

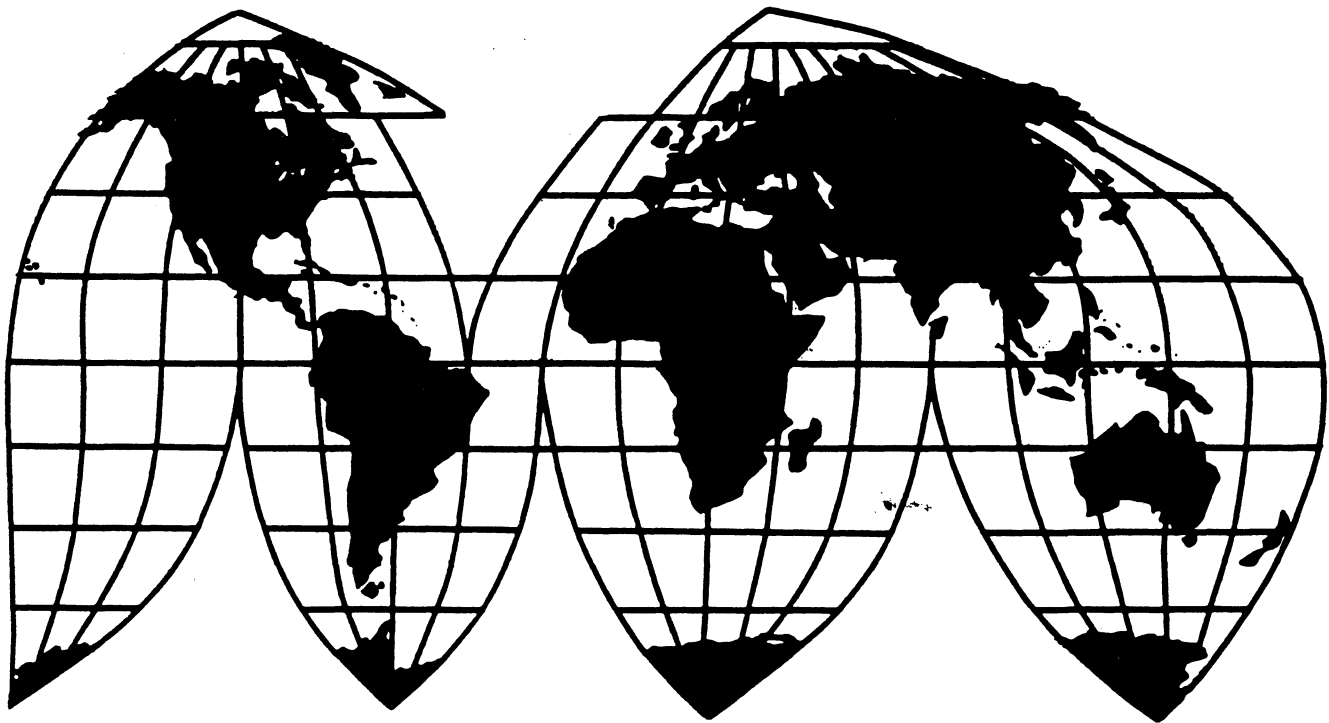
# **Sebacic Acid from The People's Republic of China**

Investigation No. 731-TA-653 (Final)

**Publication 2793**

**July 1994**

**U.S. International Trade Commission**



Washington, DC 20436

# **U.S. International Trade Commission**

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# **U.S. International Trade Commission**

Washington, DC 20436

## **Sebacic Acid from The People's Republic of China**



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**Note.**—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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



**PART I**

**DETERMINATION AND VIEWS OF THE COMMISSION**



# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-653 (Final)

## *Sebacic Acid from the People's Republic of China*

### Determination

On the basis of the record<sup>1</sup> developed in the subject investigation, the Commission determines,<sup>2</sup> pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is threatened with material injury<sup>3</sup> by reason of imports from the People's Republic of China of sebacic acid, provided for in subheading 2917.13.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

### Background

The Commission instituted this investigation effective January 4, 1994, following a preliminary determination by the Department of Commerce that imports of sebacic acid from the People's Republic of China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of February 9, 1994 (59 F.R. 6044). The hearing was held in Washington, DC, on May 24, 1994, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

<sup>2</sup> Chairman Watson and Commissioner Rohr dissenting.

<sup>3</sup> Vice Chairman Nuzum, Commissioner Newquist, and Commissioner Bragg determine that an industry in the United States is threatened with material injury. Commissioner Crawford determines that an industry in the United States is materially injured.



## VIEWS OF THE COMMISSION

Based on the record in this final investigation, we determine<sup>1</sup> that an industry in the United States is threatened with material injury by reason of imports of sebacic acid from the People's Republic of China ("China") that the U.S. Department of Commerce ("Commerce") has determined are being sold in the United States at less than fair value ("LTFV").<sup>2</sup> We further find, in accordance with 19 U.S.C. § 1673d(b)(4)(B), that the domestic industry would not have experienced present material injury by reason of imports of sebacic acid from China had there not been a suspension of liquidation.

### I. LIKE PRODUCT

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

Commerce has identified the imported product subject to this investigation as:

all grades of sebacic acid, a dicarboxylic acid with the formula  $(CH_2)_8(COOH)_2$ , which include, but are not limited to, CP Grade (500 ppm maximum ash, 25 maximum APHA color), Purified Grade (1000 ppm maximum ash, 50 maximum APHA color), and Nylon Grade (500 ppm maximum ash, 70 maximum ICV color). The principal difference between the grades is the quantity of ash and color.

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<sup>1</sup> Commissioner Crawford concurs in the Commission's affirmative determination, but finds that a domestic industry is materially injured by reason of the subject imports. See Additional Views of Commissioner Crawford, *infra*. She joins in the discussion of like product, related parties, and condition of the industry.

Chairman Watson and Commissioner Rohr dissent from the Commission's affirmative determination. See Dissenting Views of Chairman Watson and Commissioner Rohr, *infra*. Chairman Watson joins in the discussion of like product, related parties, condition of the industry, and no material injury by reason of the subject imports. Commissioner Rohr joins in the discussion of like product, related parties, and condition of the industry.

<sup>2</sup> 19 U.S.C. § 1673d(b). Whether the establishment of an industry in the United States is materially retarded is not an issue in this investigation.

<sup>3</sup> 19 U.S.C. § 1677(4)(A).

<sup>4</sup> 19 U.S.C. § 1677(10). In analyzing like product issues, the Commission generally considers a number of factors including: (1) physical characteristics and uses, (2) interchangeability, (3) channels of distribution, (4) customer and producer perceptions, (5) the use of common manufacturing facilities and production employees, and (6) where appropriate, price. *Calabrian Corp. v. United States*, 794 F. Supp. 377, 382 n.4 (Ct. Int'l Trade 1992). No single factor is dispositive, and the Commission may consider other factors relevant to a particular investigation. The Commission looks for clear dividing lines among possible like products, and disregards minor variations. See, e.g., S. Rep. No. 249, 96th Cong. 1st Sess. 90-91 (1979); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (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, 1169 (Ct. Int'l Trade 1988) ("*Asocoflores*") ("It is up to [the Commission] to determine objectively what is a minor difference.").

Sebacic acid contains a minimum of 85 percent dibasic acids of which the predominant species is the C<sub>10</sub> dibasic acid. Sebacic acid is sold generally as a free-flowing powder/flake.<sup>5</sup>

Sebacic acid is a dicarboxylic acid with a carbon chain link of 10 (C<sub>10</sub>) which is derived from castor oil. It is used to make nylon 6/10 (a polymer used for paintbrush and toothbrush bristles and for paper machine felts), plasticizers, esters (\*\*\*), automobile coolants, polyester castings and films, inks and adhesives, lubricants, and polyurethane casting and coatings. Petitioner, Union Camp Corp. (Union Camp), is the only domestic producer of sebacic acid.

Both petitioner and respondents agree that the like product should be limited to sebacic acid and should include all sebacic acid.<sup>6</sup> In the preliminary investigation, the Commission defined a single like product, consisting of all sebacic acid.<sup>7</sup> No new evidence has been gathered that provides a reason to reach a different conclusion in this final investigation. While other domestic firms produce dicarboxylic acid with carbon chain links of 9 and 11, the record indicates that the physical characteristics, production processes, end uses, and prices for these products differ significantly from those for sebacic acid.<sup>8</sup> Further, the record suggests that other products produced from castor oil, such as Union Camp's Cenwax line of products, are produced on different equipment, using different processes and employees, are sold for different purposes, and do not sell at similar prices.<sup>9</sup>

The domestic producer sells three "grades" of sebacic acid--nylon grade, CP grade and purified grade--differentiated by color, ash content, and dibasic acid content.<sup>10</sup> All grades are manufactured by the same process at the same facility, using the same machinery and employees.<sup>11</sup> It is not until the latter stages of the production process that the purity level is determined and the product graded accordingly.<sup>12</sup>

All sebacic acid consumed in the United States is used for further chemical manufacturing, principally polymerization and esterification.<sup>13</sup> There are some differences in the actual end uses for each grade, but Union Camp's highest grade (nylon grade) may be used for the same end uses as the lower grades (i.e., production of plasticizer esters and certain other sebacates), although Union Camp has sold the higher-priced nylon grade \*\*\* for use in the production of nylon 6/10.<sup>14</sup> The list prices for all grades fall within a close range to one another.<sup>15</sup> As such, there is little basis for making a like product distinction based on grades.<sup>16</sup>

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<sup>5</sup> 59 Fed. Reg. 28053 (May 31, 1994).

<sup>6</sup> Petitioner's Prehearing Brief at 4-5; Respondents' Prehearing Brief at 6.

<sup>7</sup> Sebacic Acid from the People's Republic of China, Inv. No. 731-TA-653 (Preliminary), USITC Pub. 2676 (Sept. 1993) at 5-8.

<sup>8</sup> Confidential Staff Report ("CR") at I-10-11, I-47, n.84, Public Staff Report ("PR") at II-8-9, II-28; Transcript of Conference (August 9, 1993) ("Conference TR.") at 31.

<sup>9</sup> Conference Tr. at 30-31; CR at I-21-22, PR at II-14-15. \*\*\*.

<sup>10</sup> CR at I-4, PR at II-4.

<sup>11</sup> CR at I-4, n.4, PR at II-4.

<sup>12</sup> CR at I-9, n.13, PR at II-6; Conference Tr. at 21.

<sup>13</sup> CR at I-5, PR at II-4.

<sup>14</sup> CR at I-47-48, PR at II-28. \*\*\*. *Id.* CR at I-69, n.119, PR at II-36.

<sup>15</sup> CR at I-47, PR at II-28; Petition at Exhibit 7. The list prices are within one cent per pound of one another.

<sup>16</sup> As in the preliminary investigation, we reiterate that the Commission generally has not found separate like products based on different grades of a chemical. See USITC Pub. 2676 at 8, n. 18. See also Silicon Carbide from the People's Republic of China, Inv. No. 731-TA-651 (Final), USITC Pub. 2779 at 9 (June 1994).

Accordingly we find a single like product, consisting of all domestically-produced sebacic acid. Having defined a single like product consisting of all sebacic acid, we define the domestic industry to be all U.S. producers of sebacic acid, which consists only of petitioner, Union Camp.<sup>17</sup>

## II. RELATED PARTIES

The related parties provision of the Act, 19 U.S.C. § 1677(4)(B), allows, in appropriate circumstances, for the exclusion from the domestic industry of producers who are "related to the exporters or importers, or are themselves importers of the allegedly subsidized or dumped merchandise." Exclusion of related parties is within the Commission's discretion based on the facts presented in each investigation.<sup>18</sup> The rationale for the related parties provision is the concern that domestic producers who either are related to foreign producers or exporters, or are themselves importers of the subject merchandise, may be in a position that shields them from any injury that the LTFV imports might cause.<sup>19</sup>

In this investigation, the sole domestic producer, Union Camp, imports sebacic acid from China,<sup>20</sup> and is thus a related party. We therefore have considered whether appropriate circumstances exist to exclude it from the domestic industry, although no party has urged us to do so. In analyzing whether appropriate circumstances exist to exclude a related party, the Commission principally examines three factors:

- (1) the percentage of domestic production attributable to related producers;
- (2) the reasons why the related producers chose to import the product under investigation -- to benefit from the unfair trade practice or to enable them to continue production and compete domestically; and
- (3) the competitive position of the related producers vis-a-vis other domestic producers i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry.<sup>21</sup>

The Commission also has considered the ratio of import shipments to U.S. production for related producers.<sup>22</sup>

In the preliminary investigation, we determined that appropriate circumstances did not exist to exclude Union Camp as a related party. Specifically, we found that exclusion of Union Camp's data would result in the absence of any industry data, that Union Camp

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<sup>17</sup> Chairman Watson concurs in this determination of like product and domestic industry. However, see Additional Views of Chairman Watson, infra.

<sup>18</sup> See, e.g., Torrington Co. v. United States, 790 F. Supp. at 1168; Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

<sup>19</sup> See S. Rep. No. 249, 96th Cong., 1st Sess. at 83 (1979).

<sup>20</sup> Transcript of Hearing (May 24, 1994) ("Hearing Tr.") at 26-27.

<sup>21</sup> See Torrington Co. v. United States, 790 F. Supp. at 1168-70 (upholding the Commission's practice of examining these factors in deciding that appropriate circumstances did not exist to exclude a related party); Sandvik AB, 721 F. Supp. at 1331-32; see also Empire Plow Co., 675 F. Supp. at 1352 (declaring the Commission's approach reasonable in light of the legislative history).

<sup>22</sup> Steel Wire Rope from the Republic of Korea and Mexico, Invs. Nos. 731-TA-546 & 547 (Final), USITC Pub. 2613 at 14 (Mar. 1993); Certain Carbon Steel Butt-Weld Pipe Fittings from China and Thailand, Invs. Nos. 731-TA-520 & 521 (Final), USITC Pub. 2528 at 14 (June 1992).

functions principally as a producer rather than an importer of sebacic acid, and does not market imported sebacic acid.<sup>23</sup> For the reasons discussed below, we again determine not to exclude Union Camp from the domestic industry.

Union Camp accounted for all domestic production of sebacic acid during the period examined. Since Union Camp is the only domestic producer, there are no other producers against which to compare its data. As we found in the preliminary investigation, exclusion of Union Camp's data thus would result in the absence of any industry data.<sup>24</sup>

Further, although the data show that Union Camp is a major importer of the Chinese sebacic acid,<sup>25</sup> the data also suggest that Union Camp's primary interest in the sebacic acid market lies in domestic production rather than in importation. Although the data suggest that Union Camp has a strong interest in importing Chinese sebacic acid,<sup>26</sup> they also indicate that Union Camp's interest is not primarily as an importer, and that its role as an importer has declined in comparison with its production and shipments of domestically-produced sebacic acid.<sup>27</sup>

The use to which Union Camp puts the imported sebacic acid demonstrates that Union Camp's interest in purchasing sebacic acid from China is as a producer of a downstream product, not as a marketer of imported sebacic acid.<sup>28</sup> Although Union Camp's downstream production operations may derive a benefit from the ability to purchase the lower-priced Chinese product, Union Camp's downstream production is not part of the domestic industry relevant to this investigation, which consists of production of sebacic acid only.

Because Union Camp is responsible for all domestic production, functions principally as a producer rather than an importer of sebacic acid, and does not market imported sebacic acid,<sup>29</sup> we find that appropriate circumstances do not exist to exclude Union Camp from the industry as a related party. Although we do not exclude Union Camp, as discussed below, we consider its importation of the subject merchandise to be a condition of competition affecting this industry.<sup>30</sup>

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<sup>23</sup> USITC Pub. 2676 at 10.

<sup>24</sup> USITC Pub. 2676 at 10. Compare this case with Nitromethane From the People's Republic of China, Inv. No. 731-TA-650 (Final), USITC Pub. 2773 at I-7-8 (May 1994), where the Commission found that it was not appropriate to exclude the predominant domestic producer from the industry as a related party because that company was responsible for a substantial percentage of domestic production, was currently the sole domestic producer, and imported only to continue supplying existing customers while it was shut down due to an explosion. See also Benzyl Paraben from Japan, Inv. No. 731-TA-462, USITC Pub. 2355 at 7 (Feb. 1991).

<sup>25</sup> Union Camp accounted for \*\*\* percent of the subject imports in 1991, \*\*\* percent in 1992, and \*\*\* percent in 1993. CR at I-15, PR at II-12.

<sup>26</sup> Union Camp's ratio of imported Chinese sebacic acid to its domestic production was \*\*\* percent in 1991, \*\*\* percent in 1992, and \*\*\* percent in 1993. CR at I-24, PR at II-16.

<sup>27</sup> CR at I-23, Table 4, I-24, PR at II-15.

<sup>28</sup> According to Union Camp officials, the company imports Chinese sebacic acid to "round out its product line" of esters and because the high C<sub>10</sub> content of the Chinese product makes it more efficient for production of one of Union Camp's \*\*\*. Petitioner's Posthearing Brief at 3-4; CR at I-23, PR at II-15; Hearing Tr. at 50. The data indicate that Union Camp is reducing its imports of Chinese sebacic acid. CR at I-24, I-38-39, PR at II-16, II-22-23. Union Camp's official stated that the company is moving in the direction of using its own sebacic acid for production of \*\*\*. Hearing Tr. at 51.

<sup>29</sup> Conference Tr. at 28.

<sup>30</sup> 19 U.S.C. § 1677(7)(C)(iii).



### III.

### CONDITION OF THE DOMESTIC INDUSTRY

In assessing whether the domestic industry is materially injured by reason of the LTFV imports, we consider 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. No single factor is determinative, and we consider all relevant factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."<sup>31</sup>

As noted above, Union Camp is the only domestic producer of sebacic acid. Union Camp itself imports significant amounts of sebacic acid, primarily from China, for use in its production of a downstream product, \*\*\*. As noted, Union Camp's share of the imports of sebacic acid from China decreased absolutely and as a percentage of subject imports from 1991 to 1993.<sup>32</sup> Union Camp's primary competition for sales in the domestic market has historically been China, which is the only significant source of imports of sebacic acid into the United States.<sup>33</sup> <sup>34</sup> The traditional presence of the subject imports in the market, and Union Camp's importation of the subject merchandise, are factors we have considered in our analysis.

Apparent U.S. consumption of sebacic acid on the basis of quantity, including Union Camp's captive consumption, decreased from 1991 to 1992, but increased by nearly the same amount in 1993, resulting in a small net decline over the three-year period.<sup>35</sup> Many of the domestic industry's indicators similarly show a decline from 1991 to 1992.<sup>36</sup> In 1993, however, these indicators generally did not show a rebound consistent with the recovery in

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<sup>31</sup> 19 U.S.C. § 1677(7)(C)(iii). We have based our determination for the most part on data for 1991-93, although staff collected some five-year data. We note that the five-year data indicate that the industry performed better in many respects in 1991 than it did in the two previous years or the two following years. See CR at C-5-6, Table C-2, PR at C-4. This fact is significant to the extent the U.S. industry was not performing as well in 1993 as it was in 1991.

<sup>32</sup> See note 25, *supra*.

<sup>33</sup> Conference Tr. at 38; CR at I-44, Table 14, PR at II-26.

<sup>34</sup> Commissioner Bragg notes that a greater number of end-users of sebacic acid in the United States have recently qualified the Chinese product. See Hearing Tr. at 108-109, 135, CR at I-54-55, I-72-23, PR at II-31, II-38.

<sup>35</sup> CR at I-13, Table 1, PR at II-11. The Commission's practice is to include in the industry all domestic production of the like product, whether captively consumed or sold in the domestic open market. E.g., Magnesium from The People's Republic of China, Russia and Ukraine, Invs. Nos. 731-TA-696-698 (Preliminary), USITC Pub. 2775 at I-11, n.47 (May 1994); Sebacic Acid from PRC (Preliminary), USITC Pub. 2676 at 11, n. 30; Polyethylene Terephthalate Film, Sheet, and Strip from Japan and the Republic of Korea, (PET Film), Invs. Nos. 731-TA-458 & 459 (Final), USITC Pub. 2383 at 19 (May 1991). As the Commission has recognized, the statutory definition of domestic industry provides no basis for excluding captive production. 19 U.S.C. § 1677(4)(A). However, since the imports under investigation do not affect open-market and captive production the same way, we have focused our attention on the open-market segment of the industry in evaluating whether the imports are materially injuring the domestic industry. See e.g., Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, The Republic of Korea, Mexico, The Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom, Invs. Nos. 701-TA-319-332, 334, 336-342, 344, 347-353, Inv. Nos. 731-TA-573-579, 581-592, 594-597, 599-609, 612-619 (Final) (Steel), USITC Pub. 2664 (August 1993) at 22-23; Industrial Phosphoric Acid from Belgium and Israel, USITC Pub. 2000; Titanium Sponge from Japan and the United Kingdom, Invs. Nos. 731-TA-161 & 162 (Final), USITC Pub. 1600 (November 1984); Electrolytic Manganese Dioxide from Greece and Japan, Invs. Nos. 731-TA-406 & 408 (Final), USITC Pub. 2177 (April 1989).

<sup>36</sup> See, e.g., CR at C-3, Table C-1, PR at C-3.

consumption. Apparent U.S. consumption, by value, decreased significantly from 1991 to 1992, and slightly from 1992 to 1993.<sup>37</sup>

Domestic production of sebacic acid decreased from 1991 to 1992, and then increased from 1992 to 1993, but remained below the 1991 level.<sup>38</sup> At the same time, capacity to produce sebacic acid decreased, from \*\*\* pounds in 1991 to \*\*\* in 1993, resulting in an overall increase in average-of-period capacity utilization.<sup>39</sup>

Union Camp's domestic open market shipments of sebacic acid fell throughout the period examined, declining by \*\*\* percent in terms of quantity and by \*\*\* percent in terms of value from 1991 to 1993.<sup>40</sup> The unit values of these shipments remained relatively stable from 1991 to 1992, but were somewhat lower in 1993 than they were in the two previous years.<sup>41</sup> Union Camp's company transfers declined from 1991 to 1992, but rose \*\*\* in 1993.<sup>42</sup> The reported unit values of Union Camp's company transfers declined each year.<sup>43</sup> The volume and value of its export shipments declined from 1991 to 1992, but then rose to exceed 1991 levels in 1993.<sup>44</sup> The unit values of export shipments remained relatively stable throughout the period examined, but were somewhat higher in 1993 than they were in 1991.<sup>45</sup>

Union Camp's end-of-period inventories fell substantially from December 31, 1991, to December 31, 1992, and then rose by the end of 1993, but to a level still below the 1991 end-of-year level.<sup>46</sup> The ratio of inventories to total shipments followed the same pattern, falling from \*\*\* percent in 1991 to \*\*\* percent and then rising to \*\*\* percent in 1993.<sup>47</sup>

The average number of production and related workers producing sebacic acid was stable in 1991 and 1992, and then increased in 1993. Hours worked by such workers decreased from 1991 to 1992, but increased in 1993 to above the hours worked in 1991. Wages and total compensation followed the same pattern, decreasing from 1991 to 1992, and then increasing in 1993 to rates above those of 1991. Hourly wages increased each year. Hourly total compensation increased from 1991 to 1992 and then decreased in 1993, but remained above the 1991 level. Productivity declined from 1991 to 1992, followed by an increase in 1993. Unit labor costs rose from 1991 to 1992, and then declined in 1993.<sup>48</sup>

The financial data showed declines from 1991 to 1992, but some improvement in 1993. Union Camp's net sales of sebacic acid, gross profits, and net income before taxes

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<sup>37</sup> CR at I-13, Table 1, PR at II-11.

<sup>38</sup> CR at I-21, Table 3, PR at II-14.

<sup>39</sup> *Id.* Union Camp reported \*\*\*, but staff adjusted capacity to reflect a product mix typical of Union Camp's production during the period examined.

<sup>40</sup> CR at I-23, Table 4, PR at II-14.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* Staff revalued intraplant transfers of sebacic acid based upon the average domestic commercial sales price for each year. CR at I-28-29, PR at II-17-18. As revalued, the unit value of internal shipments \*\*\* from 1991 to 1992 and then \*\*\* in 1993. CR at I-31, Table 9, PR at II-18.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* The unit values for exports ranged from \*\*\* to \*\*\*, whereas the unit values for open market domestic shipments ranged from \*\*\* to \*\*\*.

<sup>46</sup> CR at I-24, Table 5, PR at II-16. In the preliminary investigation, we noted that the large drop in inventories from December 1991 to December 1992 may be accounted for by an unusual occurrence, i.e., an interruption in the supply of castor oil to the United States in 1992 caused by a tanker ship breakdown; the resulting shortage of castor oil inhibited production and caused Union Camp to reduce its inventories to fill orders. USITC Pub. 2676 at 13, n.35. See CR at I-25, PR at II-12; Conference Tr. at 23. However, as noted above, in 1993, inventories did not approach the 1991 level.

<sup>47</sup> *Id.*

<sup>48</sup> CR at I-26, Table 6, PR at II-16.

declined from 1991 to 1992, but then rose modestly from 1992 to 1993.<sup>49</sup> The company's operating income margin dropped from 1991 to 1992, but then rose in 1993, although remaining below the 1991 level. Notwithstanding a \*\*\* net decline from 1991 to 1993, the company reported \*\*\* operating income margins in each year examined.

Union Camp's capital expenditures for its sebacic acid operations were \*\*\* throughout the period examined.<sup>50</sup> Research and development expenses for Union Camp's sebacic acid operations were \*\*\* in comparison to Union Camp's overall research and development expenses, and declined from 1991 to 1993.<sup>51 52 53</sup>

#### IV. NO MATERIAL INJURY BY REASON OF LTFV IMPORTS<sup>54</sup>

In determining whether a domestic industry is materially injured by reason of the imports that Commerce has determined are sold at LTFV, the statute directs the Commission to consider the volume of imports, their effect on prices for the like product, and their impact on domestic producers of the like product.<sup>55</sup> Although the Commission may consider causes of injury other than the LTFV imports, it is not to weigh causes.<sup>56 57</sup> For the reasons discussed below, we find that the domestic sebacic acid industry is not currently experiencing material injury by reason of LTFV imports from China.

The volume of subject imports is large and increased from 4.4 million pounds in 1991 to 5.0 million pounds in 1993, with a peak of 5.2 million pounds in 1992.<sup>58</sup> The market share held by the subject imports, in terms of quantity, also increased, from \*\*\* percent in 1991 to \*\*\* percent in 1993.<sup>59</sup> However, market share held by the subject imports

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<sup>49</sup> CR at I-30, Table 8, PR at II-18.

<sup>50</sup> CR at I-35, Table 11, PR at II-19.

<sup>51</sup> CR at I-35, PR at II-20.

<sup>52</sup> Based upon examination of the relevant statutory factors, Commissioner Rohr and Commissioner Newquist conclude that the industry is not currently experiencing material injury. Commissioner Newquist finds, however, that the domestic industry is vulnerable to continuing adverse effects of the LTFV imports of sebacic acid from China.

Commissioner Rohr does not join the remainder of this opinion. See Dissenting Views of Chairman Watson and Commissioner Rohr, *infra*.

<sup>53</sup> Commissioner Crawford does not join the remainder of this opinion. She finds that the domestic sebacic acid industry is materially injured by reason of the subject imports. See Additional Views of Commissioner Crawford, *infra*.

<sup>54</sup> This section is joined by Chairman Watson, Vice Chairman Nuzum, and Commissioner Bragg.

<sup>55</sup> 19 U.S.C. § 1677(7)(B)(i). The Commission also may consider "such other economic factors as are relevant to the determination." *Id.*

<sup>56</sup> See, e.g., Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988). The Commission need not determine that imports are "the principal, a substantial or a significant cause of material injury." Rather, a finding that imports are a cause of material injury is sufficient. See S. Rep. No. 249 at 57, 74; Metallwerken Nederland B.V. v. United States, 728 F. Supp. 730, 741 (Ct. Int'l Trade 1989); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. at 1101.

<sup>57</sup> For Chairman Watson's interpretation of the statutory requirement regarding causation, see Certain Calcium Aluminate Cement and Cement Clinker from France, Inv. No. 731-TA-645 (Final), USITC Pub. 2772 (May 1994) at I-14, n.68.

<sup>58</sup> CR at I-44, Table 14, PR at II-26. We note that imports have been at similarly high levels in prior years as well. CR at C-9, Table C-4, PR at C-5.

<sup>59</sup> CR at I-45, Table 15, PR at II-27. The market share held by the Chinese imports was also large during 1989-1990. CR at C-9, Table C-4, PR at C-5.

decreased in 1992, the same year in which the absolute quantity of subject imports peaked.<sup>60</sup> Conversely, the market share held by the U.S. sebacic acid industry dropped \*\*\*, from \*\*\* percent to \*\*\* percent from 1991 to 1992, the period during which there was the greatest increase in the volume of subject imports.

In evaluating the volume of the subject imports, we have taken into account the extent to which the domestic producer, Union Camp, itself imported Chinese sebacic acid. Approximately \*\*\* of the subject imports for 1991 and 1992 were imported by Union Camp for internal consumption,<sup>61</sup> and therefore only \*\*\* of the subject imports competed with Union Camp's domestic shipments of sebacic acid. In 1993, a greater share of the imports were directly competitive with the domestic product.<sup>62</sup> We conclude that the volume of subject imports was significant, particularly in 1993. As noted below, however, we do not find that the impact on the domestic industry of the subject imports constitutes present material injury.

The Chinese sebacic acid consistently undersold the domestic product, and Chinese prices declined during the three-year period examined.<sup>63</sup> However, Union Camp was able to \*\*\* for domestically-produced sebacic acid from 1991 until \*\*\* even in the face of increasing Chinese market share and steadily falling Chinese prices.<sup>64</sup> Union Camp did lower its prices in 1993.<sup>65</sup> However, from 1992 to 1993, domestic producer's cost of goods sold, on a per unit basis, \*\*\*.<sup>66</sup> This may have allowed the domestic industry to reduce prices in response to import competition without sacrificing per-unit revenues. Indeed, we note that per-unit revenues \*\*\* from 1992 to 1993.<sup>67</sup> On balance, we conclude that the record does not support a finding of present significant adverse price effects by reason of subject imports.

Further, a large portion of the subject imports were purchased \*\*\* for a use for which domestically-produced sebacic acid does not compete, specifically, the production of a particular downstream product--\*\*\*.<sup>68</sup> Although the purchases of Chinese sebacic acid for this use have decreased \*\*\* in the past year, the consumption of sebacic acid for this use, \*\*\*, accounted for approximately \*\*\* percent of apparent U.S. consumption during January 1991-December 1993.<sup>69</sup> However, to the extent this large share of subject imports was sold for a use other than the use for the domestic product, the domestic industry did not lose sales as a result of these imports. Thus, such imports were less likely to have had a significant adverse impact on the domestic industry.

Moreover, despite the rising market share and declining prices of Chinese sebacic acid, the key profit indicators for the U.S. industry--e.g., net sales, gross profits, and pre-tax net income--did not show significant declines, and did remain positive.<sup>70</sup> In addition, domestic capacity utilization increased during the same three-year period in which Chinese market share increased.<sup>71 72</sup> Also, employment data improved slightly overall.<sup>73</sup> These

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<sup>60</sup> CR at I-44 and 45, Tables 14 and 15, PR at II-26 and 27. The quantity of Chinese imports shipped in 1992, however, was lower in 1992 than it was in 1991 or 1993. See CR at C-5, Table C-2, PR at C-4. The lower amount of U.S. shipments of imports reflects a build-up of inventory, \*\*\*.

CR at I-37, n.66, PR at II-21.

<sup>61</sup> CR at I-45, PR at II-27.

<sup>62</sup> *Id.*

<sup>63</sup> CR at I-64-67, Tables 19-22, PR at II-35-36.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*; Hearing Tr. at 62. We note that Union Camp lowered its prices \*\*\*.

<sup>66</sup> CR at I-31, Table 9, PR at II-18.

<sup>67</sup> CR at I-31, Table 9, PR at II-18.

<sup>68</sup> CR at I-55, C-12, Table C-6, PR at II-31, C-5.

<sup>69</sup> *Id.*; CR at C-12, Table C-6, PR at C-5.

<sup>70</sup> CR at I-30, Table 8, PR at II-18.

<sup>71</sup> CR at I-21, Table 3, PR at II-14.

improvements in operating results occurred in the face of rising subject import penetration and increasing price pressures. Yet, the corresponding lack of significant adverse developments in these industry indicators, measured in terms of trends or levels, does not support the conclusion that the industry is experiencing present material injury by reason of the subject imports.

V. **THREAT OF MATERIAL INJURY BY REASON OF THE SUBJECT IMPORTS**<sup>74</sup>

Section 771(7)(F) of the Act directs us to consider whether a U.S. industry is threatened with material injury by reason of the subject imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent."<sup>75</sup> We do not make such a determination "on the basis of mere conjecture or supposition."<sup>76</sup> In making our determination, we have considered all of the statutory factors that are relevant to this investigation.<sup>77 78</sup>

Capacity to produce sebacic acid in China increased somewhat in each year from 1991 to 1993 and is projected to increase again in 1994.<sup>79</sup> Capacity utilization rose from 86.8 percent in 1991 to 94.9 percent in 1992, and then dropped to a period low of 84.9 percent in 1993.<sup>80</sup> Relative to apparent consumption in the U.S. market, this excess capacity of 15.1 percent, equivalent to nearly 3.6 million pounds, is large. Underutilized Chinese capacity represents \*\*\* percent of apparent U.S. consumption in 1993.<sup>81</sup>

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<sup>72</sup> (...continued)

<sup>72</sup> Commissioner Bragg notes that the increased capacity utilization is the result of a decrease in production capacity. This may account, at least in part, for the operating performance of the domestic industry over the period examined.

<sup>73</sup> See CR at I-26, Table 6, PR at II-16.

<sup>74</sup> This section is joined by Vice Chairman Nuzum, Commissioner Newquist, and Commissioner Bragg.

<sup>75</sup> 19 U.S.C. §§ 1673d(b) and 1677(7)(F)(ii).

<sup>76</sup> 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallwerken Nederland B.V. v. U.S., 744 F.Supp. 281, 287 (Ct. Int'l Trade 1990)(citing American Spring Wire, 8 CIT at 28, 590 F.Supp. at 1280). Congress acknowledged that "a determination of threat will require a careful assessment of identifiable current trends and competitive conditions in the market place." Calabrian Corp. v. United States, 794 F. Supp. 377, 387, 388 (Ct. Int'l Trade 1992)(citing, H.R. Rep. No. 1156, 98th Cong., 2d Sess. 174 (1984)).

<sup>77</sup> 19 U.S.C. § 1677(7)(F)(i). In addition, the Commission must consider whether antidumping findings or antidumping remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry. See 19 U.S.C. § 1677(7)(F)(iii). There is no evidence of any antidumping remedies imposed on the subject product in any other countries.

Several of the statutory threat factors have no relevance to this investigation and need not be discussed. Since there are no subsidy allegations, factor I is not applicable. Moreover, factor IX regarding raw and processed agriculture products also is not applicable to the facts of this case. Nor is factor VIII applicable because sebacic acid facilities cannot be used to produce other products and there thus is no potential for product shifting.

<sup>78</sup> Petitioner objected to the late submission of the foreign data, noting its inability to comment on the late information. We note that the Commission frequently obtains and relies on data received after the filing of posthearing briefs. See H.R. Rep. 576, 100th Cong., 2d Sess., at 624 (Conference Report on Omnibus Trade and Competitiveness Act of 1988) ("The requirement of timely submission of information . . . is not meant to restrict the Commission's ability to seek out information which it does not have but views as important to make the best determination it can.")

<sup>79</sup> CR at I-40, Table 13, PR at II-24.

<sup>80</sup> Id.

<sup>81</sup> See CR at I-13, Table 1, PR at II-11.

We find that the presence of unused capacity for producing sebacic acid in China is significant relative to the size of the U.S. market. Given the large overall capacity for production of sebacic acid in China, as well as the potential ability to divert exports to the United States from other markets, we find that the increasing capacity and increased unused capacity are likely to result in a significant increase in imports of merchandise to the United States.

We further find that the market penetration of imports into the United States of sebacic acid from China increased rapidly toward the end of the period examined, from \*\*\* percent of the quantity of 1992 apparent U.S. consumption to \*\*\* percent of the U.S. market in 1993.<sup>82</sup> The share of sebacic acid from China imported and internally consumed by Union Camp decreased significantly from 1991 to 1993.<sup>83</sup> Concurrent with the increased market penetration of imports shipped to firms other than Union Camp, the domestic industry's share of the quantity of apparent consumption declined from \*\*\* percent in 1991 to \*\*\* percent in 1993.<sup>84</sup>

Throughout the period examined, China accounted for between 91.6 and 98.8 percent of the quantity of U.S. imports of sebacic acid.<sup>85</sup> Thus, any increases in Chinese market share have been and are likely in the future to be at the expense of the domestic industry. In addition, an increasing share of the imports from China have been sold for end uses for which the domestic product competes.<sup>86</sup> End users in the United States have begun to find the Chinese product more acceptable for uses for which the domestic product has been purchased in the past and \*\*\* end users have undertaken the testing and production process modification to enable them to use Chinese sebacic acid.<sup>87</sup> The large price differential between the domestic and Chinese product add to the likelihood that this trend will become more evident. As purchasers become more receptive to using Chinese sebacic acid, imports of this product as a substitute for the domestic product are likely to increase.<sup>88</sup> Given the likelihood for an increase of substitutable imports of sebacic acid from China, we find that the market penetration of subject imports is likely to increase to an injurious level.

The Chinese product consistently undersold the U.S. product during the period examined, although reductions in prices for domestically-produced sebacic acid did not occur until \*\*\*.<sup>89</sup> Specifically, in the two largest markets for sebacic acid--the plasticizer and nylon 6/10 markets--the U.S. producer \*\*\*.<sup>90</sup> For sales to the \*\*\* market, Union Camp's price reduction followed \*\*\* quarters during which the Chinese product undersold the U.S. product by \*\*\*<sup>91</sup> and occurred during the year in which \*\*\*.<sup>92</sup> Moreover, although Chinese prices rose in the latter half of 1993, they steadily declined from the beginning of 1991 to mid-1993, and were still lower at the end of 1993 than they were in most of 1991.<sup>93</sup>

Although we did not find significant present adverse price effects, the late-in-the-period domestic price erosion suggests a likelihood of price depression if the increase in the volumes of low-priced Chinese sebacic acid sold in the open market continues. In light of

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<sup>82</sup> CR at I-45, Table 15, PR at II-27.

<sup>83</sup> CR at I-45, PR at II-27.

<sup>84</sup> CR at I-45, Table 15, PR at II-27.

<sup>85</sup> CR at I-44, Table 14, PR at II-26.

<sup>86</sup> CR at C-12, Table C-6, PR at C-5.

<sup>87</sup> CR at I-54, n. 99, I-72-73, PR at II-31, II-38; Hearing Tr. at 145-146.

<sup>88</sup> See *id.* and I-16, Table 2, PR at II-12.

<sup>89</sup> See CR at I-63-69, PR at II-35-36.

<sup>90</sup> CR at I-64-65, Tables 19 and 20, PR at II-35.

<sup>91</sup> CR at I-64, Table 19, PR at II-35.

<sup>92</sup> CR at I-44, Table 14, PR at II-26.

<sup>93</sup> CR at I-61-62, Tables 17 and 18, PR at II-34.

the increasing volumes of Chinese sebacic acid with declining unit values, and given the consistent underselling of the Chinese product throughout the period examined, we find it likely that the subject imports will have price depressing effects on domestic prices if unabated.<sup>94</sup>

Finally, inventories in the United States of all sebacic acid imported from China increased substantially, from 140,000 pounds in 1991 to 980,000 pounds in 1993, with a peak in 1992.<sup>95</sup> These inventories increased substantially, even excluding the inventories of Chinese sebacic acid held by Union Camp.<sup>96</sup> Excluding Union Camp, inventories increased from \*\*\* pounds in 1991 to \*\*\* pounds in 1993.<sup>97</sup> In addition to absolute increases, inventories also increased substantially relative to imports, to U.S. shipments of imports, and to total shipments of imports.<sup>98</sup>

In light of the increasing capacity and unused capacity utilization representing the ability for the Chinese producers to produce and export to the United States large quantities of sebacic acid, the consistent and large margins of underselling by the Chinese product, the declining prices and unit values for Chinese sebacic acid, and the increased inventories of Chinese sebacic acid in the United States, we conclude that the domestic sebacic acid industry is threatened with material injury by reason of LTFV imports from China.

## **VI. EFFECT OF SUSPENSION OF LIQUIDATION OF ENTRIES**

When the Commission makes a final affirmative determination on the basis of threat, we must make an additional finding as to whether material injury by reason of subject imports would have been found but for the suspension of liquidation of entries of such imports pursuant to 19 U.S.C. § 1673d(b)(4)(B). This finding determines the date of the imposition of duties -- either the date of suspension of liquidation or the date of the publication of the final order.

In this investigation, suspension of liquidation was effective on January 5, 1994, the date of Commerce's publication of its preliminary affirmative determination.<sup>99</sup> The data we considered in making our negative material injury determination covered the period from 1991 to 1993, and were unaffected by suspension of liquidation which occurred after this time frame. Therefore, we determine that the domestic industry would not have been materially injured by reason of imports of sebacic acid from China had there not been a suspension of liquidation.

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<sup>94</sup> The data indicate that the prices for Chinese sebacic acid rose in the second half of 1993. See CR at I-64-67, Tables 19-22. However, we place little weight on this data because it reflects pricing practices instituted after the filing of the petition in this investigation. See generally Metallwerken Nederland B.V. v. United States, 744 F.Supp. 281, 284 (CIT 1990); USX Corp. v. United States, 655 F. Supp. 487, 492 (CIT 1987); Philipp Bros., Inc. v. United States, 640 F. Supp. 1340, 1346 (CIT 1986); Rhone Poulenc, S.A. v. United States, 592 F. Supp. 1318, 1324 (CIT 1984).

<sup>95</sup> CR at I-38, Table 12, PR at II-22.

<sup>96</sup> CR at I-37, n.66, PR at II-21.

<sup>97</sup> Id.

<sup>98</sup> Id. As a ratio to imports, inventories increased from 3.2 percent in 1991 to 19.3 percent in 1993. As a ratio to both U.S. shipments of imports and total shipments of imports, inventories increased from 3.0 percent in 1991 to 18.4 percent in 1993.

<sup>99</sup> 59 Fed. Reg. 565 (Jan. 5, 1994).





## **ADDITIONAL VIEWS OF COMMISSIONER CAROL T. CRAWFORD**

Sebacic Acid from the People's Republic of China  
Inv. No. 731-TA-653 (Final)

On the basis of the information obtained in this investigation, I determine that an industry in the United States is materially injured by reason of imports of sebacic acid from the People's Republic of China found by the Department of Commerce to be sold at less-than-fair-value (LTFV).

I concur in the conclusions of my colleagues with respect to like product, related parties, and condition of the domestic industry. These additional views provide further explanation of the analysis that supports my determination.

The statute directs that we determine whether there is "material injury by reason of the dumped imports." Thus we are called upon to evaluate the effect of dumped imports on the domestic industry to determine if they have caused material injury. There may be, and often are, other "factors" that are causing injury. These factors may even be causing a greater degree of injury than the dumping. However, the statute does not require us to weigh causes, only to determine if the dumping is causing material injury to the domestic industry. It is important, therefore, to assess the effects of the dumped imports in a way that distinguishes those effects from the effects of other factors unrelated to the dumping. To do this, I compare the current condition of the industry to the industry conditions that would have existed without the dumping, that is, had imports been fairly priced.<sup>1</sup> I then determine whether the change in conditions constitutes material injury.

In my analysis of material injury, I evaluate the effects of the dumping on domestic prices, domestic sales, and domestic revenues. To evaluate the effects of the dumping on domestic prices, I compare domestic prices that existed when the imports were dumped with what domestic prices would have been if the imports had been priced fairly. Similarly, to evaluate the effects of dumping on the quantity of domestic sales,<sup>2</sup> I compare the domestic sales that existed when imports were dumped with what domestic sales would have been if the imports had been priced fairly. The combined price and quantity effects translate into an overall domestic revenue impact. Understanding the impact on the domestic industry's prices, sales and overall revenues is critical to determining the state of the industry, because the impact on other industry indicators (e.g., employment, wages, etc.) is derived from the impact on the domestic industry's prices, sales, and revenues.

I then determine whether the price, sales and revenue effects of the dumping, either separately or together, demonstrate that the domestic industry would have been materially better off if the imports had been priced fairly. If so, I find that the domestic industry is materially injured by reason of the dumped imports. For the reasons discussed below, I find that the domestic industry producing sebacic acid is materially injured by reason of the LTFV imports from China.

### **I. MATERIAL INJURY BY REASON OF LTFV IMPORTS**

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

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<sup>1</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>2</sup> In examining the quantity sold, I take into account sales from both existing inventory and new production.

- (I) the volume of imports of the merchandise which is the subject of the investigation,
- (II) the effect of imports of that merchandise on prices in the United States for like products, and
- (III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States . . . .<sup>3</sup>

In assessing the effect of LTFV imports, I compare the current condition of the domestic industry with the condition that would have existed had imports been fairly priced.<sup>4</sup> Then, taking into account the condition of the industry, I determine whether any resulting change of circumstances constitutes material injury. For the reasons discussed below, I find that the domestic industry producing sebacic acid is materially injured by reason of LTFV imports from the People's Republic of China.

#### **A. Volume of LTFV Imports**

The volume and market share of imports from China were large throughout the period of investigation, in terms of both quantity and value. Chinese imports accounted for roughly \*\*\* percent of the U.S. consumption during 1993, up from \*\*\* percent in 1991.<sup>5</sup> I have noted that Union Camp imported a substantial portion of the subject imports during the period of investigation, and I carefully considered the impact of these purchases. Yet even if Union Camp's imports are excluded, the market share of Chinese sebacic acid still increased significantly from roughly \*\*\* percent in 1991 to nearly \*\*\* percent in 1993.<sup>6</sup> Therefore, I find the volume of the subject imports and their market share to be significant.

#### **B. Effect of LTFV Imports on Domestic Prices**

To analyze the effect of subject imports on domestic prices of the like product, I consider the elasticity of substitution,<sup>7</sup> the elasticity of demand,<sup>8</sup> and the elasticity of supply<sup>9</sup> in the market for sebacic acid. These elasticities depend on a number of factors relating to the industry and the nature of the products. These factors include: 1) the degree of product differentiation between subject imports and domestic like product; 2) the availability of substitute products in the market;<sup>10</sup> 3) the portion of end use cost represented by the like

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<sup>3</sup> 19 U.S.C. § 1677(7)(B)(i). In making its determination, the Commission may consider "such other economic factors as are relevant to the determination." 19 U.S.C. § 1677(7)(B)(ii).

<sup>4</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>5</sup> Confidential Staff Report ("CR") at I-45, Table 15; Public Report ("PR") at II-27, Table 15.

<sup>6</sup> CR at I-46, PR at II-27.

<sup>7</sup> The elasticity of substitution measures how the quantity demanded of one product relative to another product responds to changes in the relative prices of these products.

<sup>8</sup> The elasticity of demand measures how purchaser demand responds to product price changes; a demand elasticity of one implies that purchasers will increase their quantity demanded by one percent in response to each percentage point decrease in price; the ratio of the percentage changes equals one.

<sup>9</sup> The elasticity of supply measures how producer supply responds to market price changes; a supply elasticity of one implies that producers will increase supply to the market by one percent in response to each percentage point increase in the product price.

<sup>10</sup> These include both direct substitutes for sebacic acid as well as substitutes for products using sebacic acid as an input, i.e., downstream product substitutes. If there are good substitutes for sebacic acid, then any price increase in sebacic acid will shift demand from sebacic acid towards the good

(continued...)

product; 4) capacity utilization and the ability to increase capacity in the industry; 5) the availability of supply from inventories or by diverting supply to and from export markets; and 6) the presence of fairly traded imports. Consideration of these factors together allows an assessment of whether subject imports, if sold at fairly traded prices, would have permitted the domestic industry to raise its prices. Thus they provide a measure of the price effects of the dumping. For the reasons stated below, I find that the subject imports have had only a small price effect on the U.S. sebacic acid industry.

I begin by examining the effect of eliminating LTFV sales of subject imports on subject import prices; had the subject imports not been dumped, they would have been sold in the U.S. market at a much higher price. The dumping margins in this investigation were high enough that a substantial amount of the Chinese imports would not have entered the domestic market had they been fairly priced.<sup>11</sup> Examining the factors above allows an assessment of how the domestic market was likely to have reacted to the higher prices for subject imports, and particularly whether the domestic producer would have been able to raise its prices.

The elasticity of substitution measures how the quantity demanded of one product relative to another product responds to changes in the relative prices of these products. The elasticity of substitution depends upon the extent of product differentiation such as quality differences and upon differences in terms and conditions of sale. Products are close substitutes if product attributes and terms and conditions of sale are similar. If products are close substitutes, purchasers will tend to respond more readily to relative price changes. The impact of LTFV imports on domestic prices is influenced by the degree of substitutability between the subject imports and the domestic like product. Factors that appear to be particularly important to sebacic acid purchasers are C<sub>10</sub> content, ash content, product consistency, supplier reliability, and the lead-times between order and delivery.<sup>12</sup> The record indicates that in certain applications subject imports and the domestic like product have virtually no substitutability, while in a substantial number of other applications the products are close substitutes.<sup>13</sup> The staff estimates the overall elasticity of substitution between the domestic like product and LTFV imports to be in the range of 2 to 4.<sup>14</sup> I conclude that as much as \*\*\* of U.S. sebacic acid consumption probably falls at the higher end of this

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<sup>10</sup> (...continued)

substitutes. If there are good downstream substitutes available, then any increase in the price of sebacic acid will make the downstream product using sebacic acid as an input less competitive. This will reduce sales of this downstream product and in turn will reduce demand for sebacic acid as an input.

<sup>11</sup> It is possible that the Chinese firms with the lower margins could have remained in the market with fair prices and even increased their supply to the U.S. market by increasing capacity utilization or by diverting sales from their European and Asian customers. However, sufficient data on specific Chinese firms' capacity utilization were not available. Moreover, a diversion of Chinese supply from other markets to the U.S. market by the "low margin" Chinese producers would have been unlikely due to: 1) the long-standing business relationships between Chinese producers and their European and Asian customers and 2) their limited ability to simultaneously raise prices to fair price levels and increase sales. See the discussion on elasticities below regarding the effect of raising prices on the quantity demanded when substitute products are available. CR at I-12 and at I-39 to I-42, PR at II-8 and 9 and at II-23 and 24.

<sup>12</sup> CR at I-47 to I-51, PR at II-28 to 30.

<sup>13</sup> The staff estimates the substitutability of domestic and Chinese sebacic acid to be effectively zero for the production of \*\*\*, but also noted that explicit substitution occurred in several important applications, including plasticizers and nylon 6/10. Economics Memorandum EC-R-063 at 39-41.

<sup>14</sup> EC-R-063 at 39.

range.<sup>15</sup> This relatively high substitutability suggests that the domestic producer would have been able to raise prices somewhat had the subject imports not been present in the domestic market or if they had been priced at their fair value.

The elasticity of demand measures how purchaser demand responds to product price changes. The elasticity of demand depends on several factors, including the availability of substitute products,<sup>16</sup> the availability of alternative downstream products (finished goods), and the product's cost as a percentage of total cost of the downstream product. If there are good substitutes for sebacic acid, then any increase in the price of sebacic acid will shift demand from sebacic acid towards the good substitutes. The record indicates that substitution between sebacic acid and alternative acid products is limited.<sup>17</sup> *Ceteris paribus*, this would tend to suggest a lower elasticity of demand; domestic producers could raise prices since there are only limited alternatives for consumers. The availability of downstream product substitutes is also an important factor. If good downstream substitutes are available, then any increase in the price of sebacic acid will make the downstream product using sebacic acid as an input less competitive. This will tend to reduce sales of this downstream product and in turn will reduce demand for sebacic acid as an input. The record contains evidence of both foreign and domestic downstream products. There are several examples of substitution between foreign and domestic sebacic acid derivatives (sebacates).<sup>18</sup> I further note that the cost share of sebacic acid as a percentage of the overall cost of downstream products varies between applications, but it typically is substantial and appears to average about 45 percent for U.S. end users. Thus the domestic producers of sebacates would be substantially affected by changes in the price of sebacic acid.<sup>19</sup> These conditions suggest a higher elasticity of demand, that is, purchasers are sensitive to price increases and will reduce purchases relatively more as prices increase. The evidence indicates that, on balance, the elasticity of demand is somewhat low, i.e., purchasers are only somewhat sensitive to price changes.<sup>20</sup> This relatively low elasticity of demand suggests that the domestic producer would have been able to raise prices somewhat if subject imports had been sold at fair value.

The elasticity of supply refers to the responsiveness of the quantity supplied by the U.S. producer to changes in the market price. This depends primarily on factors such as capacity utilization, alternative production possibilities, and the availability of alternative markets. In addition, responsiveness will be influenced by the extent to which the sole domestic producer, Union Camp, can exercise monopoly power.<sup>21</sup> The domestic industry's

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<sup>15</sup> The combined imported sebacic acid consumption by \*\*\* (where substitutability between the Chinese and domestic product is low) accounted for roughly \*\*\* percent of U.S. consumption between 1991 and 1993. Union Camp's internal consumption accounted for roughly \*\*\* percent during this period. Thus, even excluding purchases with no or low substitutability and Union Camp's own internal consumption, over \*\*\* percent of U.S. consumption between 1991 and 1993 is characterized by high substitutability between domestic like product and subject imports. CR at I-16, Table 2; PR at II-12, Table 2.

<sup>16</sup> The elasticity of substitution described above refers to the substitutability between subject imports and domestic like product. Here, I examine the substitutability of the domestic like product with other types of products.

<sup>17</sup> CR at I-52 to I-54, PR at II-30 and 31.

<sup>18</sup> For instance, both \*\*\* and \*\*\* reported competition from foreign producers for certain sebacates. However, it is not clear how readily end users switch between foreign and domestic sebacates in general. EC-R-063 at 13-15.

<sup>19</sup> EC-R-063 at 16-17.

<sup>20</sup> The staff estimated the elasticity of demand ranges between -1.0 and -2.0. EC-R-063 at 39-41.

<sup>21</sup> Typically, a monopolist can set the price for its product by altering the supply in the market, and thus has the ability to choose the combination of price and production levels that will maximize its profits. The record in this investigation suggests that while the domestic producer is the sole producer (continued...)

capacity utilization rate was generally low, fluctuating between roughly \*\*\* percent and \*\*\* percent during the period examined.<sup>22</sup> Moreover, the domestic industry would have been able to shift production facilities from the production of \*\*\* to the production of sebacic acid.<sup>23</sup> The domestic industry also had relatively large inventories available for sale in the market.<sup>24</sup> Finally, the domestic industry would have been able to shift supply from export markets to the domestic market; the ratio of U.S. exports to domestic production was high, equalling \*\*\* in 1993.<sup>25</sup> Thus the domestic industry would have been readily able to increase supply. The information in the record shows that prices for domestic sebacic acid \*\*\* during most of the period examined.<sup>26</sup> The domestic producer responded to changed demand conditions by varying output. Thus even slight changes in demand, and thereby price, caused the domestic supplier to change the quantity supplied. The above factors suggest that the elasticity of supply for U.S. sebacic acid is high.<sup>27</sup>

Based on the above, it is likely that the domestic producer would have responded to changes in sebacic acid demand primarily by changing its quantity supplied and by changing its price only somewhat.<sup>28</sup> I find that, on balance, LTFV imports have had only a small effect on prices.

### C. Impact of LTFV Imports on the Domestic Industry

In assessing the impact of LTFV imports on the domestic industry, I consider, among other factors, output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development.<sup>29</sup> For the following reasons, I find that the subject imports have had a significant impact on the volume of the domestic industry's production and sales.

As discussed above, had the subject imports not been dumped, it is likely that a substantial portion of the Chinese sebacic acid would have been priced out of the U.S. market. Because the elasticity of supply for the domestic industry was high,<sup>30</sup> it could have increased its supply to meet the additional demand that would have been created by the loss of subject import supply. However, it is unlikely that the domestic producer would capture the entire market share held by Chinese imports for several reasons. First, nonsubject imports from the Ukraine and Japan could have increased and gained market share.<sup>31</sup>

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<sup>21</sup> (...continued)

in the domestic market and is therefore a monopolist, its ability to determine prices and production levels may be limited by the availability of foreign supplies of sebacic acid and downstream products (sebacates).

<sup>22</sup> CR at I-21, Table 3; PR at II-14, Table 3.

<sup>23</sup> CR at I-21, PR at II-14 and 15.

<sup>24</sup> The ratio of the domestic producer's inventories to its U.S. shipments was high, equalling \*\*\* in 1993. CR at I-24, Table 5; PR at II-16, Table 5.

<sup>25</sup> CR at I-23 and I-24, Table 4 and 5; PR at II-15 and 16, Table 4 and 5.

<sup>26</sup> Data submitted to the Commission in response to questionnaires indicate that prices of U.S. produced purified-grade sebacic acid \*\*\* during \*\*\*, and then \*\*\* during \*\*\*. Similarly, U.S. produced nylon-grade sebacic acid \*\*\* during \*\*\* and then \*\*\* by \*\*\*. CR at I-57 to I-62; PR at II-32 to 34.

<sup>27</sup> The staff estimated the elasticity of supply to be in the range of 5 to 10. EC-R-063 at 37.

<sup>28</sup> CR at I-56 to I-69, PR at II-31 to 37.

<sup>29</sup> 19 U.S.C. § 1677(C)(iii).

<sup>30</sup> See discussion in the price effects section above as to why domestic industry could readily increase supply.

<sup>31</sup> There was very limited information regarding production capacities in these nonsubject countries. However, the record does show that \*\*\*. CR at I-16, Table 2; CR at I-74 to I-75; CR at I-42; PR at II-12, Table 2; II-38; and II-25.

However, lengthy testing and qualifying procedures for new suppliers tend to limit the significance of these imports.<sup>32</sup> Second, the domestic product is not fully substitutable in all uses for the subject imports. Third, as noted above, some Chinese firms have lower dumping margins, which would likely allow them to continue to sell in the U.S. market.

### Conclusion

In light of the significant increase in subject imports and the significant effects on domestic industry production, sales and revenues,<sup>33</sup> I determine that the domestic industry would have been better off in the absence of LTFV imports and therefore is materially injured by reason of LTFV imports of sebacic acid from the People's Republic of China.

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<sup>32</sup> For instance, \*\*\* noted that it historically has taken 6 to 18 months to test and qualify new suppliers with their customers. Respondent's Posthearing Brief at Exhibit 7.

<sup>33</sup> As discussed above, the price effects are small.

**DISSENTING VIEWS OF  
CHAIRMAN PETER S. WATSON AND COMMISSIONER DAVID B. ROHR<sup>1</sup>**

Section 777(7)(F) of the Tariff Act of 1930 directs the Commission to determine whether a U.S. industry is threatened with material injury by reason of imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent."<sup>2</sup> An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation."<sup>3</sup> After careful consideration of all the relevant statutory factors,<sup>4</sup> we find that a threat to the domestic industry producing sebacic acid is not real and that actual injury is not imminent.<sup>5</sup>

**Vulnerability**

We begin by assessing the degree to which the domestic industry is vulnerable to the effects of unfair imports. In this case, we do not find that the domestic industry is vulnerable to the effects of imports. Union Camp has realized \*\*\* operating income margins throughout the period examined, falling from \*\*\* percent in 1991 to \*\*\* percent in 1992, then increasing to \*\*\* percent in 1993.<sup>6</sup> In addition, with the exception of hourly total compensation, productivity, and unit labor costs, all employment related indicators improved

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<sup>1</sup> We join the majority's determinations with respect to like product, domestic industry, and conditions of the industry. Chairman Watson also joins the majority's determination of no material injury by reason of LTFV imports.

<sup>2</sup> 19 U.S.C. §1677(7)(F)(ii). Such a determination may not be made on the basis of mere conjecture or supposition.

<sup>3</sup> See Metallwerken Nederland B.V. v. U.S., 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984), aff'd sub nom. Armco, Inc. v. United States, 760 F. 2d 249 (Fed. Cir. 1985).

<sup>4</sup> 19 U.S.C. §1677(7)(F)(i)(I)-(X). The relevant factors include: (II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States; (III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level; (IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise; (V) any substantial increase in inventories of the merchandise in the United States; (VI) the presence of underutilized capacity for producing the merchandise in the exporting country; (VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury; (VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 1671 or 1673 of this title or to final orders under section 1671e or 1673e of this title, are also used to produce the merchandise under investigation; (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. In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry. 19 U.S.C. §1677(7)(F)(iii)(I). Factors (I), (VIII) and (IX) are not applicable to this investigation.

<sup>5</sup> Petitioner objected to the late submission of the foreign data, noting its inability to comment on the late information. We note that the Commission frequently obtains and relies on data received after the filing of posthearing briefs. See H.R. Rep. 576, 100th Cong., 2d Sess., at 624 (Conference Report on Omnibus Trade and Competitiveness Act of 1988) ("The requirement of timely submission of information . . . is not meant to restrict the Commission's ability to seek out information which it does not have but views as important to make the best determination it can.") We also note that the data on the Chinese industry are believed to represent 100 percent of Chinese production and shipments of sebacic acid. CR at I-40, Table 13, n. 1; PR at II-24, Table 13, n.1.

<sup>6</sup> CR at I-30, Table 8; PR at II-18, Table 8.

during 1991-93.<sup>7</sup> Union Camp's sebacic acid exports also improved during the period, increasing overall by \*\*\* percent, with a \*\*\* percent increase occurring in between 1992 and 1993.<sup>8</sup>

## Threat

We do not find that there has been, or will likely be, any increase in production capacity or unused capacity in China likely to result in a significant increase in imports of sebacic acid to the United States. Although production capacity increased by 4.9 percent from 1991 to 1993, projections for 1994 indicate an increase of less than 1 percent, with no increase in capacity in 1995.<sup>9</sup> Any increase, however, should be absorbed to a large degree by the projected increase in Chinese home market shipments, which grew steadily and appreciably from 1991 to 1993.<sup>10</sup> Further, Chinese capacity utilization rates have been high throughout the period examined, and the Chinese industry is projected to be operating at or near full capacity in 1994 and 1995.<sup>11</sup> Based on the figures above, we find that a further surge to injurious levels is not likely to occur in the near future.

We also do not find a real and imminent likelihood that Chinese imports will rapidly gain market share in the U.S. Although the subject imports held \*\*\* percent of the market in 1993, the increase over the period examined has been modest at best. U.S. shipments of subject imports gained \*\*\* percentage points in market share from 1991 to 1993. In addition, a significant percentage of these imports were imported directly by the petitioner for its own internal consumption.<sup>12</sup>

We do not find that imports will enter the United States at prices that will have a depressing or suppressing effect on domestic prices. In the past, Union Camp has priced its sebacic acid without regard to prices for imported Chinese sebacic acid.<sup>13</sup> Even when prices of the subject imports were at their lowest, the price of Union Camp's sebacic acid remained stable. Any price depression occurred during the period when prices of the subject imports began to increase, not during the period when such prices were at their lowest.<sup>14</sup> In addition, Union Camp was able to \*\*\* for sebacic acid throughout most of the period examined, despite a noticeable downward trend in the price of its primary input, castor oil.<sup>15 16</sup>

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<sup>7</sup> CR at I-26, Table 6; PR at II-16, Table 6.

<sup>8</sup> CR at I-23, Table 4; PR at II-15, Table 4.

<sup>9</sup> CR at I-40, Table 13; PR at II-24, Table 13.

<sup>10</sup> CR at I-40, Table 13; PR at II-24, Table 13.

<sup>11</sup> Projected Chinese capacity utilization rates for 1994 and 1995 are 96.3 and 100.0 percent, respectively. CR at I-40, Table 13; PR at II-24, Table 13.

<sup>12</sup> Union Camp was the \*\*\* importer of sebacic acid from China and from all sources combined during 1989-92, and the \*\*\* importer in 1993. CR at I-15, PR at II-12.

<sup>13</sup> Union Camp reported \*\*\*. CR at I-48; PR at II-29.

<sup>14</sup> Chairman Watson notes that \*\*\*. However, he has drawn no adverse conclusions from these facts.

<sup>15</sup> Castor oil accounted for \*\*\* percent of Union Camp's sebacic acid production costs in 1991, and \*\*\* percent in 1992 and 1993. CR at I-32; PR at II-19.

<sup>16</sup> Union Camp's cost for castor oil declined from \*\*\* per pound in 1991 to \*\*\* per pound in 1993, a decline of about \*\*\* percent. CR at I-33; PR at II-19. In fact, the sharpest decline in Union Camp's costs for castor oil occurred earlier, from \*\*\* to \*\*\*, when the unit value fell from \*\*\* per pound to \*\*\* per pound, or by \*\*\* percent. The sharpest decline in world market prices for castor oil occurred in 1990, when such prices fell from \$0.50 in January-March to \$0.37 in October-December, or by 26 percent. CR at I-33, and F-4, Table F-2; PR at II-19, and F-3, Table F-2. Despite this \*\*\* decline, Union Camp \*\*\* its price levels, while prices for Chinese sebacic acid \*\*\* slightly. Sebacic Acid from the People's Republic of China, Inv. No. 731-TA-653 (Preliminary), USITC Pub. No. 2676 (Sept. 1993), CR at I-50, Table 15; PR at II-29, Table 15.



Evidence indicates that prices of castor oil have begun to increase again,<sup>17</sup> resulting in a smaller profit margin on sebacic acid. Thus, upward pressure on sebacic acid prices may begin to increase. In light of all the factors above, we find no significant adverse price effects from the subject imports.

The record does not support a finding that U.S. importers' inventories will have an injurious effect on the U.S. industry. While we have no data on inventories in China, U.S. importers' inventories increased noticeably from 1991 to 1992, but declined from 1992 to 1993. In this regard, we note that Union Camp accounted for \*\*\* percent of end-of-period inventories of sebacic acid from China held in 1991; \*\*\* percent in 1992, and \*\*\* percent in 1993.<sup>18</sup>

We find no actual or potential negative effects on existing development and production efforts of the domestic industry. Union Camp has traditionally made \*\*\* to improve its sebacic acid production facilities, and there is no evidence to indicate that the subject imports will have any negative effects on future development or production efforts.<sup>19</sup>

There are no "other demonstrable adverse trends" that indicate that the subject imports will be the cause of actual injury. Although Chinese shipments to the U.S. market increased in absolute quantities, as a percentage of total shipments, Chinese exports to the United States increased during 1991-93, but fell by 3.2 percentage points in 1992-93. As we noted above, the Chinese home market has accounted for a steadily increasing share of total Chinese shipments, with further large increases projected for 1994 and 1995.<sup>20</sup> The Commission also collected data on U.S. importers' current orders of Chinese sebacic acid for the first half of 1994. These data indicate that these importers expected to receive about 600,000 pounds of Chinese sebacic acid in January-June 1994. Official import statistics showed that about 300,000 pounds had entered through March 1994, putting the industry on target for the 600,000 pounds by June 1994, which would be a more than two-thirds decline from the import level in January-June 1993.<sup>21</sup>

In conclusion, we find that the domestic industry producing sebacic acid is not threatened with material injury by reason of LTFV imports from China.

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<sup>17</sup> Hearing transcript, pp. 122-23.

<sup>18</sup> CR at I-37, n. 66; PR at II-21, n.66.

<sup>19</sup> Although Union Camp reported \*\*\*. CR at I-34, Table 11; PR at II-19, Table 11.

<sup>20</sup> CR at I-40, Table 13; PR at II-24, Table 13.

<sup>21</sup> CR at I-38, and fn. 67; PR at II-22.



## ADDITIONAL VIEWS OF CHAIRMAN PETER S. WATSON

While I join the Commission's determination that the domestic industry producing sebacic acid is not presently experiencing material injury by reason of LTFV imports of sebacic acid from China, I write separately to amplify my views on what I believe to be statutory difficulties with respect to the definitions of "like product" and the "domestic industry".

A central rationale behind the anti-dumping laws is to protect domestic industries from unfair commercial activities of foreign producers with respect to products which "compete" with domestically-produced goods. In this investigation, application of the statutory like product requirements leads to inequitable results due to the Commission's inability under the statute to distinguish those imports which compete with the domestic like product from those that do not.

The "domestic industry" \*\*\*.<sup>1</sup> Given this fact, the imposition of an anti-dumping order on all imports of sebacic acid from China resulting from our like product determination in conjunction with an affirmative causation determination produces an inequitable result, since duties will be imposed on those subject imports which do not compete with the domestic like product (i.e., those subject imports which are imported by the petitioner for its production of \*\*\*) as well as on those subject imports that do compete with the domestic like product.<sup>2</sup>

As a result of this statutory difficulty, the Commission is required to issue a determination which is over-broad and affects all subject imports falling under the "like product" definition, regardless of whether such imports compete with the domestic like product. The resultant outcome is counter to concepts of equity and moves beyond the statutory purpose of protecting the domestic industry from unfair competition.

This investigation also presents the Commission with a difficult set of circumstances with respect to the statutory requirements in defining the "domestic industry". Union Camp, the petitioner, has traditionally been a major importer of the very subject imports against which it has now filed the petition.<sup>3</sup> The petitioner has without question derived significant benefits from its importing activities, however, the overall operations of the petitioner, as a corporate entity, are not, by definition, the technical equivalent of the "domestic industry" producing sebacic acid.<sup>4</sup> Therefore, in this investigation, the statutory requirements with respect to the definition of the domestic industry preclude the Commission from considering in its causation analysis any benefits that may have accrued to the petitioner, Union Camp, from its imports of the subject product, as well as any benefits that may have accrued to the

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<sup>1</sup> The record indicates that \*\*\*. Petitioner's Posthearing Brief, Attachment 3. Union Camp's sebacic acid contains only 95 percent C<sub>10</sub> and has 4.5 percent C<sub>11</sub> and C<sub>12</sub>, and reportedly \*\*\*. CR at I-55, fn 102; PR at II-31, fn 102.

<sup>2</sup> Although Union Camp is able to produce other types of sebacate esters with the sebacic acid it produces, such uses accounted for \*\*\* of Union Camp's internal use of sebacic acid for sebacate ester production during the period examined. CR at F-3, Table F-1; PR at F-3, Table F-1. From 1991 to 1993, Union Camp's sales of \*\*\* were \*\*\* than its sales of any other sebacate esters and \*\*\*. *Id.*

<sup>3</sup> Union Camp was the \*\*\* importer of sebacic acid from China and from all sources combined during 1989-92, and the \*\*\* importer in 1993. CR at I-15; PR at II-12.

<sup>4</sup> This is because the "domestic industry" producing sebacic acid does not include petitioner's production of other products, even though the petitioner is the sole domestic producer of sebacic acid.

"domestic industry" producing sebacate esters, even though both are produced by the same corporate entity.<sup>5 6</sup>

Although one may question whether the "domestic industry" producing sebacic acid has benefitted from the subject imports, it is indisputable that Union Camp, as well as the "industry" producing sebacate esters, have benefitted significantly from the lower-priced subject imports. By importing the higher C<sub>10</sub>-content sebacic acid from China, Union Camp has been able to reduce its \*\*\*. In addition, Union Camp has been able to enter the highly profitable market to produce and supply \*\*\*, a product which it \*\*\* using its own sebacic acid, without having to incur substantial additional capital expenditures.<sup>7</sup> The statute precludes the Commission from considering benefits accruing to Union Camp, because such benefits did not accrue to the "domestic industry" producing sebacic acid, but rather to the "domestic industry" producing derivatives of sebacic acid. I find this distinction to be compelled by the statute but not reflective of economic reality.<sup>8</sup>

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<sup>5</sup> The statute requires the Commission to determine whether the "domestic industry" is materially injured by reason of the LTFV imports. 19 U.S.C. §1677 (7)(B)(i). See General Motors v. United States, 827 F. Supp. 774 (CIT 1993), citing 19 U.S.C. §1677(4)(D) ("The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product...")

<sup>6</sup> As discussed above in the Commission's opinion, although Union Camp is a related party, appropriate circumstances do not exist to exclude Union Camp from this investigation because it is the only domestic producer of the like product and exclusion of its data would result in the absence of any industry data.

<sup>7</sup> These additional expenditures would be in the form of upgrades to its \*\*\* facility or to its sebacic acid facility. See Attachments I and IV of Petitioner's Posthearing Brief. Mr. Peter Deutch, Business Manager for Union Camp, estimated that it would cost in excess of \$20 million to build a brand-new sebacic acid plant. Hearing transcript at 70.

<sup>8</sup> Both sebacic acid and sebacate esters are produced in the same establishment owned by Union Camp. Hearing transcript at 31; CR at I-28; PR at II-17.

**PART II**

**INFORMATION OBTAINED IN THE INVESTIGATION**



## INTRODUCTION

### Institution

Following a preliminary determination by the U.S. Department of Commerce (Commerce) that imports of sebacic acid<sup>1</sup> from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV) (59 F.R. 565, January 5, 1994), the U.S. International Trade Commission (Commission), effective January 4, 1994, instituted investigation No. 731-TA-653 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or 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 investigation and of a public hearing to be held in connection therewith was posted in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and published in the *Federal Register* on February 9, 1994 (59 F.R. 6044). The hearing was held in Washington, DC, on May 24, 1994.<sup>2</sup>

On May 20, 1994, Commerce made an affirmative final determination (59 F.R. 28053, May 31, 1994). The applicable statute directs the Commission to make its final injury determination within 45 days after the final determination by Commerce or, in this investigation, by July 5, 1994.

### Background

This investigation results from a petition filed by Union Camp Corp. (Union Camp) on July 19, 1993, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of sebacic acid from China. In response to that petition the Commission instituted investigation No. 731-TA-653 (Preliminary) under section 733 of the Act (19 U.S.C. § 1673b(a)) and, on September 2, 1993, determined that there was a reasonable indication of such material injury. A summary of the data collected in this investigation is presented in appendix C.<sup>3</sup> The Commission has not conducted previous investigations on sebacic acid.

## THE PRODUCT

### Description and Uses

Sebacic acid (decanedioic acid), is a white, waxy compound with a melting point of about 134 degrees Celsius. Sebacic acid is a saturated dicarboxylic acid having 10 carbon atoms in an unbranched chain. Its properties are similar to those of fatty acids, providing one segment of a

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<sup>1</sup> For purposes of this investigation, sebacic acid is defined as all grades of the dicarboxylic acid with the formula  $(CH_2)_8(COOH)_2$ . Sebacic acid contains a minimum of 85 percent dibasic acids of which the predominant species is the  $C_{10}$  dibasic acid. Sebacic acid is sold generally as a free-flowing powder/flake.

Sebacic acid has numerous industrial uses, including the production of nylon 6/10 (a polymer used for paintbrush and toothbrush bristles and paper-machine felts), plasticizers, esters, automotive coolants, polyamides, polyester castings and films, inks and adhesives, lubricants, and polyurethane castings and coatings. Sebacic acid is provided for in subheading 2917.13.00 of the *Harmonized Tariff Schedule of the United States* (HTS).

<sup>2</sup> Copies of the cited *Federal Register* notices are presented in app. A and a list of witnesses appearing at the hearing is presented in app. B.

<sup>3</sup> The Commission generally examines 3-year periods and, if applicable, interim periods of 3, 6, or 9 months. Consistent with this practice, this report presents and discusses data for the period 1991-93. Because 1989 and 1990 were years when the cost of castor oil, a key raw material in sebacic acid production, was generally higher than in subsequent years, data collected by the Commission for 1989-93 are presented in the appendixes and discussed, when appropriate, in the body of the report.

broad gradation of possible characteristics that depend principally on the carbon chain length, branching, unsaturation, and presence of other functional groups.

There are no generally recognized industry-standardized grades of sebacic acid. Union Camp produces three grades (nylon, CP, and purified) for sale on the open market.<sup>4</sup> The primary distinctions between grades are the amount of ash (sulfur salts and semi-soluble solids) and the color. Union Camp's nylon grade typically contains 200 parts per million (ppm) of ash (500 ppm maximum) and is exceptionally light in color; its CP grade also typically contains 200 ppm of ash (500 ppm maximum) and is light in color, though less so than the nylon grade; its purified grade typically contains 200 ppm of ash (1,000 ppm maximum) and is less light in color than either the nylon or CP grade. While all three grades typically have a total dibasic acid content of 99.5 percent, the nylon and CP grades typically have a C<sub>10</sub> dibasic acid content of 95.0 percent, and the purified grade typically has a C<sub>10</sub> dibasic acid content of only 93.6 percent.<sup>5</sup>

Sebacic acid from China is usually classified as either low-ash or regular-ash. While the maximum ash content varies, generally ranging between 300 ppm and 600 ppm ash, virtually all sebacic acid produced in China and exported to the United States contains 99.5 percent C<sub>10</sub> dibasic acid.<sup>6</sup>

Sebacic acid can be reacted with various alcohols to make a variety of sebacate esters, which are used as plasticizers for polyvinyl chloride (PVC),<sup>7</sup> and in coatings, lubricants, corrosion inhibitors and other formulated products. U.S. chemical manufacturers have reported to the Commission the production and sales in the United States of seven such sebacates.<sup>8</sup>

Sebacic acid and hexamethylenediamine can be polymerized to make nylon 6/10. Nylon 6/10 has a better resistance to water and chemicals than the more commonly produced (and less expensive) nylon 6/6 or nylon 6 and is used in paper-making machines, toothbrushes, and some fishing lines. Nylon 6/10 is also used as a molding resin for some of the more demanding engineering applications. Sebacic acid can also be used to produce resins other than nylon-type polyamides, but these are not major uses.

The major product flows involving sebacic acid are summarized in figure 1. All sebacic acid consumed in the United States is used for further chemical manufacturing, principally polymerization and esterification. The requirements and preferences of downstream customers affect the manufacturers employing sebacic acid. The applications for sebacic acid products identified by Union Camp and the importers include plasticizers and plastic additives (about three-fifths of the U.S. market),<sup>9</sup> nylon-type polyamide resins (about one-fifth of the U.S. market), and other resins for coatings or adhesives plus other or unknown uses (about one-fifth of the U.S. market).

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<sup>4</sup> Union Camp does not assign a grade to sebacic acid consumed internally to produce downstream products. All of the company's production of sebacic acid, regardless of grade, takes place in Dover, OH, and is produced on the same production lines by the same employees. Interview with \*\*\*.

<sup>5</sup> "C<sub>10</sub>" refers to the carbon chain length and "dibasic acid" to the presence of two carboxylic acid functional groups. The purity of sebacic acid may be expressed in terms of either one criterion or both criteria jointly.

<sup>6</sup> Low-ash sebacic acid from China does not appear to have been present in the U.S. market prior to 1991. Between 1991 and 1993, however, U.S. shipments of low-ash sebacic acid from China increased from less than 600,000 pounds to over 1.2 million pounds, with most of the increase occurring between 1992 and 1993, following the approval of sebacic acid from China for use in \*\*\*.

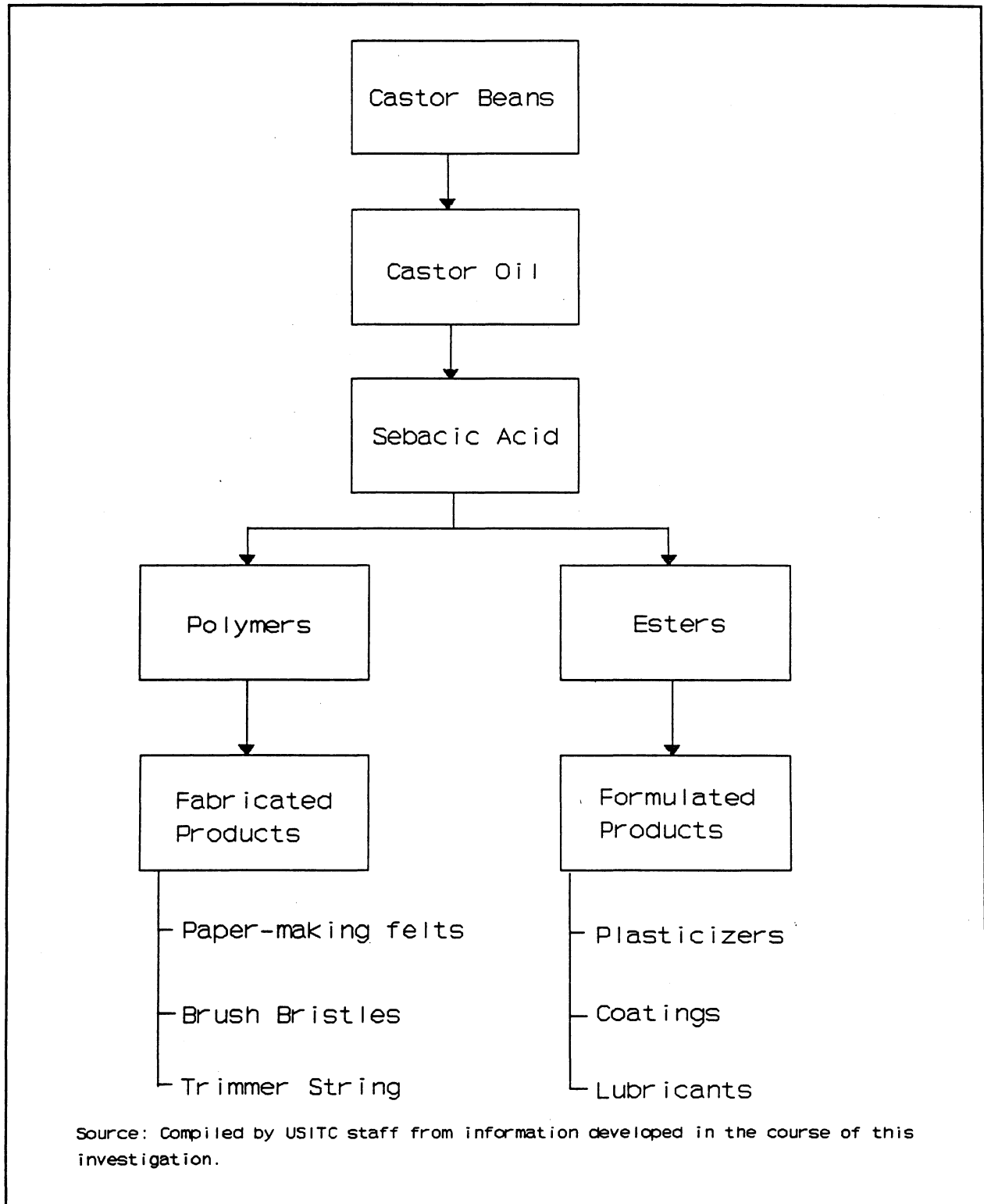
<sup>7</sup> Plasticizers act like internal lubricants to soften otherwise stiff plastics, particularly PVC resins, to make flexible sheet and film products used in many applications.

<sup>8</sup> Dibutoxyethyl sebacate, dibutyl sebacate, diethyl sebacate, di(2-ethylhexyl) sebacate, diisopropyl sebacate, dimethyl sebacate, and propylene glycol sebacate. *Synthetic Organic Chemicals: United States Production and Sales, 1992*, USITC Publication 2720, Feb. 1994.

<sup>9</sup> Most sebacates are used as plasticizers; \*\*\*.



**Figure 1**  
Product flows relating to the production and use of sebacic acid



## Manufacturing Process

In principle, sebacic acid could be made in many ways, but the primary commercial route is production from castor oil. Castor oil is obtained from castorseed (sometimes called castor beans), the fruit of *Ricinus communis*, a subtropical shrub, by mechanical pressing and/or solvent extraction. Some castorseed is traded internationally, but most castor oil is produced in the countries growing castorseed, principally India, China, and Brazil. Countries producing castor oil consume a considerable part of their own output, but several non-producing countries (including the United States) are also major consumers of imported castor oil.<sup>10</sup>

The two processes used to manufacture sebacic acid from castor oil are shown schematically in figure 2. The essential chemical reaction in both processes is the splitting of ricinoleic acid (*cis*-12-hydroxyoctadec-9-enoic acid) to form sebacic acid and capryl alcohol (2-octanol). While the basic chemistry of the two processes is the same, these two processes have substantially different engineering implementations.

Union Camp uses a caustic oxidation batch process, starting directly from castor oil.<sup>11</sup> Concentrated caustic soda and caustic potash are pumped into a \*\*\*-gallon vessel along with castor oil. The mixture is then cooked for approximately \*\*\* hours. After the \*\*\* hour, when the temperature reaches approximately \*\*\*, crude capryl alcohol is distilled off and \*\*\* for purification.

Meanwhile, the main mixture continues to cook for another \*\*\* hours, reaching a temperature of approximately \*\*\*. At the end of the \*\*\*-hour period, water from a quench tank is released into the cooker to reduce the temperature and to keep the sebacic mixture from hardening and cracking. This entire solution of mixed soaps then flows into a settling tank ("soap processing tanks") where roleic soap rises to the top, is drained off, and is processed into "roleic acid," a "dark, viscous liquid" composed primarily of dimer and trimer acids.<sup>12</sup> \*\*\*. The residual sebacic soap is processed further, \*\*\*.<sup>13</sup>

The \*\*\* is \*\*\*. The semi-liquid sebacic cake is conveyed to \*\*\*. From there, sebacic acid is pumped either to Union Camp's ester division for internal consumption in the commercial production of sebacates or to a spray tower, where the bead-like solids are prepared and packaged into 50-pound, 55-pound, or into larger bulk bags for storage and shipment to commercial customers.

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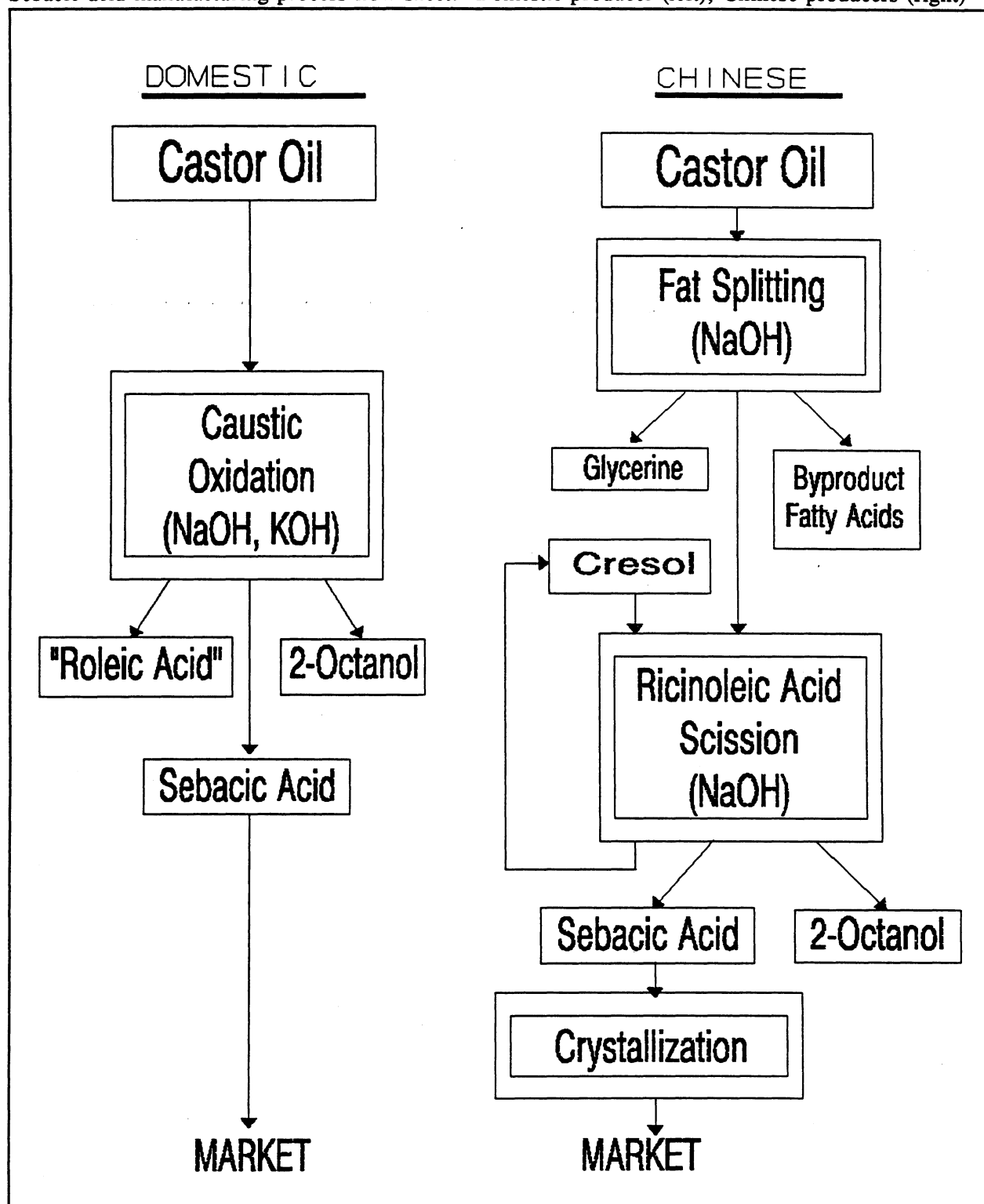
<sup>10</sup> Aside from small quantities used medically as a purgative, principally in preparation for abdominal x-rays, castor oil is used primarily in the manufacture of chemical products, such as sebacic acid, 12-hydroxystearic acid, and hydrogenated castor oil. Like other unsaturated vegetable oils, castor oil is subject to degradation in storage and transit, forming gums by low molecular weight polymerization, oxidation, epoxidation, etc. Because of the generally long inland distances to ocean ports and the relatively small volumes of castor oil transported internationally, many transfers from one tank or container to another may be required, at each of which there is an opportunity for exposure to oxygen and contamination from the previous contents and/or from chemicals used to clean the tank or container. Such contaminants may catalyze the degradation processes to which castor oil is subject. The effect of this chain of transfers is that the fresh castor oil available to castor oil consumers in castorseed-producing countries may be of higher quality than that normally available to consumers outside such countries.

<sup>11</sup> Union Camp cannot split castor oil. Hearing transcript, p. 46.

<sup>12</sup> *Union Camp Chemicals Product Data for Century D-75*. This product is used for corrosion inhibitors for oil well service, refined oil products storage, and lubricant products.

<sup>13</sup> \*\*\*.

**Figure 2**  
 Sebamic acid manufacturing process flow sheet: Domestic producer (left); Chinese producers (right)



The Chinese producers employ a 2-step process which, at least for several of the larger sebacic acid producers, is characterized as an integrated, continuous process.<sup>14 15</sup> The process used by the major Chinese manufacturers is a fully engineered and fully controlled chemical-manufacturing process which begins with hydrolysis of castor oil (a triglyceride) to its glycerine (1,2,3-propantriol) and fatty acid components and separation of the ricinoleic acid from the other fatty acids<sup>16</sup> in a continuous reactor. Removal of the glycerine and other fatty acids prevents the side reactions found in the caustic oxidation batch process and accounts for a C<sub>10</sub> content in excess of 99 percent. The ricinoleic acid is then split into sebacic acid and capryl alcohol.<sup>17</sup> The high viscosity of the reaction paste is reduced by use of cresol as an active solvent which is recovered after the ricinoleic acid scission reaction has been completed. This two-step process permits the recovery and sale of the co-products glycerine and capryl alcohol and the by-product fatty acids.<sup>18</sup>

The respondents characterize the two-step production process used in China as more efficient than the caustic oxidation batch process.<sup>19</sup> Reportedly, the two-step process has lower operating costs than the one-step process because of: (1) a 25-percent higher yield of sebacic acid from the same amount of castor oil, (2) credits from the sale of glycerine and by-product fatty acids, (3) higher energy efficiency, and (4) reduced reagent costs (from using relatively inexpensive \*\*\*).<sup>20</sup>

### Substitute Products

The petitioner and respondents agree that the "like product" in this investigation should be sebacic acid only.<sup>21</sup> Literally speaking, there can be no direct substitute for sebacic acid as it has a distinct chemical composition. However, because sebacic acid is used only as an input to further chemical manufacturing to synthesize derivative chemicals, derivatives of other chemicals might be technically and/or economically substitutable for derivatives of sebacic acid in certain uses. For example, sebacate esters (organic compounds formed by reacting sebacic acid with alcohols) may compete with the chemical derivatives of adipic, azelaic, or dodecanedioic acids as plasticizers. Similarly, sebacates could compete with derivatives of azelaic acid or undecanedioic and dodecanedioic acids in the production of corrosion inhibitors. Nylon 6/10 (made with sebacic acid)

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<sup>14</sup> Interview with \*\*\*.

<sup>15</sup> A continuous process is one in which the raw materials enter the production process in a continuous flow (or in rapid pulses), are transformed into a final product, and are removed continuously into storage. Several continuous processes can be linked into a larger process. This requires considerable engineering design effort, as all flow rates must be balanced, must provide for startup and shutdown, and, in some instances, provide for variable operating rates. From a chemical engineering perspective, a well-designed continuous process is generally capable of producing higher quality product at lower cost than a batch process. Process operating temperatures are generally lower and residence times are generally shorter in continuous processes compared with batch processes. Lower temperatures and shorter residence times tend to reduce the formation of undesired by-product impurities, reduce the required energy input, require less cleanup and maintenance, and thereby generally reduce operating costs. Further, a continuous process offers opportunities to use the latent heat contained in hot product exiting a unit process to heat incoming material through the use of well-balanced heat exchangers, whereas in a batch process, the latent heat in the product stream is lost through quenching. Finally, the capital cost of continuous processing equipment may be less than that of batch vessels because the reactors are much smaller and hence contain lesser quantities of expensive alloys.

<sup>16</sup> The average fatty acid composition of castor oil is 89.5 percent ricinoleic acid, 4.2 percent linoleic acid, 3.0 percent oleic acid, and 3.3 percent other fatty acids. *Encyclopedia of Chemical Technology*, third edition, vol. 5 (New York: John Wiley & Sons, 1979), p. 3.

<sup>17</sup> Telephone interviews with \*\*\*.

<sup>18</sup> The Chinese manufacturers sell the by-product fatty acids to soap makers. Being already saponified, such fatty acids can be made into soap by simple neutralization and are more valuable than tallow and vegetable oils, the principal materials with which they compete in this use. Interview with \*\*\*.

<sup>19</sup> Hearing transcript, p. 13.

<sup>20</sup> Hearing transcript, pp. 96-97; interview with \*\*\*; telephone interview with \*\*\*.

<sup>21</sup> Conference transcript, pp. 82 and 116.

might compete with other nylon-type resins, such as nylon 6 (made with caprolactam) or nylon 6/6 (made with adipic acid). Commercially, however, the research, development, and testing costs and product acceptance concerns tend to limit such substitution, at least in the short term.<sup>22</sup>

### U.S. Tariff Treatment

Sebacic acid is classified in the HTS in subheading 2917.13.00, with a column 1-general duty rate of 4.8 percent ad valorem. This rate applies to countries entitled to the column 1-general (most-favored-nation) duty rate, including China. The column 2 rate of duty, applicable to those countries enumerated in general note 3(b) to the HTS, is 25.0 percent ad valorem.

### THE NATURE AND EXTENT OF SALES AT LTFV

In its petition, Union Camp provided calculations which indicated an LTFV margin of 243.4 percent. Because some exporters of sebacic acid from China did not answer Commerce's questionnaire, they were found to be uncooperative and were assigned the LTFV margin alleged in the petition. However, four exporters of sebacic acid from China responded to Commerce's questionnaire and provided information indicating both *de jure* and *de facto* absence of central government control with respect to their export operations. Commerce used the information provided by these four responding companies to calculate a separate dumping margin for each company.<sup>23</sup>

In order to calculate dumping margins for sebacic acid from China, Commerce compared the U.S. price of sebacic acid (based on packed, CIF prices to unrelated purchasers in the United States) with the foreign market value (based on the factors of production multiplied by the appropriate surrogate values for different inputs) during January 1 - June 30, 1993. Because China is a non-market economy, Commerce constructed the foreign market value based on the cost of production in India, a country with comparable economic development, and in Pakistan when Indian data were unavailable. Based on these calculations, Commerce established the following weighted-average margins:

<u>Exporter</u>	<u>Margin</u>
Sinochem International Chemicals Co. . .	43.72 percent
Guangdong Chemicals Import & Export Corp. . . . .	57.00 percent
Tianjin Chemicals Import & Export Corp. . . . .	59.67 percent
Sinochem Jiangsu Import & Export Corp.	85.48 percent
Country-wide rate (all others) . . . . .	243.40 percent

<sup>22</sup> Respondents state that "Sebacic acid has numerous substitutes, including azelaic acid, caprolactam, Corfree, and adipic acid." Postconference brief of the respondents, p. 35. Azelaic acid is a pale crystalline powder, derived from oleic acid by oxidation with ozone. Caprolactam is a cyclic amide-type ring compound with a 6-carbon ring. Adipic acid is a 6-carbon dibasic acid. Corfree, a proprietary product of E.I. DuPont de Nemours & Co., is a dibasic acid mixture whose primary components include dodecanedioic acid (M2, for nylon and plasticizer applications) or dodecanedioic and undecanedioic acids (M1, for corrosion inhibition). However, U.S. producers of such products have told the Commission that they have seen little such substitution and most do not see it as a threat to their business. Telephone interviews with \*\*\*. Respondents contended at the Commission's hearing that worldwide availability of consistently high-purity sebacic acid from China at prices approximately one-half of Union Camp's may change the long-term substitutability between chemicals, possibly creating new or expanded uses, and may influence where such products are made. Hearing transcript, pp. 134-139, 143-147, and 153-158.

<sup>23</sup> \*\*\*.

## THE DOMESTIC MARKET

### Apparent U.S Consumption

Data concerning apparent U.S. consumption of sebacic acid were compiled from responses to Commission questionnaires.<sup>24</sup> The Commission received data from Union Camp (the only known company producing sebacic acid in the United States) and from 18 firms importing sebacic acid, which it used to calculate apparent U.S. consumption and U.S. market penetration by imports of sebacic acid.<sup>25</sup> The data are presented in table 1.

In terms of quantity, apparent U.S. consumption of sebacic acid decreased by \*\*\* percent between 1991 and 1992 and increased by \*\*\* percent between 1992 and 1993, resulting in a small net decline between 1991 and 1993. In terms of value, apparent U.S. consumption fell by \*\*\* percent between 1991 and 1993, with most of the decline occurring between 1991 and 1992. The unit value of sebacic acid consumed in the United States declined steadily between 1991 and 1993.<sup>26</sup>

Both parties characterized the demand for sebacic acid as a derived demand.<sup>27</sup> Thus, sebacic acid consumption is driven by the consumption of products that incorporate sebacic acid. However, the parties disagreed about trends in the demand for sebacic acid. The petitioner characterized sebacic acid as a "mature product" and stated that "demand (for sebacic acid) has been stable."<sup>28</sup> Several companies that import and/or distribute imported sebacic acid disagree with this assessment and contend that imports have opened and will open new markets for sebacic acid, presumably increasing its consumption. At the Commission's hearing an official for one distributor noted that the company had been able to expand its customer base by using imported sebacic acid.<sup>29</sup> Similarly, an importer attributed its growth in sebacic acid shipments over a 4-year period to "an increase in ICC's customer base...and (to) the growth in current and developing end-use markets, such as corrosion inhibitors (and) anti-freeze formulations."<sup>30</sup>

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<sup>24</sup> The data presented in this report are believed to incorporate 100 percent of U.S.-produced sebacic acid and over 95 percent of imported sebacic acid, both subject and nonsubject.

<sup>25</sup> Throughout this report, imports, U.S. shipments of imports, and U.S. inventories of imports are presented in two categories: imports from China and imports from all other countries. Both parties agree that imports of sebacic acid reported in the official statistics as being from Hong Kong are likely to be Chinese. Conference transcript, p. 111; Petition, p. 3. Additionally, the Hong Kong Census and Statistics Department's *Hong Kong Trade Statistics* records no domestic exports of products classified under Standard International Trade Classification 51389, polycarboxylic acids, nes, to the United States in 1991 and 1992. It does record substantial quantities of such products as re-exports to the United States of previously imported products during those years. All importers reported that the sebacic acid that they imported was produced in China, Japan, or Ukraine. However, one importer noted that, between 1991 and 1993, some of its imports of sebacic acid "passed through Hong Kong's sphere of commerce." Questionnaire response of \*\*\*.

<sup>26</sup> Over the 5-year period 1989-93, apparent U.S. consumption of sebacic acid fluctuated, alternating between strong years (1989, 1991, and 1993) and weak (1990 and 1992). Overall, the volume of sebacic acid declined by \*\*\* percent and the value by \*\*\* percent between 1989 and 1993.

<sup>27</sup> Conference transcript, pp. 48-52; interview with \*\*\*.

<sup>28</sup> Conference transcript, p. 10. See also hearing transcript, p. 59.

<sup>29</sup> "Ivanhoe is selling sebacic acid to customers that had problems sourcing a competing proprietary corrosion inhibitor referred to by DuPont as Corfree." Testimony of Mr. John Hoegl, President, Ivanhoe Industries, Inc. Hearing transcript, p. 99. Mr. Hoegl also stated that his company was conducting a new research project to produce diallyl sebacate for new markets. Hearing transcript, p. 100.

<sup>30</sup> Testimony of Mr. Mario Gaerlan, Product Manager, ICC Trading, Inc. Hearing transcript, p. 117.

Table 1

Sebacic acid: U.S. shipments of domestic product, U.S. shipments of imports, by sources, and apparent U.S. consumption, 1991-93<sup>1</sup>

Item	1991	1992	1993
<i>Quantity (1,000 pounds)</i>			
Producer's U.S. shipments . . . . .	***	***	***
Importers' U.S. shipments:			
China . . . . .	4,637	3,939	5,315
Other sources . . . . .	***	***	***
Total . . . . .	***	***	***
Apparent consumption . . . . .	***	***	***
<i>Value (1,000 dollars)</i>			
Producer's U.S. shipments . . . . .	***	***	***
Importers' U.S. shipments:			
China . . . . .	6,327	4,457	5,814
Other sources . . . . .	***	***	***
Total . . . . .	***	***	***
Apparent consumption . . . . .	***	***	***
<i>Unit value (per pound)</i>			
Producer's U.S. shipments . . . . .	***	***	***
Importers' U.S. shipments:			
China . . . . .	\$1.36	\$1.13	\$1.09
Other sources . . . . .	***	***	***
Average . . . . .	***	***	***
Apparent consumption . . . . .	***	***	***

<sup>1</sup> U.S. shipments are the sum of domestic shipments and company transfers.

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

### U.S. Producer

The petitioner in this investigation, Union Camp, is the only producer of sebacic acid in the United States. Union Camp is a \$3.1 billion (1993 net sales) corporation with operations in four primary areas, ranked in descending order of 1993 net sales: paper and paperboard, packaging, chemicals, and wood products. The conglomerate has a strong overseas presence, both in terms of productive facilities and of exports.

Union Camp's Chemical Group consists of two divisions: Bush Boake Allen, which produces aroma chemicals, flavors and fragrances, essential oils, and spices and seasonings; and the Chemical Products Division, which produces pine pulping and castor oil derivatives. Union Camp

entered the castor oil products field in 1970 with the purchase of the Dover, OH, facility from Pennwalt, Inc., Philadelphia, PA. Union Camp currently produces a variety of castor oil products at the Dover facility, including sebacic acid, hydrogenated castor oil, and 12-hydroxystearic acid.<sup>31</sup>

### U.S. Importers

Imports of sebacic acid enter the United States under HTS subheading 2917.13.00. However, this tariff provision also covers azelaic acid as well as the salts and esters of both azelaic and sebacic acids. The Commission sent importers' questionnaires to 32 companies, including Union Camp, believed to be importing product classified under HTS subheading 2917.13.00. The Commission received responses from 28 firms, 18 of which provided usable data on imports of sebacic acid. Ten companies reported no imports of merchandise corresponding to the product definitions in the Commission's questionnaire, while the remaining four companies have either moved or are no longer in operation.<sup>32</sup> The majority of responding firms reported imports exclusively from China; the other import sources were Japan and Ukraine.

The number of companies importing sebacic acid from China increased from 12 in 1991 to 14 in 1992, then decreased to 13 in 1993.<sup>33</sup> Most of the importers are located in New York or New Jersey, although several are located on the West Coast.

Union Camp was the \*\*\* importer of sebacic acid from China and from all sources combined during 1989-92, and the \*\*\* importer in 1993. Union Camp accounted for \*\*\* percent of the imports from China in 1991, \*\*\* percent in 1992, and \*\*\* percent in 1993.<sup>34</sup>

### U.S. Chemical Manufacturers Using Sebacic Acid

Seven chemical manufacturers accounted for about four-fifths of U.S. consumption of sebacic acid during 1991-93. Table 2 presents a firm-by-firm transfer and purchase history.

Table 2

Sebacic acid: Transfers and purchases by major chemical manufacturers, by sources, 1991-93

\* \* \* \* \*

Union Camp uses sebacic acid in its manufacturing site in Dover, OH. Union Camp's internal consumption of its own sebacic acid, as well as its internal consumption of direct imports and purchases of sebacic acid from other sources, \*\*\* percent of total U.S. consumption between 1991 and 1993, are used to produce \*\*\*.<sup>35</sup> Union Camp reported \*\*\* substitutions for sebacic acid or for its derivatives between 1991 and 1993. It cited \*\*\* as the important reason for importing directly and purchasing sebacic acid from China.

\*\*\* uses sebacic acid in its manufacturing site in \*\*\*. The company's purchases of sebacic acid, \*\*\* percent of total U.S. consumption between 1991 and 1993, are used to produce \*\*\*. \*\*\*

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<sup>31</sup> Conference transcript, p. 30.

<sup>32</sup> Staff estimates that coverage of imports is over 95 percent for China and for other sources.

<sup>33</sup> In 1989 there were only five companies importing sebacic acid from China directly, and in 1990 only six.

<sup>34</sup> Union Camp accounted for \*\*\* percent of imports of sebacic acid from China in 1989 and \*\*\* percent in 1990. Over the 5-year period 1989-93, Union Camp accounted for \*\*\* pounds of sebacic acid imported from China, \*\*\* percent of such imports.

<sup>35</sup> In terms of total consumption of sebacic acid, Union Camp's use of sebacic acid produced \*\*\* to make downstream products accounted for \*\*\* percent of apparent U.S. consumption in 1991, \*\*\* percent in 1992, and \*\*\* percent in 1993.



reported \*\*\* substitutions for sebacic acid or for its derivatives between 1991 and 1993, noting in its questionnaire response that such substitutions "\*\*\*\*." The company purchased sebacic acid from \*\*\*.

Morflex, Inc. (Morflex), a wholly-owned subsidiary of Reilly Industries, is located in Greensboro, NC. Morflex's purchases of sebacic acid, \*\*\* percent of total U.S. consumption between 1991 and 1993, are used to produce \*\*\*. Morflex reported in its questionnaire response an impression that demand for sebacic acid in the United States \*\*\*, but noted that it \*\*\*. Morflex reported \*\*\* substitutions for sebacic acid or for its derivatives between 1991 and 1993. Morflex purchases sebacic acid only from China, citing purity considerations.

Shakespeare Monofilament Division (Shakespeare), a wholly-owned subsidiary of Anthony Industries, is located in Columbia, SC. Shakespeare's purchases of sebacic acid, \*\*\* percent of total U.S. consumption between 1991 and 1993, are used to produce \*\*\*. At the Commission's hearing, an official for Shakespeare stated that, as a result of purchasing imported sebacic acid, "we (Shakespeare) were able to develop new products using this material and grow our business...by \$5 million in sales annually."<sup>36</sup> Shakespeare purchased sebacic acid from Union Camp but \*\*\*.

\*\*\* uses sebacic acid in its manufacturing site in \*\*\*. The company's purchases of sebacic acid, \*\*\* percent of total U.S. consumption between 1991 and 1993, are used to produce \*\*\*. \*\*\* reported \*\*\* substitutions for sebacic acid or for its derivatives between 1991 and 1993. \*\*\* purchased \*\*\*. It has also \*\*\*.

Hatco Corp. (Hatco) uses sebacic acid in its manufacturing site in \*\*\*. Hatco's purchases of sebacic acid, \*\*\* percent of total U.S. consumption between 1991 and 1993, are used to produce \*\*\*. Hatco reported \*\*\* substitutions for sebacic acid or for its derivatives between 1991 and 1993. Hatco purchased sebacic acid from China only, citing \*\*\* as its most important considerations.

\*\*\* is located in \*\*\*. The company's purchases of sebacic acid, \*\*\* percent of total U.S. consumption between 1991 and 1993, are used to produce \*\*\*. \*\*\* reported \*\*\* substitutions for sebacic acid or for its derivatives between 1991 and 1993, noting in its questionnaire that any such substitution would require product approval by the customer. \*\*\* began purchasing sebacic acid from China in 1993, citing quality and cost considerations.

## U.S. Government

The U.S. Government has maintained a stockpile of sebacic acid since 1962. Sebacic acid with a minimum C<sub>10</sub> content of 98.5 percent was purchased originally from the Harchem Division of Wallace Tiernan, Inc., in Dover, OH,<sup>37</sup> for civilian applications (such as the composition of a nylon 6/10 salt) and for certain military applications (such as the production of additives for rocket propellants and aircraft lubricants). The sebacic acid stockpile currently consists of several million pounds maintained by the Defense Logistics Agency in several states.<sup>38</sup>

The Defense Logistics Agency neither purchased nor sold any sebacic acid between 1991 and 1993. However, sales of sebacic acid are planned for fiscal year 1994 (ending September 30, 1994), either by issuing invitations to bid or by negotiated sales.

## Channels of Distribution

The channel structure of the sebacic acid industry is short and narrow. Most sebacic acid produced by Union Camp as well as that imported from China by other companies is sold to

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<sup>36</sup> Testimony of Mr. Barry Johns, Vice President, Manufacturing, Shakespeare, Hearing transcript, p. 109. Details regarding this growth are discussed in the section of this report entitled "Downstream market competition."

<sup>37</sup> This is the same plant that is currently owned by Union Camp.

<sup>38</sup> The Defense Logistics Agency maintains the following stockpiles: \*\*\*.

unrelated chemical manufacturers, though \*\*\* are consumed internally by Union Camp in the production of commercial esters.<sup>39</sup> A small portion of sebacic acid produced by Union Camp and a moderate (but increasing) portion of sebacic acid imported from China is sold through distributors.<sup>40</sup>

The following tabulation and chart (figure 3), based on data submitted in response to the Commission's questionnaires, present a summary of the 1993 channels of distribution used by Union Camp for its domestically-produced sebacic acid, by importers of sebacic acid from China, and by importers of sebacic acid from countries other than China (in percent):

	<u>Shipped to distributors</u>	<u>Consumed internally</u>	<u>Shipped to end users</u>
Share of Union Camp's sebacic acid . . . .	***	***	***
Share of Chinese sebacic acid . . . . .	***	***	***
Share of non-Chinese sebacic acid . . . .	***	***	***
All sebacic acid . . . . .	***	***	***

Figure 3

Sebacic acid: Channels of distribution for U.S. shipments of domestically-produced sebacic acid, sebacic acid from China, sebacic acid from other sources, and all sebacic acid, 1993

\* \* \* \* \*

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

### U.S. Production, Capacity, and Capacity Utilization

The domestic production of sebacic acid by Union Camp is reported in table 3.

Table 3

Sebacic acid: U.S. capacity, production, and capacity utilization, 1991-93

\* \* \* \* \*

Domestic capacity to produce sebacic acid, as adjusted by staff, declined by \*\*\* percent between 1991 and 1992 and by \*\*\* percent between 1992 and 1993. Domestic production fluctuated, declining \*\*\* between 1991 and 1992, then recovering partially in 1993 to a level \*\*\* percent below that in 1991.<sup>41</sup> Capacity utilization declined from \*\*\* to \*\*\* percent between 1991 and 1992, then rose to \*\*\* percent in 1993.<sup>42</sup>

<sup>39</sup> Union Camp consumes its own sebacic acid in the production of \*\*\*. Union Camp consumes its imports of sebacic acid \*\*\* in the production of one product, \*\*\*. Telephone interviews with \*\*\*.

<sup>40</sup> Distributor sales of sebacic acid imported from China increased from \*\*\* to \*\*\* percent between 1992 and 1993. This reflects the increased participation in the sebacic acid market of \*\*\*, the distributor that now provides \*\*\* with a large portion of the sebacic acid which it uses to produce \*\*\*.

<sup>41</sup> Union Camp's production of sebacic acid over the 5-year period 1989-93 peaked in \*\*\*.

<sup>42</sup> Union Camp's utilization of its \*\*\* pound capacity in 1989 and 1990 was \*\*\* and \*\*\* percent, respectively.

Union Camp generally operates its Dover plant \*\*\*. Most of the equipment used to manufacture sebacic acid is completely dedicated to that product; nothing else can be produced on that equipment. However, because of \*\*\*, Union Camp began \*\*\*.<sup>43</sup>

In the second half of 1992, Union Camp experienced a shortage of castor oil due to a tanker ship breakdown. During this period, the company \*\*\*.<sup>44</sup>

#### U.S. Producer's Shipments

The shipments of sebacic acid produced in the United States by Union Camp are presented in table 4. In terms of both quantity and value, internal consumption of sebacic acid by Union Camp<sup>45</sup> increased overall between 1991 and 1993, despite a decline occurring between 1991 and 1992. Domestic shipments of sebacic acid declined throughout 1991-93, both in terms of quantity and of value. The volume and value of export shipments (destined primarily for \*\*\*) declined between 1991 and 1992, but rose \*\*\* between 1992 and 1993.<sup>46</sup>

The reported unit values of Union Camp's company transfers declined by \*\*\* percent between 1991 and 1993. The unit values of domestic shipments, relatively stable between 1991 and 1992, declined in 1993, resulting in a \*\*\* percent net decrease between 1991 and 1993. The unit values of exports, also relatively stable between 1991 and 1992, increased in 1993, resulting in a \*\*\* net increase between 1991 and 1993. The unit values of Union Camp's exports were \*\*\* than the unit values of its domestic shipments \*\*\*.<sup>47</sup>

Table 4

Sebacic acid: Shipments by Union Camp, by types, 1991-93

\* \* \* \* \*

#### U.S. Producer's Imports of Sebacic Acid

In each year during the period for which data were collected, Union Camp accounted for a portion of the total imports and consumption of imported sebacic acid from China. Union Camp consumes internally imported sebacic acid to produce one product, \*\*\*. According to a company official, the high C<sub>10</sub> dibasic acid content of the Chinese sebacic acid \*\*\*.<sup>48 49</sup> The following

<sup>43</sup> Union Camp believes that the appropriate capacity level \*\*\*. Further, if capacity was needed to produce sebacic acid, "\*\*\*\*." Posthearing brief, p. VIII. This basis of measurement would result in a decline in capacity utilization between 1991 and 1992 from \*\*\* to \*\*\* percent and in an increase in 1993 to \*\*\* percent.

<sup>44</sup> Confidential submission by the petitioner, Aug. 12, 1993. The tanker ship carrying \*\*\* of castor oil for Union Camp's operations was scheduled to arrive on \*\*\*; it actually arrived on \*\*\*. Addition to the producer's questionnaire, Apr. 8, 1994.

<sup>45</sup> Union Camp \*\*\*.

<sup>46</sup> Both Union Camp's company transfers and its domestic shipments between 1989 and 1993 peaked in \*\*\*. However, \*\*\*.

<sup>47</sup> A Union Camp official explained that export shipment unit values were \*\*\*. Telephone interview with \*\*\*.

<sup>48</sup> Interviews with \*\*\*. In an addition to its final questionnaire response, Union Camp reported that "\*\*\*\*." Compare with the testimony of Mr. Richard Musgrove, material service manager for Morflex (Greensboro, NC): "To meet customer specifications for (the customer's) product, we must use sebacic acid in our process that has ninety-nine percent purity. This is reflected in our specification that is met consistently by Chinese sebacic acid." Conference transcript, pp. 59 and 60. \*\*\*.

<sup>49</sup> Union Camp provided the Commission with the results of engineering experiments indicating that they could produce a product which \*\*\*. Petitioner's posthearing brief, attachments 3 and 4. However, Union Camp made \*\*\* during the period 1989-93. Telephone interviews with \*\*\*.

tabulation compares Union Camp's total imports of sebacic acid with the production and consumption of its own sebacic acid (in 1,000 pounds).

\* \* \* \* \*

#### U.S. Producer's Inventories

End-of-period inventories reported by Union Camp of the sebacic acid produced in its Dover, OH, facility are presented in table 5.

Table 5

Sebacic acid: End-of-period inventories of Union Camp, 1991-93

\* \* \* \* \*

Inventories of domestically-produced sebacic acid fluctuated erratically, falling by \*\*\* percent between 1991 and 1992, then rising \*\*\* percent between 1992 and 1993, for a net decline of \*\*\* percent between 1991 and 1993. Inventories as a ratio to production, U.S. shipments, and total shipments decreased between 1991 and 1992 and increased between 1992 and 1993, though they remained below 1991 levels. Union Camp reported one unusual occurrence during the period for which data were gathered that would affect inventory levels. In the second half of 1992, Union Camp experienced a shortage of castor oil.<sup>50</sup> As the data indicate, the company's inventories of sebacic acid dropped \*\*\* between December 31, 1991, and December 31, 1992. The situation was resolved in early 1993, and inventories began to rise again in 1993.

Union Camp asserted that it can respond to customers' orders for sebacic acid held in stock within 72 hours. For orders requiring tighter specifications or orders specifying a grade of sebacic acid not in stock at the time of the order, delivery time could extend to one to two weeks.<sup>51</sup>

#### U.S. Employment, Wages, Compensation, and Productivity

Union Camp's work force producing sebacic acid is small, since the production of sebacic acid is not labor intensive. Production employees are limited to \*\*\*.<sup>52</sup> Union Camp's work force producing sebacic acid is represented by the International Chemical Workers Union (local No. 20).

In its questionnaire response, Union Camp provided information on the number of production and related workers, total hours worked by those employees, and the wages and total compensation paid to those employees. The data are presented in table 6.

Table 6

Average number of total employees and production and related workers in the U.S. establishment wherein sebacic acid is produced, hours worked, wages and total compensation paid to such workers, hourly wages and compensation, productivity, and unit labor costs, by products, 1991-93

\* \* \* \* \*

---

<sup>50</sup> As Mr. Deutch noted, "In the second half of 1992 we had some difficulty getting our typical supply of castor oil. It was an industry-wide phenomenon, and it did inhibit our production ability for a short period of time in the second half of last year." Conference transcript, p. 23.

<sup>51</sup> Conference transcript, p. 26.

<sup>52</sup> Interview with \*\*\*.

The average number of production and related workers producing sebacic acid increased from \*\*\* in 1991 and 1992 to \*\*\* in 1993. Hours worked by those workers fluctuated but exhibited net growth during this same time period, declining by \*\*\* percent between 1991 and 1992, then rising by \*\*\* percent between 1992 and 1993. Wages and total compensation declined \*\*\* between 1991 and 1992, then rose \*\*\* in 1993. Hourly wages increased steadily between 1991 and 1993, while hourly total compensation rose between 1991 and 1992 but declined \*\*\* between 1992 and 1993.<sup>53</sup> Unit labor costs rose by \*\*\* percent between 1991 and 1993, climbing \*\*\* between 1991 and 1992, then declining \*\*\* between 1992 and 1993, while the productivity of Union Camp's workers producing sebacic acid fell between 1991 and 1992 and remained \*\*\* percent below the 1991 level in 1993, despite an increase of \*\*\* percent in the latter year.

In its questionnaire, the Commission requested Union Camp to provide detailed information concerning actual reductions in the number of production and related workers producing sebacic acid if such reductions involved at least 5 percent of the work force or more than 50 workers. Union Camp reported a permanent reduction of its work force producing sebacic acid by \*\*\* workers, from \*\*\* in \*\*\* to \*\*\* in \*\*\*. In \*\*\*, Union Camp expanded its work force producing sebacic acid to \*\*\*. A spokesman for Union Camp explained that the company found that it had "cut too deeply and didn't have sufficient staff to man the operation."<sup>54</sup>

### Financial Experience of the U.S. Producer

The sole producer, Union Camp, furnished financial data on its overall establishment operations and on its operations producing sebacic acid.

#### Overall Establishment Operations

Union Camp is primarily a producer of paper, paperboard, and packaging products. In 1993, its total net sales were \$3.1 billion. Chemical products sales were \$519 million, or approximately 17 percent of sales.<sup>55</sup>

Union Camp's facility in Dover, OH, produces the subject product and other chemicals (fatty acids, esters, dimers, and polyamides). In 1993, overall establishment sales were \*\*\*. Sebacic acid sales (excluding intraplant transfers) were \*\*\* million, or \*\*\* percent of total establishment sales. The overall establishment income-and-loss data are presented in table 7.

Table 7

Income-and-loss experience of Union Camp on the overall operations of its establishment wherein sebacic acid is produced, fiscal years 1991-93

\* \* \* \* \*

#### Operations on Sebacic Acid

Union Camp's sales consist of \*\*\*.

According to its questionnaire response, \*\*\*.<sup>56</sup> This methodology is unacceptable for purposes of the Commission's questionnaires, which direct that transfers be valued according to market prices. Accordingly, intraplant transfers of sebacic acid were revalued by Commission staff to the average

<sup>53</sup> In contrast to its practice in previous years, Union Camp \*\*\*. Telephone interview with \*\*\*.

<sup>54</sup> Hearing transcript, p. 72.

<sup>55</sup> *Union Camp Corporation 1993 Annual Report*, p. 40.

<sup>56</sup> Telephone interview with \*\*\*.

domestic commercial sales price for each year less \*\*\* per pound (the cost of \*\*\* product destined for the commercial market).

The income-and-loss experience of Union Camp's sebacic acid sales is presented in table 8. Net sales declined by \*\*\* percent, from \*\*\* in 1991 to \*\*\* in 1992. In 1993, sales were \*\*\*, an increase of \*\*\* percent from 1992. Operating income was \*\*\* in 1991, \*\*\* in 1992, and \*\*\* in 1993. Operating income ratios, as a share of net sales, were \*\*\* percent in 1991, \*\*\* percent in 1992, and \*\*\* percent in 1993.<sup>57</sup>

Table 8

Income-and-loss experience of Union Camp on its operations producing sebacic acid, fiscal years 1991-93

\* \* \* \* \*

Union Camp's average export selling price was \*\*\*.

#### Per-Unit Analysis

A summary of Union Camp's income-and-loss data on sebacic acid on a dollars-per-pound basis is shown in table 9. The product mix shifted between 1991 and 1993 toward \*\*\*. In 1991 the volume of domestic sales was \*\*\* percent of all shipments, whereas in 1993 it was \*\*\* percent.

Table 9

Summary of Union Camp's sebacic acid income-and-loss data on a dollars-per-pound basis, fiscal years 1991-93

\* \* \* \* \*

A summary of income-and-loss data presented in tables 8 and 9 and Union Camp's original questionnaire submission in the final investigation (which showed transfers at a lower than market cost) is presented in the following tabulation (in 1,000 dollars, except as noted).

\* \* \* \* \*

#### Verification of Union Camp's Data

Union Camp's data were verified both at its Dover, OH, plant and at its Wayne, NJ, corporate headquarters. The following summarizes some of the findings:

1. There were minor adjustments in \*\*\*.
2. The aggregate domestic shipment (sales) value for all of 1993 is \*\*\* per pound as opposed to \*\*\* per pound in 1992. The unit values \*\*\*, as shown below:

\* \* \* \* \*

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<sup>57</sup> Income-and-loss data for the second half of 1992 may have been affected by \*\*\* a delay in receiving a shipment of castor oil, the primary raw material for the production of sebacic acid.

## Cost of Production/Cost of Goods Sold

The raw material cost is primarily the cost of castor oil less by-product credits for rolic acid and capryl alcohol. Castor oil is the \*\*\* of producing sebacic acid, accounting for \*\*\* percent of production costs (net) in 1991, \*\*\* in 1992, and \*\*\* in 1993. Union Camp's purchase prices of castor oil declined \*\*\* between 1989 and 1991, and continued to decline between 1991 and 1993.

Union Camp purchases castor oil \*\*\*.<sup>58</sup> The following tabulation presents a summary of Union Camp's castor oil purchases (for use in the production of all of its castor oil derivatives) between 1989 and 1993:

\* \* \* \* \*

Other materials costs in the production of sebacic acid include the cost of reagents, such as caustic soda, caustic potash, sulfuric acid, and carbon. Direct labor costs are relatively low, although \*\*\*. The \*\*\* increase in maintenance materials and labor between 1991 and 1993 reflects \*\*\*. These items are not allocated from the establishment data. Union Camp's cost of production for sebacic acid is presented in appendix D, table D-1.

## Investment in Productive Facilities

Union Camp purchased the Dover, OH, facility in the early 1970s, according to \*\*\*. The previous owner did not maintain separate product records. \*\*\*.<sup>59</sup> Union Camp \*\*\*.<sup>60</sup> As noted in table 8, there was \*\*\* depreciation expense for sebacic acid during the period for which data were collected; the amounts shown were principally for \*\*\*.

\*\*\*.<sup>61</sup> At the Commission's hearing, Mr. Deutch estimated that it would cost in excess of \$20 million to build a brand-new sebacic acid plant.<sup>62</sup>

Union Camp's investment in property, plant, and equipment is shown in table 10.

Table 10

Value of assets of Union Camp's establishment wherein sebacic acid is produced, fiscal years 1991-93

\* \* \* \* \*

## Capital Expenditures

Union Camp's capital expenditures are shown in table 11. In its questionnaire response, Union Camp reported \*\*\*. According to \*\*\*, \*\*\*.<sup>63</sup>

Table 11

Capital expenditures by Union Camp on its overall establishment and sebacic acid operations, fiscal years 1991-93

\* \* \* \* \*

<sup>58</sup> \*\*\*.

<sup>59</sup> As a result, \*\*\*.

<sup>60</sup> Telephone interview with \*\*\*.

<sup>61</sup> \*\*\*.

<sup>62</sup> Hearing transcript, p. 70.

<sup>63</sup> Telephone interview with \*\*\*.

## Research and Development

Research and development expenses for the overall establishment and sebacic acid are shown in the following tabulation (in 1,000 dollars):

\* \* \* \* \*

## Capital and Investment

The Commission requested Union Camp to describe and explain the actual and potential negative effects of imports of sebacic acid from China on its growth, investment, ability to raise capital, or existing development and production efforts (including efforts to develop a derivative or improved version of sebacic acid). Its responses to this question are presented in appendix D.

### CONSIDERATION OF THE QUESTION OF THREAT OF MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES

Section 771(7)(F)(i) of the Act (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<sup>64</sup>--

(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,

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<sup>64</sup> 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."



(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.<sup>65</sup>

Information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV)) is presented in the section entitled "Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury;" and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in the section entitled "Consideration of Alleged Material Injury to an Industry in the United States." Available information on U.S. inventories of the subject products (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), and (VIII)); any other threat indicators, if applicable (item (VII)); and any dumping in third-country markets, follows. Items (I) and (IX) have not been alleged or are otherwise not applicable.

### **U.S. Importers' Inventories**

End-of-period inventories of imported sebacic acid are presented in table 12. Such inventories, both from China and from other countries, increased sharply between December 31, 1991, and December 31, 1992, then declined between December 31, 1992, and December 31, 1993.<sup>66</sup> End-of-period inventories of sebacic acid from China as a ratio to imports, U.S. shipments of imports, and total shipments of imports exhibited a steep increase between 1991 and 1992 and a

---

<sup>65</sup> 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."

<sup>66</sup> \*\*\*

less steep decline between 1992 and 1993. Inventories of sebacic acid from other countries as a ratio to imports, U.S. shipments of imports, and total shipments of imports declined sharply between 1991 and 1992 and, except for the ratio to imports, declined further between 1992 and 1993.

Table 12

Sebacic acid: End-of-period inventories of U.S. importers, by sources, 1991-93

Item	1991	1992	1993
<i>Quantity (1,000 pounds)</i>			
China .....	140	***	980
Other sources .....	***	***	***
Total .....	***	***	***
<i>Ratio to imports (percent)</i>			
China .....	3.2	***	19.5
Other sources .....	***	***	***
Average .....	***	***	***
<i>Ratio to U.S. shipments of imports (percent)</i>			
China .....	3.0	***	18.4
Other sources .....	***	***	***
Average .....	***	***	***
<i>Ratio to total shipments of imports (percent)</i>			
China .....	3.0	***	18.4
Other sources .....	***	***	***
Average .....	***	***	***

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

### U.S. Importers' Current Orders

During the first 3 months of 1994, official import statistics from the Department of Commerce indicate that imports of sebacic acid from China amounted to approximately 300,000 pounds. In its questionnaire, the Commission requested importers to indicate whether they had imported, or arranged for the importation of, sebacic acid from China for delivery after December 31, 1993. Three importers reported that they had made such arrangements and that they expect approximately 600,000 pounds of sebacic acid to be delivered during the first 6 months of 1994.<sup>67</sup>

<sup>67</sup> Importers \*\*\*. If the expectations of these three companies are accurate and if no other companies import sebacic acid from China, the level of such imports for January-June 1994 would decline by over two-thirds from the level reported for January-June 1993 in the preliminary investigation.

These expectations appear to reflect the curtailment of purchases of sebacic acid from China by Union Camp and Morflex \*\*\*.<sup>68</sup>

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

#### China

The industry producing sebacic acid in China during 1991-93 was composed of 14 companies, none of which is represented by counsel. However, four Chinese export companies, Sinochem International Chemicals Co., Sinochem Jiangsu Import & Export Corp., Tianjin Chemicals Import & Export Corp., and Guangdong Chemicals Import & Export Corp., are represented by counsel, as is the Chinese Chamber of Commerce for Metals, Minerals, and Chemicals. The data presented in table 13, provided to the Commission by the Chinese Chamber of Commerce for Metals, Minerals, and Chemicals, are believed to represent virtually all Chinese sebacic acid production and shipments to the United States and to other countries (counsel noted that exports of sebacic acid from China are not restricted by antidumping findings in markets other than in the United States).<sup>69</sup> The Commission also requested information regarding the industry producing sebacic acid in China from the U.S. Embassy in Beijing and from the Ministry of Foreign Trade and Economic Cooperation (MOFTEC), also in Beijing, but neither the U.S. Embassy nor MOFTEC responded to the Commission's requests for data.

The Chinese Chamber of Commerce for Metals, Minerals, and Chemicals reported that there were 14 companies producing sebacic acid in China during 1991-93, including a few believed to have ceased producing sebacic acid in 1993 because of difficulty obtaining raw materials and because of uncompetitive operations, and low quality of the finished product.<sup>70</sup> The three largest sebacic acid plants, \*\*\*, \*\*\*, and \*\*\*, accounted for \*\*\* percent of Chinese capacity to produce sebacic acid and \*\*\* percent of sebacic acid production in 1993. Although the sebacic acid production facilities at the plants vary in terms of age from 4 to 29 years, all such plants are believed to use production processes based on the splitting of ricinoleic acid.<sup>71</sup>

The companies producing sebacic acid sell directly into the domestic (Chinese) market, but conduct foreign sales through trading companies (which, in turn, do not sell in the domestic market).<sup>72</sup> Sebacic acid is shipped by truck or by rail from the plant to the warehouse of the trading company, which, at least in one case, is port proximate.<sup>73</sup> The trading companies export most sebacic acid to three regions: Western Europe, Asia (primarily Japan, Hong Kong, and South Korea), and North America (primarily the United States). These companies sell sebacic acid \*\*\*. While they do not use long-term contracts in any of the regions, the trading companies do have long-standing business relations in each region.<sup>74</sup>

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<sup>68</sup> Hearing transcript, pp. 27, 110, and 111. Union Camp and Morflex accounted for \*\*\*. Details regarding \*\*\*.

<sup>69</sup> Conference transcript, p. 82. The other primary export markets are Japan, Hong Kong, and Western Europe.

<sup>70</sup> Letter from counsel for the respondents, June 6, 1994, and interview with \*\*\*.

<sup>71</sup> Letter from counsel for the respondents, June 6, 1994, and interview with \*\*\*.

<sup>72</sup> The trading companies limit the number of suppliers with which they deal and do not repackage the sebacic acid from the plants.

<sup>73</sup> \*\*\*.

<sup>74</sup> Interview with \*\*\*.

Table 13

Sebacic acid: China's capacity, production, inventories, capacity utilization, and shipments, 1991-93 (actual) and 1994-95 (projected)<sup>1</sup>

Item	Actual--			Projected--	
	1991	1992	1993	1994	1995
Quantity (1,000 pounds)					
Capacity . . . . .	22,487	22,707	23,589	23,810	23,810
Production . . . . .	19,524	21,557	20,035	22,928	23,810
Inventories . . . . .	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
Shipments:					
Domestic (China) <sup>3</sup> . . . . .	3,417	4,043	5,540	7,716	8,818
Exports: <sup>4</sup>					
United States . . . . .	3,631	4,453	4,676	( <sup>2</sup> )	( <sup>2</sup> )
Other countries . . . . .	12,004	10,562	12,888	( <sup>2</sup> )	( <sup>2</sup> )
Total exports . . . . .	15,635	15,016	17,564	13,228	13,669
Total shipments . . . . .	19,052	19,059	23,104	20,944	22,487
Ratios and shares (percent)					
Capacity utilization . . . . .	86.8	94.9	84.9	96.3	100.0
Share of total shipments:					
Domestic (China) <sup>3</sup> . . . . .	17.9	21.2	24.0	36.8	39.2
Exports: <sup>4</sup>					
United States . . . . .	19.1	23.4	20.2	( <sup>2</sup> )	( <sup>2</sup> )
Other countries . . . . .	63.0	55.4	55.8	( <sup>2</sup> )	( <sup>2</sup> )
Total exports . . . . .	82.1	78.8	76.0	63.2	60.8
Share of total exports:					
United States . . . . .	23.2	29.7	26.6	( <sup>2</sup> )	( <sup>2</sup> )
Other countries . . . . .	76.8	70.3	73.4	( <sup>2</sup> )	( <sup>2</sup> )

<sup>1</sup> Data include information from 14 chemical manufacturers, believed to represent 100 percent of Chinese production and shipments of sebacic acid. Data regarding actual and projected inventory levels and the projected composition of export shipments are not available.

<sup>2</sup> Not provided.

<sup>3</sup> According to testimony by Mr. Fei Wang of Tianjin Chemical Import & Export Corp. at the Commission's hearing, "The plasticizer, nylon 10/10, and lubricants industry in China is undergoing major expansion right now and there will be a substantial increase in domestic demand for sebacic acid in China." Hearing transcript, p. 127.

<sup>4</sup> Shipments to and through Hong Kong are included as "exports to other countries."

<sup>5</sup> Not applicable.

Source: Compiled from data submitted by the Chinese Chamber of Commerce for Metals, Minerals, and Chemicals, through counsel for the respondents, June 6, 1994.

## Nonsubject Countries

Only two nonsubject countries are known to have industries producing sebacic acid and exporting it to the United States: Japan and Ukraine. A third country, India, has been identified by the Indian Chemical Manufacturers Association as a country that produces sebacic acid.

The industry producing sebacic acid in Japan consists of two companies, Kokura Synthetic Industries, Ltd. (in Fukuoka), and Hokoku Oil Mill Co., Ltd. (in Osaka).<sup>75</sup> The Japanese production process is believed to be similar to that employed by the sebacic acid industry in China, with one possible exception. Japanese sebacic acid is dissolved in solution and crystallized twice, resulting in a product with a C<sub>10</sub> content of 99.8 percent.<sup>76</sup> Although the Japanese industry does export sebacic acid (it began exporting to the United States in 1991), Japan as a whole is a net importer of sebacic acid, primarily from China.

The industry producing sebacic acid in Ukraine consists of one known company, \*\*\*,<sup>77</sup> a manufacturer of fabrics, organic and mineral acids, nitrogen fertilizers, and other chemicals. \*\*\* is believed to produce sebacic acid through \*\*\* rather than through caustic oxidation of castor oil; the resulting product has been exported to the United States and employed successfully in \*\*\*.<sup>78</sup>

According to the Indian Chemical Manufacturers Association, Standard Industries, Ltd. (in Bombay), is the only manufacturer of sebacic acid in India. At the request of Commerce, the U.S. Foreign and Commercial Service in Bombay sought production information from that company but received none.<sup>79</sup>

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

### U.S. Imports

Data on U.S. imports of sebacic acid, collected by the Commission through its questionnaires, are presented in table 14.<sup>80</sup> In terms of quantity, imports of sebacic acid from China increased by 18.6 percent between 1991 and 1992, then decreased by 2.5 percent between 1992 and 1993. In terms of value, imports of sebacic acid from China decreased by 11.8 percent between 1991 and 1992 and by 6.0 percent between 1992 and 1993. The unit values of imports of sebacic acid from China declined by \$0.32 per pound (25.6 percent) between 1991 and 1992 and by \$0.03 per pound (3.2 percent) between 1992 and 1993.<sup>81</sup>

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<sup>75</sup> Published reports indicate that Hokoku, as one partner in a joint venture, will establish a new castor oil plant in China during the summer of 1994. Hokoku will continue producing castor oil derivatives in its domestic (Japanese) plant. Excerpt from *Japan Chemical Week*, Sept. 23, 1993, p. 12.

<sup>76</sup> Conference transcript, p. 70.

<sup>77</sup> Questionnaire responses of \*\*\*.

<sup>78</sup> Questionnaire response of \*\*\* and telephone interviews with \*\*\*.

<sup>79</sup> Cable Message 06142 (Bombay).

<sup>80</sup> Import data based on Commerce's official statistics for HTS subheading 2917.13.00 are presented in app. E. The subheading includes not only sebacic acid but also azelaic acid and salts and esters of azelaic and sebacic acid.

<sup>81</sup> Counsel for the respondents stated at the conference that "as a result of the Gulf War, a number of contracts were cancelled. People brought in a lot of stuff (sebacic acid) hoping to get around the Gulf War and contracts were cancelled and that caused some of the price decline. Frankly, another cause of the price decline was not only the drop in castor oil but Union Camp. Union Camp was one of the most substantial importers of sebacic acid into the United States." Conference transcript, p. 114. The unit values of Union Camp's imports of sebacic acid from China \*\*\*. Most end users purchase sebacic acid from an importer or through a distributor and pay \*\*\* than \*\*\*.

Table 14  
Sebacic acid: U.S. imports, by sources, 1991-93

Item	1991	1992	1993
<i>Quantity (1,000 pounds)</i>			
China . . . . .	4,351	5,159	5,031
Other sources . . . . .	53	474	232
Total . . . . .	4,404	5,633	5,263
<i>Value (1,000 dollars)</i>			
China . . . . .	5,437	4,794	4,505
Other sources . . . . .	89	820	407
Total . . . . .	5,526	5,614	4,912
<i>Unit value (per pound)</i>			
China . . . . .	\$1.25	\$0.93	\$0.90
Other sources . . . . .	1.68	1.73	1.75
Average . . . . .	1.25	1.00	.93
<i>Share of total quantity (percent)</i>			
China . . . . .	98.8	91.6	95.6
Other sources . . . . .	1.2	8.4	4.4
Total . . . . .	100.0	100.0	100.0
<i>Share of total value (percent)</i>			
China . . . . .	98.4	85.4	91.7
Other sources . . . . .	1.6	14.6	8.3
Total . . . . .	100.0	100.0	100.0

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

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

Imports of sebacic acid from nonsubject countries (Japan and Ukraine) rose noticeably in terms of quantity and value between 1991 and 1992, but declined between 1992 and 1993. Unit values for such imports increased throughout the period for which data were collected, rising by 3.0 percent between 1991 and 1992 and by 1.2 percent between 1992 and 1993.

Imports of sebacic acid (by quantity) from China decreased as a share of total imports of sebacic acid between 1991 and 1992 and increased as a share of total imports between 1992 and 1993 to a level below 1991. In all 3 years the quantity imports of sebacic acid from China was greater than 90 percent of the total quantity of imports. Imports of sebacic acid from China (by

value) exhibited a similar trend, although in 1992 imports of sebacic acid from China accounted for 85.4 percent of total sebacic acid imports.

As noted earlier, Union Camp accounted for a portion of the imports of sebacic acid into the United States during each year during the period for which data were collected. The tabulation shown on the following page presents Union Camp's imports separately from those of all other sebacic acid importers (in 1,000 pounds):

\* \* \* \* \*

### Market Shares

Market shares (based on U.S. shipments) of the U.S. producer, importers of sebacic acid from China, and importers of sebacic acid from countries other than China are presented in table 15.

Table 15

Sebacic acid: Shares of apparent U.S. consumption, by sources, 1991-93

\* \* \* \* \*

In terms of quantity, the share of the total U.S. market held by sebacic acid produced by Union Camp fell by \*\*\* percentage points between 1991 and 1992 and by \*\*\* percentage points between 1992 and 1993. The share held by importers of sebacic acid from China decreased by \*\*\* percentage points between 1991 and 1992 but increased by \*\*\* percentage points between 1992 and 1993.<sup>82</sup> The market share held by imports of sebacic acid from all other countries increased by \*\*\* percentage points between 1991 and 1992 but declined by \*\*\* percentage points between 1992 and 1993.

In terms of value, the share of the total U.S. market held by sebacic acid produced by Union Camp increased by \*\*\* percentage points between 1991 and 1992 but decreased by \*\*\* percentage points between 1992 and 1993. The share held by all importers of sebacic acid from China decreased by \*\*\* percentage points between 1991 and 1992 but increased by \*\*\* percentage points between 1992 and 1993. The market share held by imports of sebacic acid from all other countries increased by \*\*\* percentage points between 1991 and 1992 but decreased by \*\*\* percentage points between 1992 and 1993.

Because Union Camp is both a producer of sebacic acid and an importer that consumes sebacic acid internally, its actual share of U.S. apparent consumption of sebacic acid is understated in table 15. Union Camp's market share, based on the quantity of sebacic acid which it actually consumed internally plus that which it sold in the United States in the open market is presented in the following tabulation (in percent):

\* \* \* \* \*

Union Camp's actual share of U.S. apparent consumption declined by \*\*\* percentage points between 1991 and 1993, from \*\*\* to \*\*\* percent.<sup>83</sup>

<sup>82</sup> The market share of U.S. shipments of imports from China, excluding such imports by Union Camp, was \*\*\* percent in 1991, \*\*\* percent in 1992, and \*\*\* percent in 1993.

<sup>83</sup> Union Camp's actual shares of U.S. apparent consumption of sebacic acid in 1989 and 1990 were \*\*\*.

## Prices

### Marketing Characteristics

Domestic and Chinese sebacic acid are both used in the United States primarily to produce plasticizers and nylon 6/10 for the U.S. market and for export and, secondarily, to produce other products such as rust inhibitors, resins, coatings, and adhesives. U.S. demand for sebacic acid is derived from the demand for the U.S.-produced downstream products using sebacic acid, which, in turn, is influenced by the availability and relative prices of sebacates produced by foreign producers. In addition, demand for the U.S.-produced sebacates is influenced somewhat by the availability and relative prices of other acid-based products that compete with sebacic acid-based products.<sup>84</sup>

Sebacic acid grades/types are differentiated primarily by one or more of the following product characteristics: ash content, color, and C<sub>10</sub> content. Lower ash content, lighter color, and/or higher C<sub>10</sub> content are generally desirable attributes for many downstream product uses and are even critical for some uses. Consistency in the levels of these product characteristics is also an important consideration; for some end users it can be the most important consideration.

Union Camp produces three grades of sebacic acid, each of which typically contains 200 ppm ash: nylon grade (500 ppm maximum ash content, a typical APHA color value of 5,<sup>85</sup> and 95 percent C<sub>10</sub> content); CP grade (500 ppm maximum ash content, a typical APHA color scale value of 10, and 95 percent C<sub>10</sub> content), and purified grade (1,000 ppm maximum ash content, a typical APHA color scale value of 15, and 93.6 percent C<sub>10</sub> content). Nylon grade is considered Union Camp's highest quality sebacic acid and its list price is slightly higher (1 cent per pound) than the list price of the other two grades. Union Camp sells its nylon-grade product \*\*\* to producers of nylon 6/10 and the CP and purified grades mostly to producers of plasticizer esters and other sebacates.<sup>86</sup>

The Chinese offer two types of sebacic acid; regular-ash (600 ppm maximum ash content) and low-ash (300 ppm maximum ash content). Both types have a C<sub>10</sub> content of 99.5 percent. Although the regular-ash product accounted for the majority of total U.S. imports of Chinese sebacic acid during 1991-93, the low-ash product has steadily increased its share of the subject imports during this period. The low-ash product has sometimes been priced \*\*\* cents per pound higher than the regular-ash product; however, U.S. importers reported that this price differential does not always hold.

Sebacic acid is priced by the pound. Union Camp generally sells its sebacic acid on an f.o.b. price basis, whereas the importers showed a mixed pattern of sales on U.S. f.o.b. and delivered price bases. During 1993, Union Camp consumed internally \*\*\* percent of its U.S. shipments of domestically produced sebacic acid, sold \*\*\* percent to other end users, and sold the remaining \*\*\* percent to distributors. At the same time, \*\*\* percent of the imported Chinese sebacic acid was consumed internally (primarily by Union Camp), \*\*\* percent was sold to other U.S. end users, and the remaining \*\*\* percent was sold to U.S. distributors.<sup>87</sup>

Union Camp reported selling its three grades of sebacic acid \*\*\* during January 1991-June 1993. The list price for Union Camp's three grades of sebacic acid has been \$2.05 per pound for its

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<sup>84</sup> The nature of chemical products almost always precludes direct substitution of a different input chemical without changing the inherent chemical composition of the downstream product. As a result, no other input chemicals substitute directly for sebacic acid. Other acid-based downstream products, however, may substitute for the sebacates in some uses. Based on purchaser questionnaire responses, such substitution appears limited.

<sup>85</sup> APHA is a platinum-cobalt color scale for 4-percent sebacic acid dissolved in ethanol. The lower the APHA scale number the lighter the color of sebacic acid.

<sup>86</sup> During 1991, \*\*\*.

<sup>87</sup> Union Camp uses part of its domestically produced sebacic acid captively to produce esters for use as \*\*\* and all of the sebacic acid that it imports to produce a \*\*\*.



nylon grade and \$2.04 per pound for its purified and CP grades. Peter Deutch of Union Camp reported that \*\*\*. However, Union Camp \*\*\*.

U.S. importers reported not using list prices for their sales of Chinese sebacic acid, instead relying on specific customer negotiations and current market demand. Some importers reported that they just add a profit margin to their costs of importing the product from China. Ten of 11 responding U.S. importers, accounting for more than 95 percent of total U.S. imports of the Chinese sebacic acid during 1991-93, reported that castor oil prices have influenced the price of Chinese sebacic acid,<sup>88</sup> whereas Union Camp reported that castor oil prices have not influenced its selling prices of the U.S.-produced sebacic acid.<sup>89</sup> Castor oil represented approximately \*\*\* percent of the total cost of producing the domestic sebacic acid during 1991-93.

In response to a question in the purchaser questionnaire on what factors purchasers consider most important in choosing between the domestic and Chinese sebacic acid, quality and price were cited most frequently. In addition, purchasers were asked for the three most important factors, in descending order of importance, that they considered in deciding which supplier to purchase sebacic acid from. Quality, price, and availability were typically reported.<sup>90</sup>

Union Camp reported that its average order lead times for sales shipments from inventory ranged between \*\*\* and U.S. importers reported order lead times from U.S. inventories typically ranging between 1 and 2 days. Union Camp's produce-to-order lead times ranged from 1 to 2 weeks, while importer's order lead times for sales shipments that had to be ordered from China typically ran from 1 to 3 months. Sales terms are typically \*\*\* for the U.S. producer and U.S. importers. The U.S. producer, importers, end users, and distributors reported that transportation costs are not an important factor in the sale/purchase of sebacic acid and are generally \*\*\* percent or less of the delivered price of the product. The majority of domestic end users and distributors of sebacic acid are located in the eastern and midwestern United States.

The degree of competition in the supply of sebacic acid to the U.S. market also affects prices of sebacic acid in the United States.<sup>91</sup> Union Camp has been and continues to be a primary source of sebacic acid to many U.S. end users of the product. At the same time, Union Camp competes with some of its end-user customers in the downstream market for sebacate plasticizers. Most end users reported that Union Camp sets the selling price of sebacic acid and generally would not change it, even during a period of declining castor oil prices.<sup>92</sup> Faced with competition from Chinese imports

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<sup>88</sup> \*\*\*, one of the responding importers, reported that sellers of the Chinese sebacic acid typically use changes in castor oil prices to justify changes in sebacic acid prices, but felt that Chinese sebacic acid prices do not correlate with changes in U.S. prices for castor oil. Prices of castor oil in the Chinese market (which were not available), however, are likely a better indicator of any effect castor oil has on the prices of Chinese-produced sebacic acid.

<sup>89</sup> Conference transcript, p. 32. \*\*\*. Telephone interview with \*\*\*.

<sup>90</sup> Indicative of the purchaser questionnaire responses were those of the top six end-user purchasers of sebacic acid (excluding Union Camp), accounting for \*\*\* percent of apparent U.S. consumption of sebacic acid during 1991-93. These firms responded as follows to the question asking, in descending order of importance, for the three major purchase factors: \*\*\*. As a purchaser, Union Camp, which accounted for \*\*\* percent of total U.S. apparent consumption of sebacic acid during 1991-93, reported that its three most important purchase factors were "\*\*\*\*."

<sup>91</sup> Union Camp's U.S. f.o.b. unit values of its exports of sebacic acid \*\*\* during 1991-93. Union Camp exports primarily to Europe, where it competes with Chinese imports of sebacic acid that are not affected by the U.S. antidumping investigation.

<sup>92</sup> \*\*\*.

of sebacic acid, which were priced lower than Union Camp's sebacic acid, \*\*\*.<sup>93</sup> End users reported in their questionnaire responses that \*\*\* importers' prices of the Chinese material have increased.<sup>94</sup>

The producer, importers, and purchasers were asked to report in their questionnaire responses how U.S. imports of sebacic acid from countries other than China may have affected prices of sebacic acid in the United States. \*\*\* responded to this question and identified U.S. imports of sebacic acid from Japan and Ukraine as "other country" sources. \*\*\* felt that imports of Ukrainian product have kept prices from rising in the U.S. market but that imports of Japanese sebacic acid have acted to firm up prices. The other responding firms asserted that imports of Japanese and Ukrainian sebacic acid had no effect on sebacic acid prices in the U.S. market. \*\*\* commented that the volumes of these third-country imports of sebacic acid were too limited to have an effect on U.S. market prices. \*\*\* was the only other firm providing specific comments and noted that the Japanese sebacic acid was high priced. \*\*\* did not respond directly to the question but reported that it was not aware of any third-country imports of sebacic acid.

### *Supply disruptions*

The Commission requested the U.S. producer and importers to report in their questionnaire responses whether they were ever unable to supply sebacic acid to a customer in a timely manner at prevailing prices and in the quantities desired during 1991-93. \*\*\* reported supply problems in the U.S. market. Union Camp reported that a delay of a shipment of castor oil from India \*\*\*.

### *Downstream market competition*

Beginning in mid- to late 1993 and continuing into 1994, \*\*\*, two U.S. producers of plasticizers, \*\*\*. The increase in the price of the Chinese sebacic acid, resulting at least partially from anticipated antidumping duties and from actual increases in castor oil prices, reduced the price competitiveness of both firms. In addition, there were also concerns about availability of the Chinese sebacic acid in the U.S. market, given the potential duties. \*\*\*.<sup>95</sup> Appendix table F-1 shows Union Camp's selling prices of the various sebacates it produces, including the \*\*\*.<sup>96</sup>

\*\*\* reported that it lost an opportunity to sell \*\*\*. \*\*\* reportedly won the sale because it was able to buy sebacic acid at a lower price than \*\*\*. \*\*\*.

\*\*\* noted in its questionnaire response that \*\*\* it was able to displace some of \*\*\*. \*\*\*.<sup>97</sup> This latter business increased \*\*\*'s sebacic acid needs by \*\*\*.<sup>98</sup>

\*\*\*.

### *Substitutes*

Four of 16 responding end users indicated in their questionnaire response that substitution between sebacates and other acid-based products was possible; azelates, Corfree, and adipates were

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<sup>93</sup> \*\*\*.

<sup>94</sup> \*\*\* reported in their questionnaire responses that prices of sebacic acid from China had risen in 1994, primarily due to Commerce's calculation of dumping margins of 20.01 to 243.40 percent in its December 27, 1993, preliminary determination of LTFV sales. These companies also attributed the rising price of sebacic acid to increases in the price of castor oil. \*\*\* reported that they had been unable to contract to purchase sebacic acid from China because of the uncertainty over price and availability of sebacic acid from China following the preliminary Commerce determination of LTFV sales.

<sup>95</sup> Telephone interviews with \*\*\*.

<sup>96</sup> \*\*\*. Interview with \*\*\*.

<sup>97</sup> \*\*\*. Telephone interview with \*\*\*.

<sup>98</sup> Telephone interviews with \*\*\*.

most frequently mentioned as possible substitutes for sebacates. Only three instances of actual substitution with sebacates were reported by end users, however, one by \*\*\*, one by \*\*\*, and one by \*\*\*. These three downstream products involve limited uses for sebacic acid. \*\*\*.

To the extent that low-priced Chinese sebacic acid may have broadened markets, it was primarily through competition in the U.S. and foreign markets between sebacic acid esters and polyamides produced in the United States and those produced abroad. Recent increases in prices of the Chinese sebacic acid and questions regarding its availability, however, have apparently curtailed market expansion based on competition between U.S.-produced and foreign-produced sebacic acid esters and polyamides. Substitution between sebacates and nonsebacates appears to have been limited.

### *Product comparisons*

U.S. producer, importer, and purchaser questionnaires requested that the responding firms discuss any differences between the domestic and subject imported sebacic acid that would explain differences in prices. The responding firms noted that the Chinese sebacic acid had a higher C<sub>10</sub> content than Union Camp's product, but that Union Camp's sebacic acid typically had a lower ash content than the Chinese products. The responding firms generally considered that, on balance, the quality of the Chinese sebacic acid had improved greatly in recent years and was at least comparable to, and in some cases superior to, that of the domestic product.<sup>99</sup>

\*\*\* indicated in its questionnaire response.<sup>100</sup> \*\*\* uses \*\*\* for \*\*\*.<sup>101</sup> \*\*\* noted that it has found \*\*\* to be acceptable as well and would switch to that material \*\*\*.

Although the U.S.-produced and Chinese sebacic acid are sold to the same end-use markets, the subject imports are not necessarily used in the same derivative products as the domestic sebacic acid. A notable example involved \*\*\*.<sup>102</sup> \*\*\*. In this application, \*\*\* and \*\*\* Chinese sebacic acid were not substitutable with the domestic sebacic acid. This example represents a sizable market impact in that \*\*\* for \*\*\* percent of total imports of Chinese sebacic acid during 1991-93.<sup>103</sup> Other examples, which were more limited in volume, were cited by \*\*\*, where the domestic and imported products were not substitutable. \*\*\* reported \*\*\*.

The costs to get a new source of sebacic acid approved also tend to limit the substitutability of domestic and Chinese sebacic acid for some products. \*\*\* reported that the costs of new testing and potential downstream product liability problems discourage shifting among various grades or types of sebacic acid once a particular grade or type has been qualified.

### *Questionnaire Price Data*

The Commission requested selling price and quantity information from the U.S. producer and importers for their quarterly sales of U.S.-produced and imported Chinese sebacic acid during the period January 1991-December 1993. The U.S. producer and importers were requested to identify the specific grade or type of sebacic acid sold. In addition, they were requested to provide price data for sebacic acid sold to the plasticizer market, the nylon market, and to distributors. The importers were not always able to identify the end-use market for their Chinese sebacic acid.

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<sup>99</sup> \*\*\*. Interview with \*\*\*. In addition, \*\*\*, an importer of Chinese sebacic acid, commented in its questionnaire response that the Chinese improved the quality of their sebacic acid, making it acceptable to more customers.

<sup>100</sup> \*\*\*.

<sup>101</sup> Interview with \*\*\*.

<sup>102</sup> Telephone interview \*\*\*. In its questionnaire response, \*\*\* noted that \*\*\*.

<sup>103</sup> Both regular- and low-ash types, however, were used in the same application, suggesting that sebacic acids of different ash contents are at least technically substitutable for each other in some uses.

Usable selling price data were received from the U.S. producer and from 15 U.S. importers of sebacic acid.<sup>104</sup> Reported selling price data accounted for \*\*\* percent of the U.S. producer's domestic commercial shipments of sebacic acid and for virtually 100 percent of U.S. importers' reported domestic commercial shipments of sebacic acid during January 1991-December 1993.

\*\*\*<sup>105</sup> \*\*\*.

U.S. importers were able to identify the type of Chinese product by ash content, but were not always able to identify the end-use market. Therefore, the selling price data are shown separately by ash content and by sales to end users, but not by specific end-use markets, and to distributors. Based on the majority of responses in which the end-use market could be identified, both regular-ash and low-ash sebacic acid were sold in the plasticizer market, whereas the low-ash product was the only Chinese sebacic acid sold to the nylon 6/10 market.<sup>106</sup>

The Commission also requested quarterly purchase price and quantity data from U.S. end users and distributors for U.S.-produced and imported Chinese sebacic acid during January 1991-December 1993. The U.S. purchasers were requested to identify the end-use market category in which the sebacic acid was used and to identify the grade or type of sebacic acid they purchased.

Nineteen end users (including Union Camp) and 7 distributors provided usable purchase price data. The responding end users accounted for approximately 83 percent of the U.S. producer's total domestic sales of sebacic acid during January 1991-December 1993 and 86 percent of total U.S. imports of Chinese sebacic acid during this period. A few end users, however, accounted for the majority of these purchases. \*\*\* accounted for \*\*\* percent of the U.S. producer's total domestic sales of sebacic acid during this period, while direct imports (for internal use) and purchases of imported Chinese sebacic acid by \*\*\* equaled \*\*\* percent of total reported imports of Chinese sebacic acid.<sup>107</sup> The purchasers were not always able to identify the ash content of the Chinese sebacic acid that they purchased. As a result, the purchaser price data are shown by market category and, where possible, by grade or type of sebacic acid.

### *Price trends*

Selling price data for U.S. sales of the domestic and imported Chinese sebacic acid are based on the quarterly net U.S. f.o.b. selling price data reported by the U.S. producer and importers. Price data for the domestic purified and nylon grades of sebacic acid sold to end users are shown in figure 4 and table 16, price data for the imported Chinese regular and low-ash sebacic acid sold to end users are also shown in figure 4 and in table 17, and price data for the Chinese regular-ash sebacic acid sold to distributors are shown in table 18. Quarterly world price data for castor oil are also shown in figure 4 and in appendix table F-2.

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<sup>104</sup> \*\*\* U.S. importers, \*\*\* accounted for \*\*\* percent of total reported U.S. imports of Chinese sebacic acid during January 1991-December 1993. \*\*\*.

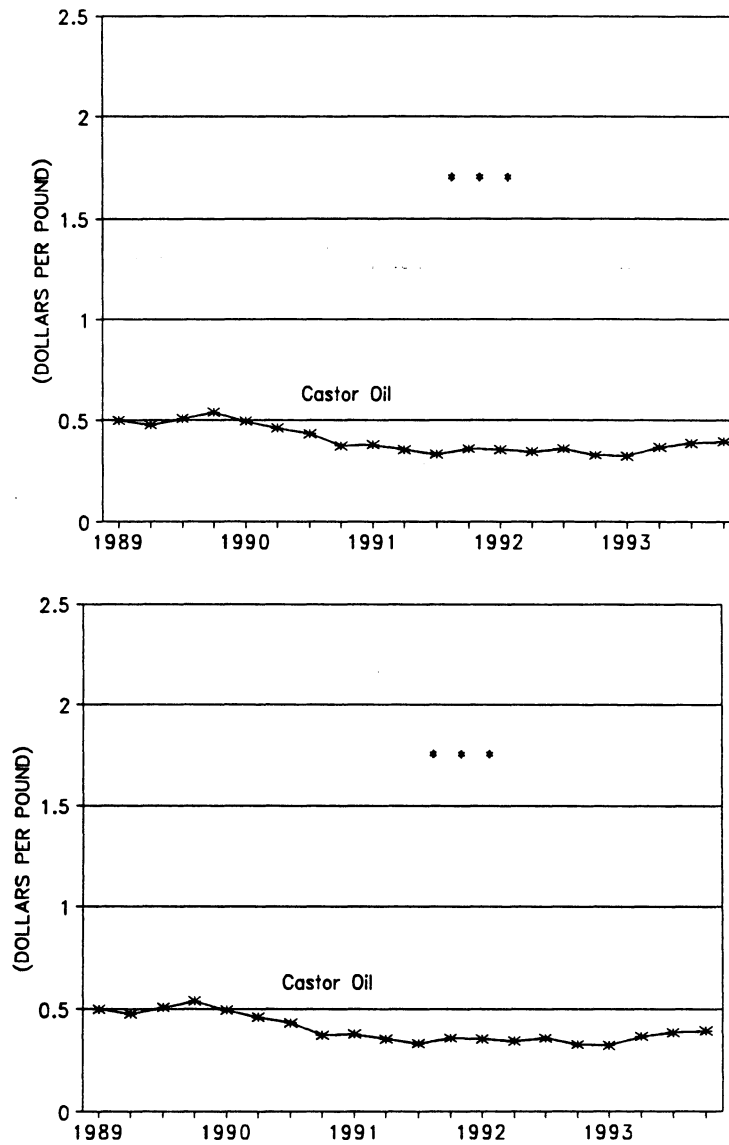
<sup>105</sup> Reported selling prices of \*\*\* sebacic acid tended to be \*\*\* than selling prices of \*\*\*, but this price difference did not hold consistently for every quarter.

<sup>106</sup> Reported selling prices of the regular-ash Chinese sebacic acid tended to be somewhat lower than the selling prices of the low-ash product, but this price difference did not hold consistently for every quarter.

<sup>107</sup> \*\*\*.

Figure 4

Selling price trends: Weighted-average net U.S. f.o.b. prices for sales of U.S.-produced and imported Chinese sebacic acid sold to end users, by grades/types, and world castor oil prices, any origin, ex-tank Rotterdam, by quarters, January 1989-December 1993



Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from *Oil World*, Jan. 28, 1994.

Table 16

Weighted-average net U.S. f.o.b. selling prices and quantities of U.S.-produced sebacic acid sold to end users, by grades and by quarters, January 1991-December 1993

\* \* \* \* \*

Table 17

Weighted-average net U.S. f.o.b. selling prices and quantities of imported Chinese sebacic acid sold to end users, by grades and by quarters, January 1991-December 1993

\* \* \* \* \*

Table 18

Weighted-average net U.S. f.o.b. selling prices and quantities of imported Chinese regular-ash sebacic acid sold to distributors, by quarters, January 1991-December 1993

\* \* \* \* \*

Quarterly prices of the domestic sebacic acid sold to end users \*\*\*, whereas the imported Chinese sebacic acid sold to end users generally fell in price during 1991-92, and then rose in price in 1993 (figure 4).<sup>108</sup> Castor oil prices fluctuated but generally fell during January 1991-March 1993, and then increased through December 1993.<sup>109</sup>

**United States.**—Weighted-average net U.S. f.o.b. selling prices of U.S.-produced purified-grade and nylon-grade sebacic acid sold to end users \*\*\* during much of the period examined, as \*\*\* (figure 4 and table 16). Union Camp's selling price of its purified grade \*\*\* per pound during \*\*\*, and then \*\*\* per pound during each of the next \*\*\* quarters to end the period \*\*\* the initial-period price level. Union Camp's selling price of its nylon grade \*\*\* per pound during \*\*\*, and then \*\*\* to \*\*\* per pound by \*\*\* to end the period \*\*\* the initial-period value.

**China.**—Weighted-average net U.S. f.o.b. selling prices of the imported Chinese regular-ash and low-ash sebacic acid sold to end users generally declined during January 1991-June 1993, before turning up in the following two quarters (figure 4 and table 17). Selling prices of the Chinese regular-ash product sold to end users \*\*\* from \*\*\* per pound during January-March 1991 to \*\*\* per pound by April-June 1993, or by \*\*\* percent. Selling prices of the regular-ash product then \*\*\* to end the period in October-December 1993 at \*\*\* per pound, or \*\*\* than the initial-period value.<sup>110</sup> Selling prices of the Chinese low-ash product sold to end users \*\*\* from \*\*\* per pound during January-March 1991 to \*\*\* per pound by April-June 1993, or by \*\*\* percent. Selling prices of the low-ash product then \*\*\* to \*\*\* per pound by October-December 1993, or \*\*\* than the initial-period value.

<sup>108</sup> Selling prices of the imported Chinese sebacic acid sold to distributors also followed the same general trend as prices of the Chinese material sold to end users.

<sup>109</sup> World castor oil prices had increased in 1989, before falling sharply in 1990. Respondents reported that castor oil prices in China declined by approximately 42 percent between 1990 and 1992, then increased by 58 percent during 1993 to a level 8 percent below prices during 1990. Postconference brief of the respondents, p. 33.

<sup>110</sup> Delivered purchase prices for the regular-ash Chinese sebacic acid \*\*\*.

Weighted-average net U.S. f.o.b. selling prices of the imported Chinese regular-ash sebacic acid sold to distributors generally declined during January 1991-March 1993, before turning up in the following three quarters (table 18).<sup>111</sup> Selling prices of the Chinese regular-ash product sold to distributors \*\*\* from \*\*\* per pound during January-March 1991 to \*\*\* per pound by January-March 1993, or by \*\*\* percent. Selling prices of the regular-ash product then \*\*\* to end the period in October-December 1993 at \*\*\* per pound, or \*\*\* percent \*\*\* than the initial-period value.

### *Price comparisons*

Quarterly delivered price comparisons between U.S.-produced sebacic acid and the imported Chinese sebacic acid were developed from net U.S. purchase prices reported in purchaser questionnaires. Price comparisons were based on end users' purchases in each of the following three end-user market groups--plasticizer, nylon 6/10, and other end-use markets<sup>112</sup>--and on distributor purchases (tables 19-22).<sup>113</sup> When possible, the various grades are also identified. A total of 36 price comparisons were possible, and all showed that prices of the imported Chinese sebacic acid were less than prices of the domestic sebacic acid. Margins of underselling by the Chinese product overall averaged \*\*\* percent, or \*\*\* per pound. The quarterly net delivered price comparisons are discussed below by the specific market categories.

Table 19

Weighted-average net U.S. delivered purchase prices and quantities of U.S.-produced and imported Chinese sebacic acid purchased by U.S. end users in the plasticizer market and margins of underselling, by quarters, January 1991-December 1993

\* \* \* \* \*

Table 20

Weighted-average net U.S. delivered purchase prices and quantities of U.S.-produced and imported Chinese sebacic acid purchased by U.S. end users in the nylon 6/10 market and margins of underselling, by quarters, January 1991-December 1993

\* \* \* \* \*

Table 21

Weighted-average net U.S. delivered purchase prices and quantities of U.S.-produced and imported Chinese sebacic acid purchased by U.S. end users in other markets and margins of underselling, by quarters, January 1991-December 1993

\* \* \* \* \*

<sup>111</sup> Importers did not report any sales of Chinese low-ash sebacic acid to distributors.

<sup>112</sup> The other end-use markets included metal-working fluids (including rust inhibitors), various coatings and resins, nutritional supplements, cosmetic intermediate products, synthetic lubricants, and ingredients for industrial cleaners.

<sup>113</sup> The plasticizer market is the largest market for sebacic acid in the United States and the nylon 6/10 market is the second largest. Together, these two markets account for at least four-fifths of total U.S. consumption of sebacic acid.

Table 22

Weighted-average net U.S. delivered purchase prices and quantities of U.S.-produced and imported Chinese sebacic acid purchased by U.S. distributors and margins of underselling, by quarters, January 1991-December 1993

\* \* \* \* \*

**Plasticizer market.**—Four end users in the plasticizer market (\*\*\*) reported purchase prices that resulted in a total of 12 delivered price comparisons between the domestic and Chinese sebacic acid during January 1991-December 1993; these price comparisons involved domestic purified grade and Chinese regular-ash and low-ash grades (table 19).<sup>114</sup> All 12 price comparisons showed underselling margins by the Chinese products, averaging \*\*\* percent, or \*\*\* per pound.<sup>115</sup> As noted earlier in the price section, \*\*\*. In these instances, \*\*\*.<sup>116</sup> These \*\*\* purchases of \*\*\* accounted for \*\*\* of total imports of Chinese sebacic acid during 1991-93. Other examples where end users did not substitute domestic and Chinese sebacic acid were also discussed.<sup>117</sup> As a result, price comparisons should be viewed with caution when a lack of substitution between domestic and Chinese products exists.<sup>118</sup>

**Nylon 6/10 market.**—\*\*\* end users in the nylon 6/10 market reported purchase prices that resulted in a total of 5 delivered price comparisons between the domestic and Chinese sebacic acid during April 1992-December 1993;<sup>119</sup> these price comparisons involved the domestic nylon and CP grades and the Chinese low-ash grade (table 20). All 5 price comparisons showed underselling margins by the Chinese product, averaging \*\*\* percent, or \*\*\*. As indicated earlier, \*\*\*.

**Other end-use markets.**—Twelve end users in other end-use markets reported purchase prices that resulted in a total of 12 delivered price comparisons between domestic and Chinese sebacic acid during January 1991-December 1993;<sup>120</sup> these price comparisons involved domestic CP and purified grades and Chinese regular-ash and low-ash grades (table 21). All 12 price comparisons showed underselling margins by the Chinese products, averaging \*\*\* percent, or \*\*\* per pound.

**Distributors.**—Seven distributors reported purchase prices that resulted in a total of 7 delivered price comparisons between domestic and Chinese sebacic acid during July 1991-December 1993;<sup>121</sup> these price comparisons involved domestic CP grade and Chinese regular-ash and low-ash

<sup>114</sup> \*\*\*.

<sup>115</sup> Although not shown in table 19, \*\*\*.

<sup>116</sup> \*\*\* preferred to use Chinese sebacic acid in that application.

<sup>117</sup> \*\*\*. Interview with \*\*\*.

<sup>118</sup> Price comparisons in the plasticizer market that excluded purchases of Chinese sebacic acid by \*\*\* show that the imported product was priced consistently less than the domestic product, by margins averaging \*\*\* percent, or \*\*\* per pound, and involved smaller volumes of the imported product (appendix G, table G-1).

<sup>119</sup> \*\*\*.

<sup>120</sup> Eight end users reported purchasing both domestic and Chinese sebacic acid, while four end users reported purchasing just Chinese material. Although the firms could identify the domestic grades of sebacic acid, most could not identify the ash content of the Chinese sebacic acid that they purchased. These 12 firms accounted for about 9 percent of end users' total reported purchases of Chinese sebacic acid during 1991-93 and for about 16 percent of end users' total reported purchases of U.S.-produced sebacic acid.

<sup>121</sup> One distributor \*\*\* and six other distributors reported purchasing the Chinese material. \*\*\*, but it and five other distributors were unable to identify the ash content of the Chinese sebacic acid. One distributor, \*\*\*. These 7 firms accounted for about \*\*\* percent of importers' total reported U.S. shipments of Chinese sebacic acid during January 1991-December 1993 and for \*\*\* percent of Union Camp's total reported U.S. shipments of domestically-produced sebacic acid during this period. To avoid double counting, it is not appropriate to add purchases by distributors, which are then sold to end users, to purchases by end users.

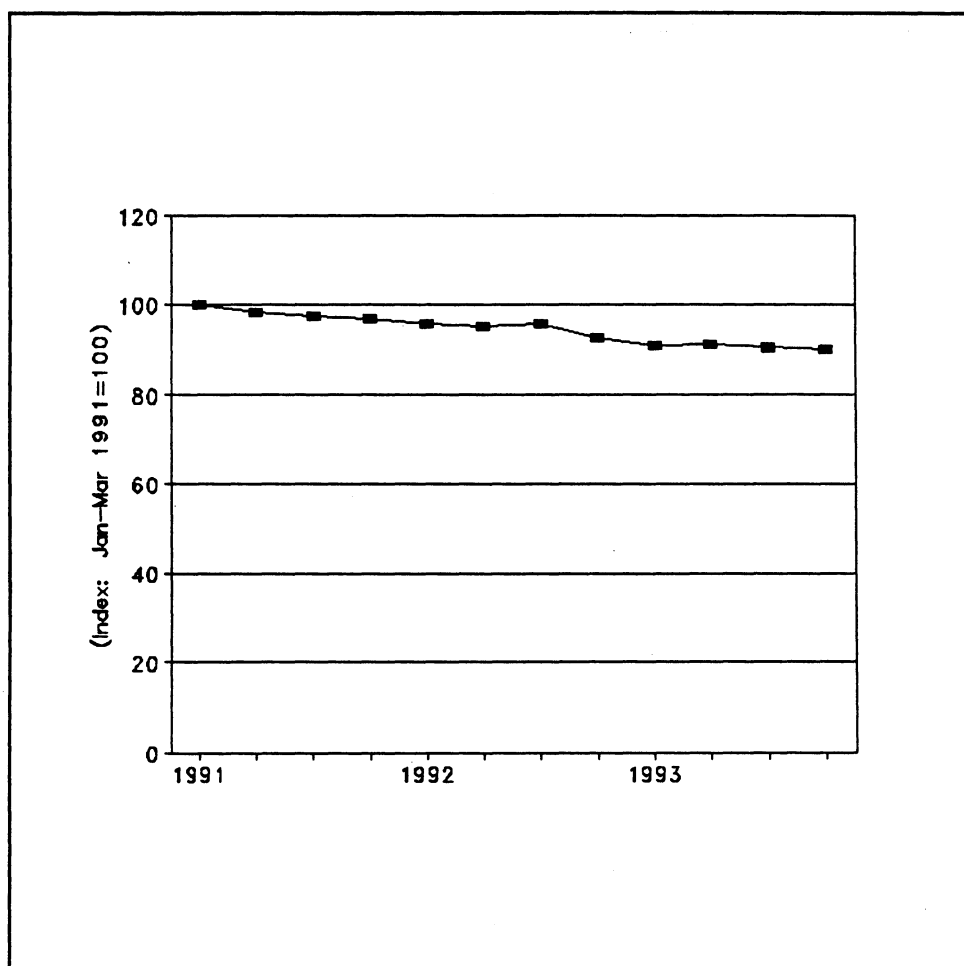


grades (table 22). All 7 price comparisons showed underselling margins by the Chinese products, averaging \*\*\* percent, or \*\*\* per pound.

### Exchange Rates

Quarterly data reported by the International Monetary Fund for China indicate that the value of the Chinese yuan depreciated by almost 10 percent in nominal terms relative to the U.S. dollar between January 1991-December 1993 (figure 5). No price series data were available for China to calculate real exchange rates.

Figure 5  
Indexes of nominal exchange rates of the Chinese yuan vis-a-vis the U.S. dollar, by quarters, January 1991-December 1993



Note: Exchange rates are in U.S. dollars per yuan.

Source: *International Financial Statistics*, April 1994.

## Lost Sales and Lost Revenues

The only U.S. producer, Union Camp, reported \*\*\* allegations of lost sales and \*\*\* allegations of lost revenues involving \*\*\* purchasers. The lost sales allegations totalled \*\*\* and involved \*\*\* pounds of sebacic acid. The lost revenues allegations totalled \*\*\* and involved \*\*\* pounds.<sup>122</sup> \*\*\* of the lost sales allegations and \*\*\* lost revenues allegations occurred during 1993. Staff contacted all \*\*\* firms cited in the lost sales and lost revenues allegations.

\*\*\*  
\*\*\* reported that Union Camp did lower its price quote.<sup>123</sup> As for the lost sales allegation, \*\*\* reported in its purchaser questionnaire that \*\*\*.<sup>124</sup>

\*\*\* reported that the lower price of the Chinese product was the primary factor for purchasing Chinese material once \*\*\* was convinced the quality was satisfactory. Additionally, \*\*\* was dissatisfied with Union Camp's service. \*\*\*.

\*\*\*. The ash content of the Chinese product had improved from 600 ppm to 300 ppm or less.<sup>125</sup> \*\*\*.

\*\*\* reported that the price of the Chinese product has traditionally been lower than the price offered by Union Camp in the U.S. market. The price difference ranged from between \*\*\* to \*\*\* by 1993. \*\*\* commented that recently the Chinese price has been increasing because the price of castor oil, the main raw material in sebacic acid, is increasing. \*\*\*.

\*\*\* did decide to purchase imported Chinese product, but did so for the following reasons: first, the Chinese product was a superior product and had less impurities than the domestic product; second, \*\*\* wanted two sources of supply; and third, the price of the Chinese product was less than that of the U.S.-produced product. \*\*\*.

\*\*\*, whereas the Chinese price has increased due to the increased price of castor oil and the weakened dollar. \*\*\*.

\*\*\*  
\*\*\* currently purchases \*\*\* sebacic acid per year. \*\*\* tries to purchase as much of the material from Chinese sources as possible primarily due to price. \*\*\*. \*\*\* purchases \*\*\* Chinese product and considers the quality to be equal to that of Union Camp. \*\*\*.

\*\*\*.<sup>126</sup> \*\*\* reported in its purchaser questionnaire response that \*\*\*.

\*\*\*.<sup>127</sup> Therefore, \*\*\* started purchasing \*\*\*.

\*\*\* did purchase imported Chinese product on the basis of price, but recalled only \*\*\*.  
\*\*\* purchases the Chinese material because it works better for \*\*\*'s end-use application due to its higher ash content. Furthermore, it is priced less than Union Camp's sebacic acid.

\*\*\* started purchasing the Chinese product during \*\*\* when it stopped purchasing sebacic acid from Union Camp. \*\*\*'s annual requirement for sebacic acid is \*\*\*. \*\*\*.

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<sup>122</sup> Two lost sales allegations totalling almost \*\*\* of sebacic acid were reported during the final investigation; the remaining lost sales allegations and the lost revenue allegations were reported during the preliminary investigation.

<sup>123</sup> \*\*\*. Telephone interview with \*\*\*.

<sup>124</sup> \*\*\*.

<sup>125</sup> In these applications, \*\*\*.

<sup>126</sup> \*\*\*.

<sup>127</sup> \*\*\*. Telephone interview \*\*\*.

## **APPENDIX A**

### **THE COMMISSION'S AND COMMERCE'S *FEDERAL REGISTER* NOTICES**



[Investigation No. 731-TA-653 (Final)]

### Sebacic Acid From the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

**SUMMARY:** The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-653 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China ("China") of sebacic acid,<sup>1</sup> provided for in subheading 2917.13.00 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

**EFFECTIVE DATE:** January 4, 1994.

**FOR FURTHER INFORMATION CONTACT:** Douglas Corkran (202-205-3177), 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

This investigation is being instituted as a result of an affirmative preliminary

<sup>1</sup> For purposes of this investigation, sebacic acid is defined as all grades of the dicarboxylic acid with the formula (CH<sub>2</sub>)<sub>10</sub>(COOH)<sub>2</sub>.

determination by the Department of Commerce that imports of sebacic acid from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on July 19, 1993, by Union Camp Corp., Wayne, NJ.

**Participation in the investigation and public service list.**—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

**Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.**—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Staff report.**—The prehearing staff report in this investigation will be placed in the nonpublic record on May 10, 1994, and a public version will be issued thereafter, pursuant to section 207.21 of the Commission's rules.

**Hearing.**—The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on May 24, 1994, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 18, 1994. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 20, 1994, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any

requests to present a portion of their hearing testimony *in camera*.

**Written submissions.**—Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is May 18, 1994. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is June 2, 1994; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before June 2, 1994. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

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

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

**Issued:** February 2, 1994.

By order of the Commission.

Donna R. Keenke,

Secretary.

[FR Doc. 94-2978 Filed 2-8-94; 8:45 am]

BILLING CODE 7020-02-P

of China (PRC) is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

#### Case History

Since the December 28, 1993, issuance of the preliminary determination (59 FR 565, January 5, 1994), the following events have occurred.

On January 3, 1994, Sinochem International Chemical Company (SICC), Tianjin Chemical Import & Export Corporation (Tianjin), Sinochem Jiangsu Import & Export Corporation (Jiangsu), and Guangdong Chemical Import & Export Corporation (Guangdong) (collectively referred to as respondents) withdrew their claim that the sebacic acid industry in the PRC is a market-oriented industry (MOI). On January 4, 1994, the Department issued to respondents a request for clarification of previously provided information, as well as for additional, published information. On January 5, 1994, respondents' counsel requested a hearing and asked for an extension to submit its clarification comments on previously provided published information and to submit additional published information. On January 7, 1994, the Department granted the extension. On January 11, 1994, petitioner, which is Union Camp Corporation, requested a hearing. On January 14, 1994, the Department sent to the respondents verification agendas. On January 25, 1994, the Department issued to petitioner and respondents a questionnaire asking for the material requirements for producing sebacic acid. On January 31, 1994, respondents indicated that they could not provide any additional published information for the period of investigation (POI). On February 2, 1994, petitioner alleged that India was not the proper surrogate country in this investigation. On February 3, 1994, respondents' counsel submitted financial statements for three of the four factories under investigation. On February 8, 1994, petitioner and respondents submitted their responses to the January 25, 1994, material requirements questionnaire. On February 14, 1994, petitioner submitted its verification comments. From February 21 to March 19, 1994, Department officials conducted verifications of four trading companies and four factories and met with officials from the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) and other government agencies in the PRC.

From March 24 to April 2, 1994, the Department issued the verification reports. On April 8, 1994, petitioner and respondents submitted hearing briefs. On April 13, 1994, the parties submitted rebuttal briefs. On April 15, 1994, a public hearing was held.

#### Scope of Investigation

The products covered by this investigation are all grades of sebacic acid, a dicarboxylic acid with the formula  $(CH_2)_8(COOH)_2$ , which include but are not limited to CP Grade (500ppm maximum ash, 25 maximum APHA color), Purified Grade (1000ppm maximum ash, 50 maximum APHA color), and Nylon Grade (500ppm maximum ash, 70 maximum ICV color). The principal difference between the grades is the quantity of ash and color. Sebacic acid contains a minimum of 85 percent dibasic acids of which the predominant species is the  $C_{10}$  dibasic acid. Sebacic acid is sold generally as a free-flowing powder/flake.

Sebacic acid has numerous industrial uses, including the production of nylon 6/10 (a polymer used for paintbrush and toothbrush bristles and paper machine felts), plasticizers, esters, automotive coolants, polyamides, polyester castings and films, inks and adhesives, lubricants, and polyurethane castings and coatings.

Sebacic acid is currently classifiable under subheading 2917.13.00.00, of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope is dispositive.

#### Period of Investigation

The period of investigation is January 1, 1993, through June 30, 1993.

#### Separate Rates

The respondents have each requested that they be assigned separate rates. Their business licenses indicate that they are "owned by all the people." As stated in the Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China (PRC) (59 FR 22585, May 2, 1994) ("Silicon Carbide"), "ownership of a company by all the people does not require the application of a single rate." Accordingly, SICC, Tianjin, Jiangsu, and Guangdong are eligible for consideration for separate rates.

To establish whether a company is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under a test established in the Final Determination of Sales at Less Than Fair

International Trade Administration  
(A-570-825)

#### Notice of Final Determination of Sales at Less Than Fair Value: Sebacic Acid From the People's Republic of China

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

EFFECTIVE DATE: May 31, 1994.

FOR FURTHER INFORMATION CONTACT:  
Brian C. Smith, Office of Antidumping  
Investigations, Import Administration,  
International Trade Administration,  
U.S. Department of Commerce, 14th  
Street and Constitution Avenue, NW.,  
Washington, DC 20230; telephone: (202)  
482-1766.

FINAL DETERMINATION: We determine that  
sebacic acid from the People's Republic

Value: Sparklers from the PRC (58 FR 20588, May 6, 1993) ("Sparklers"), as amplified in Silicon Carbide. Under the separate rates test, the Department assigns separate rates only where respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

### 1. Absence of De Jure Government Control

Three PRC laws that have been placed on the record in this case indicate that the responsibility for managing these enterprises "owned by all of the people" is with the enterprises themselves and not with the government. These are the "Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People," adopted on April 13, 1988 (1988 Law); "Regulations for Transformation of Operational Mechanism of State-Owned Industrial Enterprises," approved on August 23, 1992 (1992 Regulations); and the "Temporary Provisions for Administration of Export Commodities," approved on December 21, 1992 (Export Provisions). The 1988 Law and 1992 Regulations shifted government control to the enterprises themselves. The 1988 Law provides that enterprises owned "by the whole people" shall make their own management decisions, be responsible for their own profits and losses, choose their own suppliers and purchase their own goods and materials. The 1988 Law also has other provisions which indicate that enterprises have management independence from the government. The 1992 Regulations provide that these same enterprises can, for example, set their own prices (Article IX); make their own production decisions (Article XI); use their own retained foreign exchange (Article XII); allocate profits (Article II); sell their own products without government interference (Article X); make their own investment decisions (Article XIII); dispose of their own assets (Article XV); and hire and fire their employees without government approval (Article XVII).

The Export Provisions designate those export products specifically under government control. Sebacic acid does not appear on the lists in Export Provisions and, therefore, is not subject to export constraints.

The existence of these laws indicates the respondents are not *de jure* subject to control. However, there is some evidence that the provisions of the above-cited laws and regulations have not been implemented uniformly among different sectors and/or jurisdictions in the PRC (see "PRC Government

Findings on Enterprise Autonomy," in Foreign Broadcast Information Service-China-93-133 (July 14, 1993). Therefore, it is critical that we conduct a *de facto* analysis to determine whether these respondents were, in fact, subject to governmental control.

### 2. Absence of De Facto Government Control

The Department has considered four factors in evaluating whether each respondent is subject to *de facto* government control: (1) Whether the export prices are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses (see Silicon Carbide).

During verification, we examined bank account records, sales contracts, fixed assets on the financial statements, management selection practices and tax records for each respondent. Based on our examination, we find that each respondent:

- (1) Establishes its own export prices;
- (2) negotiates its own sales without guidance from any government entities;
- (3) selects its own management without interference from any government entities; and
- (4) retains its own proceeds from the sale of the subject merchandise. (See May 20, 1994, final concurrence memorandum, and individual verification reports for further discussion.)

### 3. Conclusion

Given that the record of this investigation demonstrates an absence of *de jure* or *de facto* governmental control over the export functions of SICC, Tianjin, Jiangsu, and Guangdong, we determine that these companies are eligible for separate rates. See comments 1 and 2 for further discussion.

### Surrogate Country

Section 773(c) of the Act requires the Department to value the factors of production, to the extent possible, in one or more market economy countries that are at a level of economic development comparable to that of the non-market economy country, and that are significant producers of comparable merchandise. The Department has determined that India and Pakistan are comparable to the PRC in terms of overall economic development, per

capita gross national product (GNP), the national distribution of labor and growth rate in per capita GNP. (See memorandum from David P. Mueller to David L. Binder, dated September 29, 1993.) Though it is possible that India may no longer be a producer of the subject merchandise, the Department has determined that India is a significant producer and exporter of comparable merchandise (see comment 5 for further discussion). Therefore, because India fulfills both requirements outlined in the statute, India is the preferred surrogate country for purposes of valuing the factors of production used in producing the subject merchandise. Except for one factor of production, we have used publicly available published values obtained in India. For that one factor, we used information from Pakistan. We have relied upon publicly available published information wherever possible.

### Fair Value Comparisons

To determine whether sales of sebacic acid from the PRC to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

### United States Price

We based USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation and because exporter's sales price methodology was not otherwise indicated.

For those exporters that responded to the Department's questionnaire, we calculated purchase price based on packed, CIF prices to unrelated purchasers in the United States. We made deductions for foreign inland freight, ocean freight, marine insurance, and foreign brokerage and handling expenses.

For foreign inland freight, we based the deduction on freight rates in India and on the verified distance from the factory to the port of exportation (see comment 18 for further discussion). For ocean freight, the respondents all used PRC transportation services in incurring this charge during the POL. Therefore, we based the deduction for ocean freight on the current tariff rate in the Asia North America Eastbound Rate Agreement.

For foreign brokerage and handling expenses and marine insurance, we used publicly summarized versions of these two expenses reported in the

antidumping duty investigation of Sulfur Dyes, Including Sulfur Vat Dyes, from India (see memorandum to the file dated December 27, 1993).

#### Foreign Market Value

We calculated FMV based on the verified factors of production used by the factories which produced the subject merchandise for the four respondents (see comments 4 and 11 for further discussion). In accordance with section 773(c)(3) of the Act, the factors to value include materials, labor, energy and capital costs (e.g., factory overhead), and we have valued these factors in this case. To calculate FMV, the verified factors of production were multiplied by the appropriate surrogate values for the different inputs. (For a complete analysis of the surrogate values used and a detailed discussion of the sources and publications referred to in this notice, see the May 20, 1994, final concurrence memorandum.)

In determining which surrogate value to use for valuing each factor of production, we selected, where possible, the publicly available published value which was: (1) An average non-export value; (2) representative of a range of prices within the POI if submitted by an interested party, or most contemporaneous with the POI; (3) product-specific; and (4) tax-exclusive. We have expressed a preference for prices representative of the POI because these prices more closely reflect the prices paid for inputs in the surrogate during the POI. Where we could not obtain a POI-representative price for an input, we have selected a value in accordance with the remaining criteria mentioned above and which is closest in time to the POI.

In accordance with this selection methodology, we have obtained more current values for eight material inputs since the preliminary determination. In addition, for four of those eight materials, we reassigned values based on additional product-specific information. We also established a POI price range for the publicly available published values that we used and which were submitted by the respondents (see comment 6 for further discussion). As a result of applying the selection methodology noted above, we changed the values used in the preliminary determination for the following nine materials: Castor oil, cresol, activated carbon, a substitute for activated carbon, steam coal, electricity, one type of packing material, glycerine, and fatty acid. In addition, we valued a substitute for cresol as a result of our verification findings.

In the case of material inputs, we also used surrogate transportation rates to value the transportation of inputs to the factories. In those cases where a respondent provided incorrect transportation distances, we valued the verified distances (see comment 10 for further discussion).

To value castor oil, we used publicly available published information from *The Times of India* because this source provided a non-export price during the POI. We calculated an average price representative of the POI based on prices submitted by respondents and prices we obtained from the U.S. embassy in India. We did not have the necessary information to deduct taxes from these prices (see comment 6 for further discussion).

To value caustic soda, sodium chloride, zinc oxide, and phenol, we used publicly available published information from *Chemical Business*. This source provided a representative range of non-export prices during the POI which did not include Indian excise or provincial sales taxes. For caustic soda, we used a price for liquid caustic soda for all four factories. We did not adjust the selected value to account for different percentage strengths of the solution used by the factories because the selected value did not indicate a percentage strength for the solution (see comment 12 for further discussion).

To value sulfuric acid, cresol, and caproyl alcohol, we used publicly available published information from *Chemical Weekly*. This source provided a representative range of non-export prices during the POI which were inclusive of taxes. We did not have the necessary information to deduct taxes from these prices. In the case of cresol, we calculated an average price of the three types of cresol used by the factories (see comment 14 for further discussion). In addition, we used the factories' verified cresol amounts (see comments 13 and 15 for further discussion). In the case of caproyl alcohol (which is also called octanol-2), we used a price for octanol (see comment 8 for further discussion).

To value activated carbon, fatty acid, substitutes for cresol and activated carbon, and steam coal, we used more recent publicly available published information from the *Monthly Statistics of the Foreign Trade of India* (*Monthly Statistics*). With the exception of steam coal, this source was the only one we found which provided publicly available published price information for these material inputs. For steam coal, we used an import value from *Monthly Statistics* rather than the domestic value from the publication

OECD IEA Statistics, because the import value was more contemporaneous with the POI (see comment 19 for further discussion). For fatty acid, we used the price for a general type of fatty acid (see comment 6 for further discussion).

To value glycerine, we used a value for crude glycerine in the publication *Monthly Statistics of the Foreign Trade of India* and not the value for industrial water grade glycerine in the Indian publication *Chemical Business*, because the value in *Monthly Statistics* was more product-specific (see comment 7 for further discussion).

To value electricity, we used publicly available published information from the Asian Development Bank (ADB). We used a 1990 value from the ADB publication instead of a published POI Pakistani industrial usage value because the ADB value was specific to industrial usage in India and because India is the first-choice surrogate country. In the ADB publication, there are three types of electricity rates (e.g., low-tension, high-tension and power-intensive). In this case, we took an average of the low-tension and high-tension rates provided in the ADB publication because we could not ascertain whether the sebacic acid industry in the PRC incurs a low-tension or high-tension rate. We were able to ascertain that the PRC sebacic acid industry does not incur power-intensive rates because the electricity used by the sebacic acid factories in the PRC did not account for a major portion of the production cost.

To value water, we used a public cable from the U.S. consulate in Pakistan which was originally provided in the investigation of Sulfanilic Acid from the PRC. We used this cable because we could not locate a value for water in any Indian or Pakistani publication.

For all material and energy prices we used that were for a period prior to the POI, we adjusted the factor values to account for inflation between the time period in question and the POI using wholesale price indices (WPIs) published in *International Financial Statistics* (IFS) by the International Monetary Fund (IMF).

To value labor costs, we used the *International Labor Office's 1992 Yearbook of Labor Statistics*. To determine the number of hours in an Indian workday, we used the *Country Reports: Human Rights Practices for 1990*. Because the published labor rate was prior to the POI, we adjusted the factor values to account for inflation between the time period in question and the POI using the consumer price indices published in IFS by the IMF. In addition, for one factory in question, we



considered the additional labor amounts to be indirect labor and a part of factory overhead (see comment 16 for further discussion).

To value factory overhead, selling, general and administrative expenses, and profit, we calculated percentages based on elements of industry group income statements from The Reserve Bank of India Bulletin. We did not include an amount for energy in our factory overhead calculation or inflate the percentages to the POL.

To calculate the FAV for one metric ton of sebacic acid, we added each of the costs derived above. We also added to FAV, where appropriate, an amount for packing labor based on the appropriate Indian wage rate, and an amount for packing materials based on more current Indian prices than those values previously used from the Monthly Statistics of the Foreign Trade of India. Since the packing material prices were also prior to the POL, we used WPIs from IPS to inflate the values to the POL. We made no adjustments for selling expense. Finally, we added surrogate freight costs for the delivery of inputs and packing materials to the factories producing sebacic acid.

In this investigation, we have verified that the factories produce three subsidiary products (glycerine, fatty acid, and capryl alcohol) in the course of producing sebacic acid.

We have used the same methodology established in the preliminary determination to determine whether each of the three products in question are by-products or co-products.

However, for the final determination, we have not considered the factories' costs and profits because we have not found an MCI, and we have obtained no more current values than those used in the preliminary determination for sebacic acid, glycerine, and fatty acid. Consistent with the preliminary determination and after incorporating these values into the analysis, we still find that fatty acid is a by-product because the overall value of fatty acid is insignificant compared to the relative value of the "subsidiary" products and the subject merchandise. As a by-product, we subtracted the sales revenue of fatty acid from the production costs of sebacic acid. This treatment of by-products is consistent with generally accepted accounting principles. (See Cost Accounting: A Managerial Emphasis (1993) at pages 539-544).

We also find that glycerine and capryl alcohol are co-products. The value of glycerine for two of the four factories and the value of capryl alcohol for all four factories is

significant compared to the relative value of all of the products manufactured as a result of, or during, the process of manufacturing sebacic acid. We also find that the quantity of glycerine production is subject to manipulation by management based on the variation in the quantity yield among the four factories, and because there is no information on the record which indicates other reasons for why the quantity would vary.

Therefore, we have allocated the factor inputs, (e.g., materials used to produce glycerine and capryl alcohol), based on the relative quantity of output of these two products and sebacic acid. In addition, we have used the production times necessary to complete each production stage of sebacic acid as a basis for allocating the amount of labor, energy usage and factory overhead among the products (see May 20, 1994, concurrence memorandum, memorandum to the file dated May 9, 1994, and comment 9 for further discussion). This treatment of co-products is consistent with generally accepted accounting principles. (See Cost Accounting: A Managerial Emphasis (1993) at pages 528-533).

#### Best Information Available (BIA)

As stated in the preliminary determination, the Department must receive an adequate questionnaire response from an entity requesting a separate dumping margin rate before a separate rate can be applied to that entity. Non-respondent entities must receive a PRC country-wide rate. We have based the PRC country-wide rate on BIA.

Section 776(c) of the Act provides that whenever a party refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation, the Department shall use BIA. We have done so in this investigation with regard to the non-responding entities.

In determining what to use as BIA, the Department follows a two-tiered methodology based on the degree of respondents' cooperation. According to the Department's two-tiered BIA methodology, when a company refuses to provide the information requested in the form required, or otherwise significantly impedes the Department's investigation, it is appropriate for the Department to assign to that company the higher of (a) the highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation. This methodology for assigning BIA has been upheld by the U.S. Court of Appeals for the Federal

Circuit. (See Allied-Signal Aerospace Co. v. United States, 996 F.2d 1165 (Fed. Cir. 1993); see also Krupp Stahl AG et al. United States, 622 F. Supp. 789 (CIT 1993)). We find those PRC exporters which refused to answer the Department's questionnaire to have been uncooperative in this investigation. As BIA for these exporters, we are assigning the highest margin alleged in the petition (243.40 percent) as the PRC country-wide rate, in accordance with the two-tiered BIA methodology under which the Department imposes the most adverse rate upon those respondents who refuse to cooperate or otherwise significantly impede the proceeding. We made no adjustment to petitioner's amended calculations.

Consistent with our preliminary determination, no "All Others" rate will be established for the PRC. Instead, a country-wide rate is applied to all imports of sebacic acid from the PRC for those PRC exporters which were unable to demonstrate that they were entitled to a separate rate. Because we are assigning a country-wide rate in this situation, there is no need to assign an "All Others" cash deposit rate for PRC entities.

#### Verification

As provided in section 776(b) of the Act, we verified information provided by respondents by using standard verification procedures, including on-site inspection of the manufacturers' facilities, examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

#### Analysis of Comments Received

Comment 1: Petitioner contends that the four respondents should not receive separate rates because each is a state-owned company subject to central control by the PRC government.

Respondents contend that the issue determining separate rates is not state-ownership but government control. Therefore, respondents request that the Department return to its policy set forth in the Spertlers to determine if the PRC trading companies are entitled to separate rates. Respondents maintain that if the Spertlers criteria is applied, there can be no question that the four trading companies should receive separate rates.

**DOC Position:** As described in the "Separate Rates" section above, we have found that the four responding exporters "owned by all the people" are not controlled by the central government. Further, the information on the record relating to provincial and local

governments shows that their activities with regard to the four respondents are limited to such functions as taxation, business licensing, and the collection of export statistics. There is no evidence that these governments (1) manipulate export prices or (2) interfere with other aspects of conducting business with the United States. Therefore, we have found that the four respondents are not subject to government control of their seabed acid exports.

**Comment 2:** Petitioner maintains that the respondents in this case do not meet the Department's criteria for separate rates because they have not demonstrated that they are independent of government ownership or control, and therefore, the Department must presume central government control. Petitioner also maintains that evidence on the record demonstrates that the respondents are subject to certain types of control by the central and provincial governments (e.g., government approval is necessary for companies to receive bank loans and companies can only use their profits if they have increased the value of their assets). Further, petitioner states that various provisions of PRC law demonstrate that respondents, whose business licenses state that they are owned by "the whole people," are subject to state control. In addition, petitioner contends that there is evidence that shows that the provincial or municipal governments regulate prices between the domestic producers and the four respondents and the prices between domestic producers and their suppliers. In conclusion, petitioner states that, based on the record of this investigation, respondents are ineligible for separate rates.

Respondents state that the Department should apply the *Sparklers* criteria and find them eligible for separate dumping margins. Respondents state that they have cooperated completely in this investigation and have provided information indicating a lack of control by the PRC central government. Moreover, respondents assert that they are not owned by the central government because the appropriate test of ownership is control of property rather than simple legal title. Respondents state that the record also provides evidence of a *de facto* absence of central control with respect to exporters.

**DOC Position:** During verification, we found no evidence that respondents are controlled by the central government. On the contrary, we found evidence that the respondents are not controlled by the PRC government. Such evidence included the laws on the record of this proceeding, an examination of the

respondents' bank accounts, and documentation showing the financial independence of each of the respondents. In addition, we did not find that respondents had to seek approval from the central government to receive loans or had to report their profits to the central government before using them. As discussed at length in the "Separate Rates" section above, respondents are eligible for separate rates.

Finally, petitioner's concerns regarding the ability of provincial or municipal governments to regulate prices between domestic producers and exporters are not relevant to these respondents' eligibility for separate rates. The Department's separate rates analysis focuses on governmental control over the respondents' export activities. The Department's separate rates analysis does not focus on the prices between domestic producers and exporters or on the prices between the domestic producers and their suppliers.

**Comment 3:** Respondents contend that the Department's PRC policy is not based on the antidumping statute or regulations. Therefore, the Department has no basis for disallowing separate rates to PRC trading companies.

Petitioner contends that since Congress never provided for a separate rates provision in the 1988 amended statute, Congress in effect approved the Department's policy of issuing country-wide rates in NME antidumping investigations. Therefore, the lack of legislative and regulatory provisions indicates that the Department does not have the authority to issue separate rates in NME antidumping investigations.

**DOC Position:** The statute does not contain specific guidelines for issuing separate rates. The NME provision of the statute only contains guidelines for calculating a foreign market value. It does not address how U.S. prices should be established in NME cases. Therefore, it has been left to the Department to determine the circumstances in which separate rates should be calculated. In an NME, the government exercises a significant degree of control over economic activity. Given the nature of NMEs, we have determined that a respondent "owned by all the people" should receive a country-wide rate unless it can demonstrate that it is not subject to *de facto* or *de jure* government control. As discussed in the "Separate Rates" section and in comments 1 and 2 above, four companies in this proceeding have demonstrated their independence from *de jure* and *de facto* government control and, as such, are entitled to separate rates. PRC exporters that did not

respond and, therefore, did not demonstrate eligibility for separate rates, are presumed to be part of state-controlled operations and will receive the PRC country-wide rate.

**Comment 4:** Petitioner contends that Tong Liao has been repeatedly late and unresponsive to the Department's requests for information throughout the course of this investigation. In addition, Tong Liao has exhibited an extreme lack of cooperation by not bringing to the verification site requested documentation which would have enabled the Department to use Tong Liao's response to its financial statements. Finally, the errors found in Tong Liao's response at verification were numerous. Therefore, the Department should use BIA for Tong Liao.

Respondents contend that the raw material inputs reported by Tong Liao factory were in fact verified by the Department. Therefore, Tong Liao's factor information should be used in the final determination.

**DOC Position:** We find that Tong Liao has not been unresponsive in the course of this proceeding. With the exception of its financial statements, Tong Liao provided information requested by the Department in a timely manner.

Regarding whether Tong Liao has been cooperative during this investigation, the verification team was able to the 11 out of 13 factor amounts reported in Tong Liao's response to actual consumption and production reports which Tong Liao brought to verification. Even though the verification team was not provided the financial statements so that it could use the amounts to those statements, the verification team was able to establish that the reports recorded actual consumption amounts of materials and actual production of the subject merchandise and its subsidiary products because the reports were authentic and kept by the factory in the ordinary course of business. Therefore, we have used Tong Liao's verified factors for the final determination.

For the two factors which were unverified (e.g., labor and coal), we have used as BIA the higher of (1) the highest amount verified for any of the other three factories, or (2) the amount reported by Tong Liao.

**Comment 5:** Petitioner contends that the Department should not use India as the surrogate country for valuing the factors of production of seabed acid because India may not be a producer of seabed acid.

Respondents contend that the Department should continue to use India as the surrogate country because

there is no evidence on the record that India did not produce sebacic acid during the POI.

**DOC Position:** We agree with respondents. The statute directs us to select a country that is comparable economically to the PRC. Based on the list of possible surrogate countries, we find that India is a comparable economy to the PRC. The countries that we were able to confirm still produce sebacic acid, such as Japan and the United States, do not have economies comparable to the PRC. Even though we are not certain whether sebacic acid was produced in India during the POI, we still find that India was a significant producer of comparable merchandise (e.g., caprylic acid) during the POI. Though sebacic acid and caprylic acid have different end uses, both are dicarboxylic acids. In addition, many of the inputs used to produce sebacic acid are also used to produce caprylic acid. Therefore, we find that India fulfills both requirements of the statute.

**Comment 6:** Respondents contend that the published information from India submitted by respondents was what was reasonably available to them. Since the published data contains Indian chemical prices for various inputs and subsidiary products during the POI, the Department should use them. The Department should not use Indian import values when it has actual POI domestic input prices.

Petitioner contends that since respondents were unable to provide the Department with Indian published information which was more representative of the POI, the Department should resort to BIA and rely on the published information provided in the petition.

**DOC Position:** For the three chemicals (sulfuric acid, capryl alcohol, glycerine), we obtained late December 1982 prices from the same periodical submitted by respondents (see "FNV section" for further discussion). Therefore, we were able to establish a price range during the POI for the three chemicals listed above and we have used them in the final determination in accordance with the selection methodology outlined in the FNV section of this notice.

For castor oil, we obtained additional POI prices from the U.S. embassy in India, and these prices were from the same periodical from which respondents obtained their prices. Therefore, we were also able to establish a price range during the POI for castor oil. To calculate an average POI price for castor oil, we have used the January 1983 prices from respondents and the April and June 1983 prices obtained from the U.S. embassy in India.

**Comment 7:** Petitioner contends that the Department should not value the glycerine produced at the factories using the Indian published value for industry water grade glycerine. Instead, the Department should use the value for crude grade glycerine.

**DOC Position:** We agree with petitioner. Based on verification, we have determined that the factories produce crude glycerine and not industry water grade glycerine during the sebacic acid production process. Therefore, we have selected a more product-specific Indian published value for crude glycerine.

After reassigning a value to glycerine, we still find that glycerine is not a by-product, but a co-product, of the sebacic acid production process (see May 20, 1994, concurrent memorandum for further discussion).

**Comment 8:** Petitioner contends that the Department should not value the amount of fatty acid or capryl alcohol produced by the factories because respondent did not provide product-specific values for the two products. Therefore, if values must be assigned to these subsidiary products, then the Department should assign the correct values and not use values which do not reflect the actual products.

Respondents contend that values should be assigned to fatty acid and capryl alcohol. Therefore, the Department should continue to value fatty acid and capryl alcohol using the Indian published values from the preliminary determination.

**DOC Position:** We agree with respondents. We find that octanol-1 and capryl alcohol (i.e., octanol-2) share very similar molecular formulae though they are not identical products. We were able to obtain an Indian price for octanol-1. We were unsuccessful in locating a price for octanol-2 either in Indian publications or in publications from our other recommended surrogate countries.

Therefore, because we cannot find an exact Indian price for capryl alcohol, we have relied on the price of octanol-1, in valuing this factor. To properly value this capryl alcohol, we must assign a value to this subsidiary product. Since product-specific price information is not available from our recommended surrogate countries, we must rely on the price of the closest product we could obtain to value capryl alcohol.

As for fatty acid, the factories do not produce a fatty acid which is classifiable. The only thing we could establish through verification is that this fatty acid results from producing a carboxylic acid and is used to make soap. Throughout the course of this

investigation, neither we nor respondents could establish the specific type of fatty acid produced by the factories. The problem is that the factories' fatty acid is comprised of many different acids (e.g., oleic, palmitic, etc.) and the percentage concentrations can vary.

As in the case of capryl alcohol, we have relied on the price of the closest Indian product we could obtain to value fatty acid.

**Comment 9:** Petitioner contends that it is unclear based on the description of the sebacic acid production process how much energy, labor, and overhead should be allocated to the production of glycerine and capryl alcohol. Therefore, the Department should not allocate any non-material amounts to the subsidiary products.

Respondents contend that the Department should also allocate amounts for energy, labor, and overhead to glycerine and capryl alcohol since the production process is continuous and it is possible to identify an amount for factors associated specifically with sebacic acid and each of the subsidiary products.

**DOC Position:** We agree with respondents. For two of the four factories, we established at verification the amount of time required to perform each step of the sebacic acid production process. This information now provides us with the means for devising a method which reasonably allocates amounts for labor, coal, electricity and capryl alcohol production at each factory.

For the two factories where we did not examine production times, we used the information from the factories (where we did establish production times) to calculate an average time for each production stage. We applied the average times to the two factories where we did not examine production times to determine the amount of labor, coal, electricity, and factory overhead associated with glycerine and capryl alcohol production at those two factories. We did not allocate materials, energy, labor, or factory overhead amounts to fatty acid because it is a by-product, and as such, we simply subtracted its assigned value from the cost of manufacture of sebacic acid.

**Comment 10:** Petitioner contends that in instances where the respondents have interported distances or not reported certain factors of production or sales expenses, the Department should use BIA. The Department should use as BIA the longest freight distance reported by a given factory for determining the

freight expense associated with each input reported by that same factory.

Respondents contend that the Department should use the verified amounts for factors and distances in the final determination.

**DOC Position:** We agree with respondents. We obtained the correct distances at verification. Respondents satisfactorily explained that the mistakes in their data were the result of providing estimated distances to the Department. In addition, we find that the correction of the mistakes has had a negligible impact on the amount calculated for delivery charges for each factory. Therefore, we have used the correct distances in the final determination.

As for the unreported factor of production (e.g., packing material amounts), we obtained at verification the factor amounts which we could not previously value. At verification, we found that respondents' failure to include these amounts in their responses was simply an oversight. Therefore, we have valued the additional packing materials in accordance with the publicly available published information selection methodology noted above.

Finally, the Department has used surrogate values for all of the respondents' sales expenses. Therefore, we have not used the sales expense amounts reported by the respondents.

**Comment 11:** Respondents contend that material inventory write-offs recorded in the factory's inventory ledgers should be treated as losses in inventory and not included in the amount of materials necessary to produce sebacic acid. Instead, the Department should consider the write-offs as a general and administrative expense.

Petitioner contends that the material losses should be considered as additional factors of production.

**DOC Position:** We agree with respondents. Two factories in this investigation recorded in their inventory ledgers material losses either before or after the material was transferred to the workshop producing sebacic acid. In both cases, we find that the workshop at each factory did not actually incur material losses in producing the subject merchandise. Specifically, we find that the losses did not result from the production process, nor did they represent a production yield loss. Rather, the losses resulted from factors such as leakage which are unrelated to the production process. Therefore, we have considered the material losses as a part of factory overhead rather than part of the general and administrative

expense and have not assigned values to the material losses.

**Comment 12:** Petitioner contends that the different strengths of caustic soda used by respondents should be valued differently. In addition, for those factories that purchase solid caustic soda and then dilute it, the Department should consider the costs of converting the solid to a liquid form. In addition, the Department should use the value of solid caustic soda for those factories.

Respondents contend that the Department should continue to use the values for liquid caustic soda because the factories reported factors for liquid caustic soda and this is the input actually used in the production process.

**DOC Position:** We agree with respondents. First, the published values we examined do not indicate a percentage of purity. Therefore, we would have to make an assumption concerning the purity percentage of the published value we select. Based on the information on the record, we have no basis for determining the percentage of purity of a published value for which no percentage is indicated.

Second, even if we assigned an arbitrary purity percentage figure to the published value we select, we would have to make an additional assumption regarding which multipliers we should use to adjust the value to account for different purity percentages. Based on testimony at our April 15, 1994, hearing, even petitioner was unsure as to the correct multipliers we should use.

Finally, we consider the usage amounts reported by the factories to be for liquid caustic soda, and as such, we have valued them accordingly. Since the factories used liquid caustic soda, we do not find it appropriate to use a value for solid caustic soda.

**Comment 13:** Petitioner contends that because there was a discrepancy between the amounts of cresol recorded in Nangong factory's detailed subledger for chemical materials and Nangong's sebacic acid workshop ledger, the Department should use the cresol amount from the workshop ledger.

Respondents request that the Department accept the reported and verified amount in the final determination.

**DOC Position:** We have used the verified amounts. As we stated in the verification report, the purity of the cresol stored in the warehouse was different from the purity of the cresol used by the workshop. Since we do not have a published price for cresol which indicates the purity percentage, we have no means of determining whether the cresol price we are using corresponds more closely to the type of cresol

transferred from the warehouse or more closely to the type of cresol used by the workshop. Therefore, we have accepted Nangong factory's reported cresol factor.

**Comment 14:** Respondents contend that an Indian published value for mixed cresol should be used rather than a value for a specific type of cresol because officials from all four factories stated at verification that they use a mixture of cresol to produce sebacic acid.

**DOC Position:** We agree with respondents. First, we established that the prices for cresol in the publication Chemical Weekly, which were submitted by respondents, were representative of a price range throughout the POI. Second, we calculated an average Indian POI value based on the values of three types of cresol (e.g., ortho, para, and meta) listed in Chemical Weekly. Finally, we used this average price to value the cresol used by the factories.

**Comment 15:** Petitioner contends that because the factories recover cresol used in the production process, the Department should consider the cresol recovery costs when determining the cost of manufacture.

Respondents contend that the Department captured the costs of recovering the cresol after establishing the factor for cresol at verification.

**DOC Position:** We agree with respondents. We have valued the amounts of cresol the factories actually used in producing sebacic acid based on the factories' production records. We find that these amounts used in production included amounts for recycled cresol. As in the case of caustic soda, we also have considered any costs associated with recovering cresol to be included in factory overhead since we did not discover at verification any unreported and quantifiable factors associated with the cresol recovery process.

**Comment 16:** Respondents contend that the additional labor amounts unreported by Handan factory should be considered as indirect labor, that is, part of factory overhead, and not production-related.

Petitioner contends that since Handan factory considers such labor to be part of its cost of manufacture, the Department should value the additional labor as direct labor in the production process. Petitioner also cites to a decision made in the Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the PRC, 58 FR 48833 (September 20, 1993) (HSLW) in support of its argument.

**DOC Position:** We agree with respondents. The antidumping questionnaire instructs responding factories to include in their labor factors the direct hours associated with producing the subject merchandise. Handan reported only the direct skilled and unskilled labor hours associated with producing and packing the subject merchandise during the POI. As a result of verification, we do not consider the unreported labor such as work performed by the plant managers to be direct labor. Rather, we consider the unreported labor to be indirect labor because such labor is not directly associated with producing or packing sebacic acid.

In the HSLW decision, the Department did not differentiate between direct and indirect labor when analyzing this issue. Instead, we based our decision on the fact that the additional laborers were considered by the factory to be part of the workshop producing the subject merchandise. In this case, we have distinguished between direct and indirect labor. We have found that Handan's additional labor is indirect labor and have considered the additional labor a part of factory overhead.

**Comment 17:** Petitioner contends that the material yield amounts reported by the factories in their submissions are not chemically possible. Therefore, the Department should resort to the amounts stated in the petition for BIA. Respondents contend that the data of the Chinese producers have all been verified. Therefore, the Department should use the producers' data in the final determination.

**DOC Position:** We agree with respondents. Based on our verification findings, each factory on the whole correctly reported all of the materials it used to produce the subject merchandise during the POI. We checked each factory's reported material amounts at verification using standard verification procedures such as: (1) Examining the factories' production cost and consumption usage reports; (2) examining entries in each factory's material inventory ledger to determine whether the factory underreported its material usage; (3) examining material draw tickets from the workshop producing the subject merchandise to determine actual usage; (4) tying the material inventory ledger to the factory's financial statements; and (5) examining sales invoices to determine whether the factories should have included additional material amounts in their reported material amounts.

In addition to employing standard verification procedures, we examined

two of the four factories' Chinese sebacic acid production manuals (one was published; the other was not). These manuals illustrated the general prescribed method for producing sebacic acid in the PRC. After careful analysis of our verification findings and of information provided by all the parties to this proceeding, we found no evidence to support petitioner's contention that the material yield amounts reported by the factories are inaccurate.

**Comment 18:** Petitioner contends that since Guangdong underreported the distance used to determine the foreign inland freight expense, the Department should use as BIA, in calculating the U.S. price, the longest distance reported by any of the other three trading companies to determine the deduction to U.S. price for Guangdong's foreign inland freight expense.

Respondents contend that the Department should use the verified amounts for factors and distances in the final determination.

**DOC Position:** We agree with respondents. We obtained the correct distance at verification. Therefore, we have used the correct distance to calculate Guangdong's foreign inland freight in the final determination.

**Comment 19:** Respondents contend that the Department should not use Indian import values to value the factors of production because neither the Chinese nor the Indian producers use imported inputs to produce the subject merchandise. Instead, the Department should use Indian domestic prices to value the factors of production.

**DOC Position:** We disagree in part with respondents. We have selected both published import and domestic prices (e.g., non-export values) to value the factors of production in accordance with the publicly available published information selection methodology noted in the "Foreign Market Value" section of this notice. If the published value was representative of a price range within the POI or more contemporaneous with the POI, product-specific, and tax-exclusive, we selected that value over all other values regardless of whether the value was an import or domestic value. In only one case (e.g., steam coal) has this resulted in the selection of an import value over a domestic value. We selected the import value because it was one month outside the POI whereas the domestic value was about three years prior to the POI and the import value was, therefore, more contemporaneous with the POI.

#### Suspension of Liquidation

In accordance with section 753(d)(1) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of sebacic acid from the PRC, as defined in the "Scope of Investigations" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after January 5, 1994, which is the date of publication of our preliminary determination in the Federal Register.

The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount, with respect to the subject merchandise, by which the FAV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. The weighted-average dumping margins are as follows. The PRC country-wide rate applies to all PRC companies not specifically listed below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/Producer/Exporter	Weighted-average margin percentage
Sinochem Jiangsu Import & Export Corporation	66.45
Tianjin Chemicals Import & Export Corporation	69.57
Guangdong Chemicals Import & Export Corporation	57.00
Sinochem International Chemical Company	43.72
PRC country-wide rate	24.40

#### International Trade Commission (ITC) Notification

In accordance with section 753(d) of the Act, we will notify the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled.

However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on sebacic acid from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

#### Notification to Interested Parties

This notice also serves as the only reminder to parties subject to

administrative protective order (APO) of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)), and 19 CFR 353.20(a)(4).

Dated: May 20, 1994.

Susan G. Esserman,

*Assistant Secretary for Import  
Administration.*

[FR Doc. 94-13126 Filed 5-27-94; 8:45 am]

BILLING CODE 2510-08-P

**APPENDIX B**  
**WITNESSES APPEARING AT THE HEARING**





Those listed below appeared as witnesses at the United States International Trade Commission's hearing on May 24, 1994:

In support of imposition of  
antidumping duties:

Fenwick & West  
Washington, DC  
on behalf of

Union Camp Corp.

Walter L. Jones, Vice President, Chemical Group, Union Camp Corp.  
Peter J. Deutch, Business Manager, Oleo Chemicals Division, Union Camp Corp.

Roger M. Golden) -- OF COUNSEL  
Phyllis E. Andes )

In opposition to imposition of  
antidumping duties:

Ober, Kaler, Grimes & Shriver  
Washington, DC  
on behalf of

Dastech International, Inc., Great Neck, NY  
Harrisons Trading Co., Inc., Tarrytown, NY  
Helm U.S. Chemical Corp., Piscataway, NJ  
ICC International, Inc., New York, NY  
Ivanhoe Industries, Inc., Pennington, NJ  
Morflex, Inc., Greensboro, NC  
Shakespeare Monofilament Div., Columbus, SC  
Sinochem U.S.A., Inc., New York, NY  
Wego Chemical & Mineral Corp., Great Neck, NY  
Guangdong Chemical Import & Export Corp., Guangdong, China  
Sinochem International Chemicals Co., Beijing, China  
Sinochem Jiangsu Chemicals Corp., Jiangsu, China  
Tianjin Chemical Import & Export Corp., Tianjin, China

Lian Ying Chen, Chamber of Commerce for Metals, Minerals & Chemicals  
Feiyun Zhu, Guangdong Chemical Import & Export Corp.  
Fei Wang, Manager, Import-Export Department, Tianjin Chemical Import & Export Corp.  
Shuimiao Fu, Handan Chemical Import & Export Corp.  
Robert Kahen, Vice President, Dastech International, Inc.  
Mario Gaerlan, ICC Industries, Inc.  
John Hoegl, President, Ivanhoe Industries, Inc.  
Edward Azizi, Wego Chemical & Mineral Corp.  
Charles A. Lynch, Ph.D., Vice President of Technology, Hatco Corp.  
Barry Johns, Vice President of Manufacturing, Shakespeare Monofilament Div.  
Richard M. Musgrove, Materials Manager, Morflex, Inc.

William E. Perry) -- OF COUNSEL  
John B. Gantt )

Ying Yu ) -- FOREIGN TRADE SPECIALIST



**APPENDIX C**  
**SUMMARY DATA**



Table C-1

Sebacic acid: Summary data concerning the U.S. market, 1991-93

(Quantity=1,000 pounds; value=1,000 dollars; unit values, unit labor costs, and unit COGS are per pound; period changes=percent, except where noted) 1/

Item	Reported data			Period changes		
	1991	1992	1993	1991-93	1991-92	1992-93
U.S. consumption quantity:	*	*	*	*	*	*
U.S. consumption value:	*	*	*	*	*	*
U.S. importers' imports from--						
China:						
U.S. shipments quantity..	4,637	3,939	5,315	+14.6	-15.1	+34.9
U.S. shipments value.....	6,327	4,457	5,814	-8.1	-29.6	+30.4
Unit value.....	\$1.36	\$1.13	\$1.09	-19.8	-17.1	-3.3
Ending inventory qty.....	140	***	980	+600.0	***	***
Other sources:						
U.S. shipments quantity..	31	375	310	+900.0	2/	-17.3
U.S. shipments value.....	57	668	531	+831.6	2/	-20.5
Unit value.....	\$1.84	\$1.78	\$1.71	-6.8	-3.1	-3.8
Ending inventory qty.....	***	***	***	***	***	***
All sources:						
U.S. shipments quantity..	4,668	4,314	5,625	+20.5	-7.6	+30.4
U.S. shipments value.....	6,384	5,125	6,345	-0.6	-19.7	+23.8
Unit value.....	\$1.37	\$1.19	\$1.13	-17.5	-13.1	-5.0
Ending inventory qty.....	***	***	***	***	***	***
U.S. producer's--	*	*	*	*	*	*

1/ "Reported data" are in percent and "period changes" are in percentage points.

2/ 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.

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

Table C-2

Sebacic acid: Summary data concerning the U.S. market, 1989-93

(Quantity=1,000 pounds; value=1,000 dollars; unit values, unit labor costs, and unit COGS are per pound; period changes=percent, except where noted) 1/

Item	Reported data					Period changes				
	1989	1990	1991	1992	1993	1989-93	1989-90	1990-91	1991-92	1992-93
U.S. consumption quantity:	*	*	*	*	*	*	*			
U.S. consumption value:	*	*	*	*	*	*	*			
U.S. importers' imports from--										
China:										
U.S. shipments quantity..	4,766	2,732	4,637	3,939	5,315	+11.5	-42.7	+69.7	-15.1	+34.9
U.S. shipments value.....	7,244	4,262	6,327	4,457	5,814	-19.7	-41.2	+48.5	-29.6	+30.4
Unit value.....	\$1.52	\$1.56	\$1.36	\$1.13	\$1.09	-28.0	+2.6	-12.5	-17.1	-3.3
Ending inventory qty.....	493	407	140	***	980	+98.8	-17.4	-65.6	***	***
Other sources:										
U.S. shipments quantity..	0	0	31	375	310	2/	0	2/	3/	-17.3
U.S. shipments value.....	0	0	57	668	531	2/	0	2/	3/	-20.5
Unit value.....	2/	2/	\$1.84	\$1.78	\$1.71	2/	2/	2/	-3.1	-3.8
Ending inventory qty.....	0	0	***	***	***	2/	0	***	***	***
All sources:										
U.S. shipments quantity..	4,766	2,732	4,668	4,314	5,625	+18.0	-42.7	+70.9	-7.6	+30.4
U.S. shipments value.....	7,244	4,262	6,384	5,125	6,345	-12.4	-41.2	+49.8	-19.7	+23.8
Unit value.....	\$1.52	\$1.56	\$1.37	\$1.19	\$1.13	-25.8	+2.6	-12.3	-13.1	-5.0
Ending inventory qty.....	493	407	***	***	***	***	-17.4	***	***	***
U.S. producer's--	*	*	*	*	*	*	*			

1/ "Reported data" are in percent and "period changes" are in percentage points.

2/ Not applicable.

3/ 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.

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

Table C-3

Sebacic acid: Summary data concerning the U.S. market, with data for Union Camp presented separately, 1991-93

\* \* \* \* \*

Table C-4

Sebacic acid: Summary data concerning the U.S. market, with data for Union Camp presented separately, 1989-93

\* \* \* \* \*

Table C-5

Sebacic acid: U.S. imports, by sources, excluding Union Camp, 1991-93

\* \* \* \* \*

Table C-6

Sebacic acid: Apparent U.S. consumption of sebacic acid for use in the production of \*\*\* and for other uses, 1989-93

\* \* \* \* \*

Figure C-1

Summary chart on sebacic acid

\* \* \* \* \*





## **APPENDIX D**

**COMMENTS BY THE U.S. PRODUCER ON THE IMPACT  
OF IMPORTS OF SEBACIC ACID FROM CHINA ON ITS  
GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL,  
AND DEVELOPMENT AND PRODUCTION EFFORTS,  
AND UNION CAMP'S COSTS OF PRODUCTION**



The Commission requested Union Camp to describe and explain the actual and negative effects, if any, of imports of sebacic acid from China on its growth, investment, ability to raise capital, or existing development and production efforts (including efforts to develop a derivative or improved version of its product). Union Camp was also asked whether the scale of capital investments undertaken has been influenced by the presence of imports of this product from China. Union Camp's response is shown below:

**Actual Negative Effects**

\* \* \* \* \*

**Anticipated Negative Effects**

\* \* \* \* \*

**Influence of Imports on Capital Investment**

\* \* \* \* \*

Union Camp also noted in a subsequent submission that "\*\*\*."<sup>1</sup>

Table D-1

Sebacic acid: Costs of production for Union Camp, fiscal years 1991-93

\* \* \* \* \*

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<sup>1</sup> Letter from \*\*\*.



**APPENDIX E**  
**IMPORT DATA FROM OFFICIAL STATISTICS**



Table E-1

Sebacic acid: U.S. imports of product classified under HTS subheading 2917.13.00,<sup>1</sup> by sources, 1989-93

Item	1989	1990	1991	1992	1993
<i>Quantity (1,000 pounds)</i>					
China . . . . .	3,897	2,707	4,230	5,067	5,087
Hong Kong . . . . .	355	0	196	192	39
Subtotal . . . . .	4,252	2,707	4,426	5,259	5,125
Other sources . . . . .	134	1	37	661	626
Total . . . . .	4,386	2,709	4,463	5,920	5,751
<i>Landed, duty-paid value (1,000 dollars)</i>					
China . . . . .	5,677	3,860	5,494	5,059	4,667
Hong Kong . . . . .	524	0	225	167	41
Subtotal . . . . .	6,201	3,860	5,719	5,227	4,708
Other sources . . . . .	333	24	169	1,196	880
Total . . . . .	6,534	3,885	5,888	6,423	5,588
<i>Unit value (per pound)</i>					
China . . . . .	\$1.46	\$1.43	\$1.30	\$1.00	\$0.92
Hong Kong . . . . .	1.48	----	1.15	0.87	1.06
Average . . . . .	1.46	1.43	1.29	0.99	0.92
Other sources . . . . .	2.49	17.01	4.59	1.81	1.41
Average . . . . .	1.49	1.43	1.32	1.08	0.97

<sup>1</sup> The imports classified under HTS subheading 2917.13.00 are sebacic acid, azelaic acid, and salts and esters of azelaic and sebacic acids.

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

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

Official import statistics for the "basket" category 2917.13.00 indicate that the data collected by the Commission through its questionnaires represent virtually all imports of sebacic acid. Differences in the data for countries other than China and Hong Kong<sup>1</sup> are accounted for by imports of azelaic acid as well as sebacic salts and esters.<sup>2</sup>

<sup>1</sup> Both parties agree that imports of sebacic acid reported in the official statistics as being from Hong Kong are likely to be Chinese. Conference transcript, p. 108; Petition, p. 3. Additionally, the Hong Kong Census and Statistics Department's *Hong Kong Trade Statistics* records no domestic exports of products classified under Standard International Trade Classification 51389, polycarboxylic acids, nes, to the United States in 1991 and 1992. It does record substantial quantities of such products as re-exports of previously imported products to the United States during those years.

<sup>2</sup> Questionnaire responses of \*\*\*.





**APPENDIX F**

**PRICE HISTORIES FOR UNION CAMP SEBACATES  
AND WORLD PRICES FOR CASTOR OIL**



Table F-1  
Union Camp's sebacate esters sales history, 1989-93

\* \* \* \* \*

Table F-2  
World castor oil prices and price index, any origin, ex-tank Rotterdam, by quarters and by years, January 1989-December 1993

Period	Price <i>Per metric ton</i>	Price <i>Per pound</i>	Index <sup>1</sup>
1989:			
January-March . . . . .	\$1,101	\$0.50	100.0
April-June . . . . .	1,047	.48	95.2
July-September . . . . .	1,120	.51	101.8
October-December . . . . .	1,186	.54	107.8
Annual average . . . . .	1,114	.51	100.0
1990:			
January-March . . . . .	1,093	.50	99.3
April-June . . . . .	1,014	.46	92.1
July-September . . . . .	953	.43	86.6
October-December . . . . .	821	.37	74.6
Annual average . . . . .	970	.44	86.3
1991:			
January-March . . . . .	829	.38	75.3
April-June . . . . .	786	.36	71.4
July-September . . . . .	733	.33	66.6
October-December . . . . .	793	.36	72.0
Annual average . . . . .	785	.36	70.6
1992:			
January-March . . . . .	782	.35	71.0
April-June . . . . .	753	.34	68.4
July-September . . . . .	792	.36	72.0
October-December . . . . .	717	.33	65.2
Annual average . . . . .	761	.35	68.6
1993:			
January-March . . . . .	712	.32	64.7
April-June . . . . .	809	.37	73.5
July-September . . . . .	854	.39	77.6
October-December . . . . .	865	.39	78.6
Annual average . . . . .	810	.37	72.5

<sup>1</sup> January-March 1989 = 100 for quarterly trends and 1989 = 100 for annual trends.

Source: *Oil World*, January 28, 1994.



**APPENDIX G**

**ALTERNATIVE PURCHASE PRICE COMPARISONS IN  
THE U.S. PLASTICIZER MARKET**



Table G-1

Weighted-average net U.S. delivered purchase prices and quantities of U.S.-produced and imported Chinese sebacic acid purchased by U.S. end users (excluding purchases of the Chinese sebacic acid by \*\*\*) in the plasticizer market and margins of underselling, by quarters, January 1991-December 1993

\* \* \* \* \*

