3.6
Ending inventory qty	3/	3/	3/	3/	3/	3/	3/	3/	3/
U.S. producer's--									
Average capacity qty	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***
Capacity utilization 1/	***	***	***	***	***	***	***	***	***
U.S. shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	$***	$***	$***	$***	$***	***	***	***	***
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Exports /shipments 1/	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	$***	$***	$***	$***	$***	***	***	***	***
Ending inventory qty	***	***	***	***	***	***	***	***	***
Inventory/shipments 1/	***	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***	***	***	***
Total comp. ($1,000)	***	***	***	***	***	***	***	***	***
Hourly total compensation	$***	$***	$***	$***	$***	***	***	***	***
Productivity (lbs./hour)	***	***	***	***	***	***	***	***	***
Unit labor costs	$***	$***	$***	$***	$***	***	***	***	***

See footnotes at end of table.

D-3

Table D-1--Continued
Aspartame: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

(Quantity=*short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit COGS are *per short ton*; period changes=*percent*, except where noted)

Item	Reported data					Period changes			
				Jan.-Sept.--					Jan.-Sept.
	1990	1991	1992	1992	1993	1990-92	1990-91	1991-92	1992-93
U.S. producer's--Continued--									
Net sales--									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***
Gross profit (loss)	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***
Operating income (loss)	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***
Unit COGS	$***	$***	$***	$***	$***	***	***	***	***
COGS/sales 1/	***	***	***	***	***	***	***	***	***
Op.income (loss) /sales 1/	***	***	***	***	***	***	***	***	***

1/ 'Reported data' are in percent, and 'period changes' are in percentage-point.
2/ Not applicable.
3/ Not available.
4/ Less than 500 pounds.
5/ An increase of 1,000 percent or more.

Note.--Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

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

D-4

APPENDIX E

SUMMARY DATA TABLE ON SACCHARIN AND ASPARTAME COMBINED

E-1

Table E-1
Saccharin and aspartame: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

(Quantity=*short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit COGS are *per short ton*; period changes=*percent*, except where noted)

Item	Reported data					Period changes			
				Jan.-Sept.--					Jan.-Sept.
	1990	1991	1992	1992	1993	1990-92	1990-91	1991-92	1992-93
U.S. consumption quantity:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share 1/	***	***	***	***	***	***	***	***	***
Importers' share: 1/									
China	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share 1/	***	***	***	***	***	***	***	***	***
Importers' share: 1/									
China	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. importers' imports from--									
China:									
Imports quantity	211	259	448	309	316	+112.3	+22.7	+73.0	+2.3
Imports value	385	463	715	503	512	+85.7	+20.3	+54.4	+1.8
Unit value	$1.83	$1.79	$1.60	$1.63	$1.62	-12.6	-2.1	-10.7	-0.6
Ending inventory qty	2/	2/	2/	2/	2/	2/	2/	2/	2/
Korea: 3/									
Imports quantity	562	1,143	1,226	922	978	+118.1	+103.4	+7.3	+6.1
Imports value	1,749	2,944	2,959	2,224	2,877	+69.2	+68.3	+0.5	+29.4
Unit value	$3.11	$2.58	$2.41	$2.41	$2.94	-22.5	-17.2	-6.3	+21.9
Ending inventory qty	2/	2/	2/	2/	2/	2/	2/	2/	2/
Subject sources: 3/									
Imports quantity	773	1,402	1,674	1,230	1,294	+116.6	+81.4	+19.4	+5.2
Imports value	2,134	3,407	3,674	2,727	3,389	+72.2	+59.7	+7.8	+24.3
Unit value	$2.76	$2.43	$2.19	$2.22	$2.62	-20.5	-12.0	-9.7	+18.1
Ending inventory qty	2/	2/	2/	2/	2/	2/	2/	2/	2/
Other sources:									
Imports quantity	2,988	5,267	4,631	3,492	4,041	+55.0	+76.3	-12.1	+15.7
Imports value	51,479	69,929	71,225	53,928	66,772	+38.4	+35.8	+1.9	+23.8
Unit value	$17.23	$13.28	$15.38	$15.44	$16.52	-10.7	-23.0	+15.9	+7.0
Ending inventory qty	2/	2/	2/	2/	2/	2/	2/	2/	2/
All sources:									
Imports quantity	3,760	6,669	6,305	4,722	5,335	+67.7	+77.4	-5.5	+13.0
Imports value	53,613	73,335	74,899	56,655	70,161	+39.7	+36.8	+2.1	+23.8
Unit value	$14.26	$11.00	$11.88	$12.00	$13.15	-16.7	-22.9	+8.0	+9.6
U.S. producer's--									
Average capacity qty	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***
Capacity utilization 1/	***	***	***	***	***	***	***	***	***

See footnotes at end of table.

E-2

Table E-1--Continued
Saccharin and aspartame: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

(Quantity=*short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit COGS are *per short ton*; period changes=*percent*, except where noted)

Item	Reported data			Jan.-Sept.--		Period changes			
	1990	1991	1992	1992	1993	1990-92	1990-91	1991-92	Jan.-Sept. 1992-93
U.S. producer's--Continued--									
U.S. shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	$***	$***	$***	$***	$***	***	***	***	***
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Exports /shipments 1/	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	$***	$***	$***	$***	$***	***	***	***	***
Ending inventory qty	***	***	***	***	***	***	***	***	***
Inventory/shipments 1/	***	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***	***	***	***
Total comp. ($1,000)	***	***	***	***	***	***	***	***	***
Hourly total compensation	$***	$***	$***	$***	$***	***	***	***	***
Productivity (lbs./hour)	***	***	***	***	***	***	***	***	***
Unit labor costs	$***	$***	$***	$***	$***	***	***	***	***
Net sales--									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***
Gross profit (loss)	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***
Operating income (loss)	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***
Unit COGS	$***	$***	$***	$***	$***	***	***	***	***
COGS/sales 1/	***	***	***	***	***	***	***	***	***
Op.income (loss) /sales 1/	***	***	***	***	***	***	***	***	***

1/ 'Reported data' are in percent, and 'period changes' are in percentage-point.
2/ Not available.
3/ Data for Jan.-Sept. 1993 include 25,000 pounds of aspartame from Korea valued at $614,000. This was the only period covered by the Commission's investigations during which there were imports from Korea of aspartame. There were no imports of aspartame from China between Jan. 1990 and Sept. 1993. During Jan.-Sept. 1993, the share of the combined U.S. market for saccharin and aspartame accounted for by imports of saccharin from Korea is *** percent on the basis of quantity and *** percent on the basis of value. The cumulative share of imports of saccharin from China and Korea during this period is *** percent on the basis of quantity and *** percent on the basis of value.

Note.--Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

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

E-3

APPENDIX F

APPARENT U.S. CONSUMPTION OF SACCHARIN, BY CHEMICAL AND PHYSICAL FORMS

F-1

Table F-1
Saccharin: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, by chemical and physical forms, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

F-2

APPENDIX G

COMMENTS RECEIVED FROM PRODUCERS ON THE EFFECT OF IMPORTS OF SACCHARIN FROM CHINA AND/OR KOREA ON THEIR GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL, AND EXISTING DEVELOPMENT AND PRODUCTION EFFORTS

G-1

The Commission requested U.S. producers to describe and explain the actual and potential negative effects of imports of saccharin from China and/or Korea on their growth, investment, ability to raise capital, and existing development and production efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown below.

PMCSG

* * * * * * *

The NutraSweet Co.

* * * * * * *

G-2