Fresh Garlic from The People's Republic of China

Investigation No. 731-TA-683 (Final)

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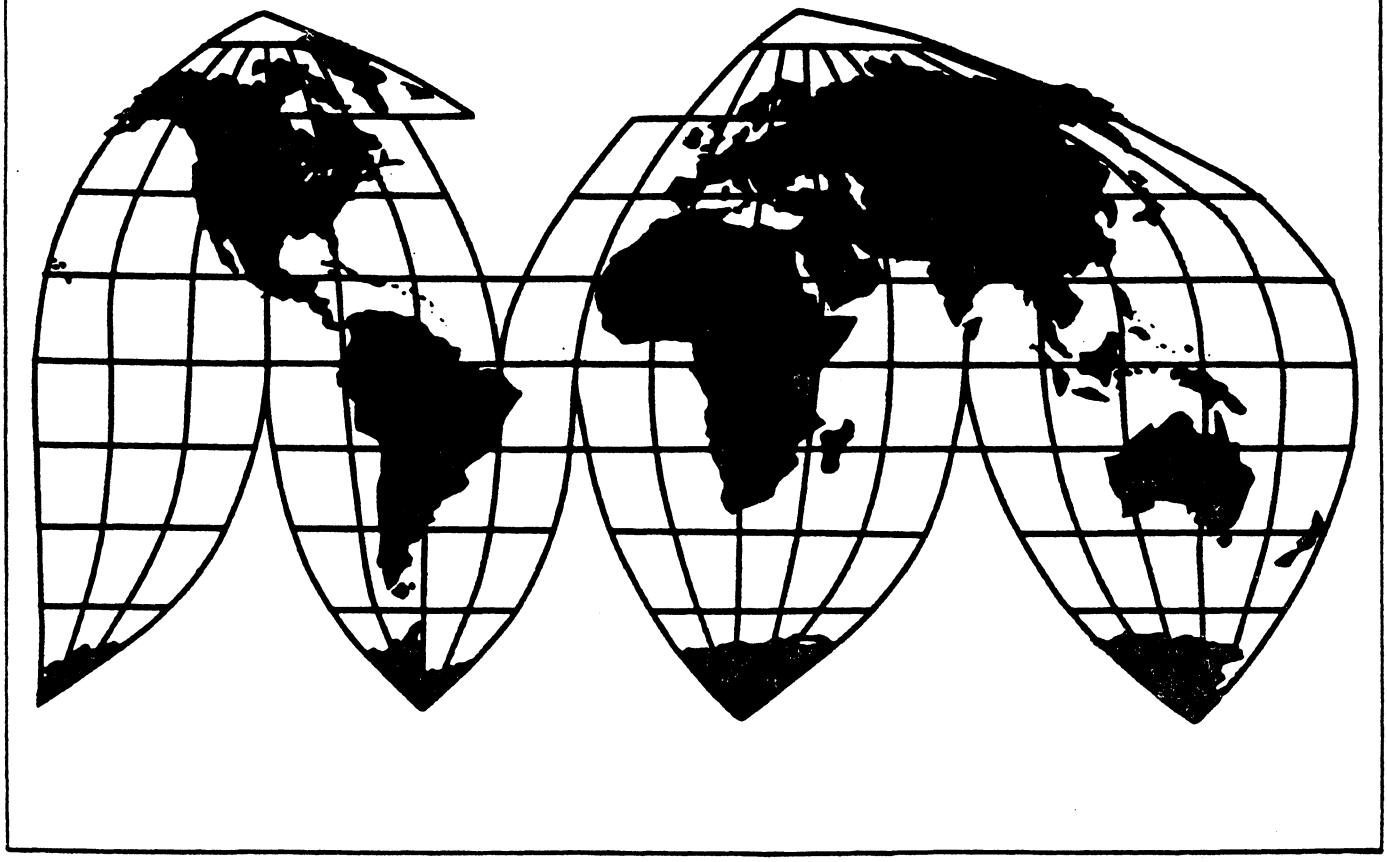
U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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CONTENTS

CONTENTS

CONTENTS

CONTENTS

CONTENTS

CONTENTS

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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-683 (Final)

FRESH GARLIC FROM THE PEOPLE'S REPUBLIC OF CHINA

Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that the industry in the United States producing fresh garlic[2] is materially injured by reason of imports from the People's Republic of China (China) of fresh garlic, as defined by the Department of Commerce (Commerce), that have been found by Commerce to be sold in the United States at less than fair value (LTFV).[3] [4] The Commission also determines, pursuant to section 735(b)(4)(a), that critical circumstances do not exist such that it is necessary to impose the duty retroactively.

Chairman Watson, Vice Chairman Nuzum, and Commissioners Bragg, Rohr, and Newquist find that the industry in the United States producing dehy garlic[5] is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of LTFV imports from China.[6] Chairman Watson, Vice Chairman Nuzum, and Commissioners Bragg, Rohr, and Newquist also find that the industry in the United States producing seed garlic[7] is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of LTFV imports from China.[8]

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

[2] Defined as garlic that has been manually harvested and is intended for use as fresh produce.

[3] For purposes of this investigation, Commerce has defined "fresh garlic" as all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or by heat processing, the foregoing used principally as a food product and for seasoning. Fresh garlic is provided for in subheadings 0703.20.00, 0710.80.70, 0710.80.97, 0711.90.60, and 2005.90.95 of the Harmonized Tariff Schedule of the United States,

[4] Commissioner Crawford finds one like product corresponding to the scope of this investigation as defined by Commerce, and finds that the industry in the United States producing garlic is materially injured by reason of LTFV imports from the People's Republic of China.

[5] Defined as garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use.

[6] Because Commissioner Crawford finds one like product corresponding to the scope of this investigation as defined by Commerce, she does not make a separate injury finding for this industry.

[7] Defined as garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed.

[8] Because Commissioner Crawford finds one like product corresponding to the scope of this investigation as defined by Commerce, she does not make a separate injury finding for this industry.

Background

The Commission instituted this investigation effective July 11, 1994, following a preliminary determination by the Department of Commerce that imports of fresh garlic from 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 August 3, 1994 (59 F.R. 39674). The hearing was held in Washington, DC, on September 27, 1994, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

Based on the record in this final investigation, we determine that the industry in the United States producing fresh garlic is materially injured by reason of imports of fresh garlic from China that have been found by the U.S. Department of Commerce ("Commerce") to be sold in the United States at less than fair value ("LTFV").[1] We further find that critical circumstances do not exist with respect to the subject imports from China.

We also find that the domestic industries producing garlic for dehydration and seed garlic are neither materially injured nor threatened with material injury by reason of the subject imports from China.[2]

I. LIKE PRODUCTS

A. In General

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, as amended ("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 . . . ."[3] In turn, the statute defines "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."[4] While the Commission must accept Commerce's determination as to which imported merchandise is within the class or kind of merchandise allegedly sold at less than fair value, the Commission determines what domestic product is like the imported articles identified by Commerce.[5]

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[1] Whether the establishment of an industry in the United States is materially retarded is not an issue in this investigation.

[2] Commissioner Crawford finds one like product corresponding to the scope of this investigation, and finds that the domestic industry producing that product is materially injured by reason of the LTFV imports.

[3] 19 U.S.C. §1677(4)(A).

[4] 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 of the products, (3) channels of distribution, (4) customer and producer perceptions of the products, (5) the use of common manufacturing facilities and production employees, and (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. E.g., S. Rep. No. 249, 96th Cong. 1st Sess. 90-91 (1979); Torrington 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.").

[5] See e.g., Algoma Steel Corp. v. United States, 688 F. Supp. 639 (Ct. Int'l Trade 1988), ("ITC does not look behind ITA's determination, but accepts ITA's determination as to which merchandise is in the class of merchandise sold at LTFV."), aff'd, 865 F.2d 240 (Fed. Cir. 1989); Torrington v. United States.

B. Domestic Product "Like" Imported Garlic

Commerce has defined the scope of this investigation as:

> all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. . . .[6]

In order to analyze the like product issues in this investigation, it is necessary as a preliminary matter to define the various types of garlic and the producers of that garlic according to industry use. The term "producer" refers to firms that plant, harvest, pack, and sell garlic. As discussed infra, these producers contract with farmers or crop tenders who provide the land on which the garlic is grown. Although there are hundreds of farmers who grow garlic, there are 26 known "producers" of garlic in the United States.[7]

Virtually all garlic grown in the United States is planted from "seed garlic." Seed garlic generally is grown in isolated areas in Nevada, Oregon, or northeastern California, and the producers strive to keep seed garlic "virus-free."[8] The seed garlic is mechanically harvested, after which it is shipped to the central agricultural valleys of California, where it is planted for the next year's crop.

The seed garlic is cracked into cloves, which are planted either to grow "fresh" garlic or garlic for dehydration ("dehy" garlic). The term "fresh" garlic is used to refer to garlic that is grown for the purpose of sales in the fresh market.[9] Fresh garlic producers will eventually sell their garlic as fresh produce, and therefore plant and harvest the garlic in a manner that will make it most attractive in appearance to the consumer. Thus, U.S. fresh producers plant their garlic with relatively low density, aim to harvest garlic with 7-8 skins remaining, and harvest by hand to minimize bulb damage.[10]

"Dehy" garlic will eventually be processed into a powdered or granulated product. The term "dehy" garlic is used to refer to garlic that is grown for the intended purpose of future dehydration, whereas the term "dehydrated" garlic refers to the garlic powder that is the end product of processing the dehy garlic. Because the consumer never sees the garlic before it is dehydrated, the dehy producers grow and harvest the garlic mainly to achieve maximum yield and large bulb size, without concern for the garlic's appearance. Thus, dehydrators plant with twice the density as fresh growers, and employ cultivation and irrigation methods that allow for fewer skins and drier bulbs, and mechanically harvest their garlic.[11]

For the purposes of our like product determination, we considered whether fresh garlic, seed garlic, and dehy garlic constitute one like product and whether processed garlic should be included in the like product.

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[6] 59 Fed. Reg. 49058 (Sept. 26, 1994).

[7] See Confidential Report, (CR) at I-24, Table 3; Public Report (PR) at II-15.

[8] CR at I-10-12; PR at II-6-7. Virus-free seed will result in larger yields, and will produce larger bulbs than virus-infected seed, but viruses do not cause noticeable differences in flavor, nor do they harm the consumer.

[9] As discussed infra, we note that "fresh" garlic as used in the context of domestic production is not coextensive with the garlic described in Commerce's scope.

[10] CR at I-7; PR at II-5.

[11] CR at I-7-9; PR at II-6.

C. Whether Fresh Garlic, Dehy Garlic and Seed Garlic Are One Like Product[12]

Because the Commission's mandate is to define the domestic product "like" the subject imports, we must first look to the scope of the investigation, as defined by Commerce, to determine what products fall within the scope.[13] Commerce's scope definition is set out supra. Read literally, there is nothing in the language that limits the scope to manually-harvested garlic. Indeed, Commerce officials have indicated that the scope covers all "raw" garlic, including dehy and seed garlic.[14] Although petitioners argue that the Commission should define the scope based upon the items that are actually being imported rather than upon the items that could be covered by the scope, our like product analysis starts with the scope as defined by Commerce, not by looking at what items are actually being imported.[15] Thus, the Commission must determine what domestic product is "like" "all grades of garlic. . . . not prepared or preserved by the addition of other ingredients or heat processing."[16] The scope is not limited by harvesting and cultivation techniques.

We consistently have determined that we do not have the authority to exclude from our like product determination merchandise included within the scope of the investigation.[17] Because the scope includes all unprocessed garlic, without regard to cultivation or harvesting techniques, we examined whether the like product should be divided into three separate like products based upon whether it is grown as fresh, dehy, or seed garlic, as discussed below.[18]

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[12] In the preliminary determination, the Commission found that seed garlic, fresh garlic, and dehy garlic were all one like product, but stated its intent to collect additional data and revisit the issue in any final investigation. USITC Pub. 2755 at I-9.

[13] In order to avoid confusion between the definitions of the domestic products and that of the LTFV imports subject to investigation, it is important to emphasize that Commerce's explanation of the scope in its notice of final determination of LTFV sales, rather than the title of the investigation, governs the scope definition. Although the products under investigation are imports of "fresh" garlic from China, the modifier "fresh" is not synonymous with the term "fresh" garlic as used in reference to the domestic industry.

[14] See CR at I-5; PR at II-4.

[15] See, e.g., Algoma Steel Corp. v. United States, 688 F. Supp. at 31; Certain Compact Ductile Iron Waterworks Fittings and Accessories Thereof from The Peoples' Republic of China, Inv. No. 731-TA-621 (Final), USITC Pub. 2671 at 8 (Aug. 1993) (finding that accessory packs were within Commerce's scope, although there were no imports of accessory packs.)

[16] Commerce's Notice of Final Determination of Sales at Less Than Fair Value, 59 Fed. Reg. 49058 (Sept. 26, 1994).

[17] See, e.g., Fresh Garlic from China, Inv. No. 731-TA-683 (Preliminary), USITC Pub. 2755 at I-7 (March 1994), citing Antifriction Bearings (Other than Tapered Roller Bearings) and Parts thereof from the Federal Republic of Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom, Invs. Nos. 303-TA-19 and 20 (Final) and 731-TA-391-399 (Final), USITC Pub. 2185 (May 1989) at 37-39 (Commission has no statutory authority to exclude certain imports from the scope of an investigation); Sandvik AB v. United States, 721 F. Supp. 1322, 1333 (Ct. Int'l Trade 1989) (This Court agrees that the ITC does not have the authority to exclude merchandise from the like product designation . . . The ITA controls the scope of the investigation, while the ITC determines whether there is material injury or the threat of material injury to the domestic industry producing the like product), aff'd 904 F.2d 46 (Fed. Cir. 1990); Sony Corp. of America v. United States, 712 F. Supp. 978, 983 (Ct. Int'l Trade 1989).

[18] In the preliminary determination, the Commission invited the parties in any final investigation to comment on whether the Commission should collect data that would enable it to determine whether the various grades of garlic for fresh use constituted separate like products. USITC Pub. 2755 at I-7, n.22. None of the parties believed it was helpful to collect data based upon separate grades (except for the purposes of price comparisons), and no party has argued for like product divisions based on grades. See Petitioners' Prehearing Brief at 29-30. Further, the information collected in this investigation indicates that the different grades of

(continued...)

1. Physical Characteristics and Uses

All domestic unprocessed garlic shares the same essential physical characteristics, i.e., all garlic bulbs consist of a number of cloves and a skin, have similar odors, impart similar flavors, and can easily be identified by sight as garlic. There are differences in the degree of aesthetic appeal, however, between fresh garlic on the one hand and dehy and seed garlic on the other. While fresh garlic is treated in a manner that will enable it to maintain several skins and be aesthetically pleasing, appearance is not a consideration for dehy and seed garlic.

There are pronounced differences in the actual uses for the three types of garlic. Fresh garlic is grown and harvested to be used as fresh produce; dehy garlic is grown and harvested to achieve a high volume of a dried product suitable for further processing; and seed garlic is grown to increase vigor and disease resistance of the bulb so that it is most suitable for use as seed stock for other garlic crops.[19] Although the downstream product produced from dehy garlic (i.e., powdered or granulated garlic), like fresh garlic, is used as a flavoring in other food products, the immediate use for the dehy bulbs differs from the immediate use of fresh bulbs.[20] Whereas fresh bulbs are sold for use as a food seasoning, dehy bulbs are transferred internally and used to produce dehydrated garlic. Seed garlic, on the other hand, is always used as stock for seed.

Although the limited data available in the preliminary investigation indicated otherwise (see USITC Pub. 2755 at I-8), the data collected in this final investigation show that the vast majority of fresh garlic is actually sold as fresh produce and that domestically-produced fresh or dehy garlic is seldom used as seed.[21] The information collected in the final investigation also shows that garlic grown for seed is not sold for fresh produce or dehydration, and that dehy garlic is virtually never sold as fresh produce.[22]

On balance, it appears that although all forms of raw garlic are fundamentally related, the physical characteristics of fresh, dehy, and seed garlic are somewhat different, and there are distinct differences in intended and actual use of the three types of garlic.

2. Interchangeability

As discussed above with respect to physical characteristics and uses, there is limited interchangeability among the three types of garlic. "Off-grades" of fresh garlic (accounting for less than 10 percent of U.S.-produced fresh garlic) are sold to dehydrators or other processors, but most

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[18] (...continued)
fresh garlic are planted, grown, and harvested in the same fields, are commingled in the same bins, and are processed through the same facility on the same type of machinery, although different lines may be used once the garlic is sorted. Field visit with El Camino Packing, Aug. 10, 1994.

[19] See CR at I-6-12; PR at II-4-7.

[20] There are, however, some differences in the main types of foods to which fresh and dehydrated garlic, respectively, are added. While fresh garlic is most often used for fresh food preparation, dehydrated garlic is used principally in prepared foods, such as frozen and canned products, and dry soups and mixes. CR at I-12-13; PR at II-7-8.

[21] CR at I-31 and I-91-92 & n.134; PR at II-18 and II-61. See Petitioners' Prehearing Brief at Exhibit 6, ¶ 12 (Affidavit of Michael Compston) ("Although California fresh garlic could theoretically be used as seed, . . .[a]ny producer that [planted fresh garlic as seed over successive years] would soon be out of business.")

[22] CR at I-13 and I-43-45, Tables 7 and 8; PR at II-8 and II-27-29.

fresh garlic is ultimately sold as fresh produce.[23] Dehy garlic generally cannot, however, be substituted for fresh garlic, because of the poor physical appearance of dehy garlic. Respondents cite an example of dehy garlic being sold in ethnic markets,[24] but the data and the statements of the U.S. dehy growers indicate that such sales at best represent isolated occurrences.[25] Although as respondents further note, dehy as well as fresh bulbs may be peeled and sold in the fresh market, the information in the record suggests that fresh garlic is preferred for peeling due to its appearance and high water content.[26] In addition, the data indicate that dehydrators internally use the vast majority of dehy garlic grown in the United States.[27]

The evidence also indicates that domestically-grown fresh and dehy garlic are rarely used as seed, in light of the emphasis on using virus-free seed.[28] Seed garlic is not sold as fresh produce or for dehydration.[29] Thus, although the products are theoretically interchangeable, actual practice suggests that they are not in fact used interchangeably.

3. Channels of Distribution

The three types of garlic do not share common channels of distribution. Over 90 percent of U.S.-produced fresh garlic is sold to wholesalers, distributors, and food brokers, who in turn sell the fresh garlic to other distributors or retailers.[30] In contrast, virtually all dehy garlic is produced by the dehydrators and internally consumed in dehydration and production of other products.[31] Most U.S.-produced seed garlic is also internally consumed, but is first cracked and then shipped from special seed garlic growing regions to California for the purpose of planting. The remaining seed garlic is sold on the open market directly to fresh and dehy producers.[32]

4. Customer and Producer Perceptions

As highlighted by the testimony and briefs of petitioners (the fresh garlic producers) and ADOGA (the dehydrators and, consequently, the dehy garlic producers) the respective producers do not consider fresh and dehy garlic to be like one another, in light of the differences in planting and

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[23] CR at I-29-31; PR at II-17-19. In addition to sales of "off-grades," in uncommon distress situations, U.S. producers have also sold fresh garlic to dehydrators at a significant financial loss. CR at I-13, I-29, n. 63, and I-86, n.110; PR at II-8, II-18, II-55.

[24] Respondents' Posthearing Brief at 4-5 and Exhibit 3, ¶ 3 (Affidavit of Jimmy Tani, President of Pepper House International).

[25] The American Dehydrated Onion and Garlic Association (ADOGA) members state that they have never sold unprocessed dehy garlic in the fresh garlic market. ADOGA's Posthearing Brief at 10.

[26] See Petitioners' Posthearing Brief at 19-20.

[27] See CR at I-43, Table 7; PR at II-28.

[28] CR at I-12; PR at II-7. Fresh or dehy garlic can, however, be used as seed in extenuating circumstances such as shortages in seed supply. There is also evidence that one U.S. producer, Christopher, purchased fresh Chinese garlic to be used as seed, in an effort to grow an early domestic crop. CR at I-29, n.64, I-88-89, n.118, and I-93, n.135; PR at II-18, II-59, II-62.

[29] CR at I-31; PR at II-18; Petitioners' Prehearing Brief at Exhibit 4, Affidavit of Michael Fry) at ¶ 6.

[30] CR at I-29-31; PR at II-17-19.

[31] Id.

[32] Id and CR at I-42; PR at II-27.

harvesting, water content, appearance, and uses.[33] Nor do they consider seed garlic, which is grown solely for planting future crops, to be part of the product like either fresh or dehy garlic. Fresh and dehy producers plant only certified virus-free seed grown for that purpose except in rare circumstances.[34]

The "customers" for the seed are the fresh and dehy producers, who, as noted above, perceive seed garlic to be a distinct product grown for its virus-free qualities. The "customers" for the dehy garlic (to the extent an integrated producer is its own "customer") are the dehydrators who, as also noted above, perceive dehy garlic to be different from fresh garlic. The wholesalers and retailers who purchase garlic to be sold as fresh produce indicated that quality is an important factor, suggesting that garlic with a better appearance, i.e., fresh garlic, is perceived to be most suitable for sale as fresh produce.[35] Indeed, the fact that purchasers of fresh produce historically have purchased only fresh garlic, and have not created a demand for substantially lower-price dehy garlic, further suggests that the fresh market customers perceive only fresh garlic to be suitable for their purposes.

5. Manufacturing Facilities and Production Employees

As discussed above, there is virtually no overlap between fresh and dehy producers, and therefore no overlap in production facilities or employees.[36] Nonetheless, the fields used for fresh and dehy garlic are fundamentally similar in that a grower could plant the same garlic on the same field to produce garlic intended for either use.[37] Starting with planting, however, the intended use of the garlic dictates the cultivation and harvesting techniques. Dehy garlic is planted more densely than fresh garlic.[38] Water shut-off is earlier for fresh garlic.[39] Whereas fresh garlic is left to dry from one to three weeks after water cut-off, dehy is left to dry for approximately six weeks after water cut-off, and then pre-moistened prior to harvest to facilitate mechanical harvesting of the bulbs. Dehy plants are topped mechanically prior to harvesting, whereas fresh plants are topped after they have been harvested and cured.[40]

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[33] See Petitioners' Prehearing Brief at 14; ADOGA's Prehearing Brief at 15-16 and Posthearing Brief at 3-5.

[34] CR at I-91-92, n. 132; PR at II-60; See Petitioners' Prehearing Brief at Exhibit 7. As noted supra, one domestic fresh garlic producer has experimented with planting Chinese-grown fresh garlic as seed in an effort to induce an early harvest.

[35] CR at I-90-91; PR at II-60-61.

[36] Some dehydrators, most notably Basic Vegetable Products, operate "Buy-a-Field" programs through which fresh garlic producers contract for the "purchase" of fields of garlic. The fresh producers, however, generally dictate cultivation and water cut-off for the fields they have purchased, and harvest the garlic using the same methods typically used for harvesting fresh garlic. See CR at I-26 and Appendix D; PR at II-16.

[37] Although both fresh and dehy garlic are grown in the same kind of soil, they tend to be grown in different valleys of California. Field visit with [* * *].

[38] Whereas fresh garlic is planted with approximately 130,000 to 200,000 garlic bulbs per acre (to produce 9-12 cloves per bed foot), dehy garlic is planted with 240,000 to 300,000 bulbs per acre (to produce 18-23 cloves per bed foot). CR at I-7; PR at II-5. The less densely planted fields facilitate hand harvesting methods used for fresh garlic. Id.

[39] As the garlic in the ground starts forming cloves, the number of skins lessens. The aim for fresh garlic is to shut the water off to allow for five or six skins after drying. Dehy water cut-off is later to ensure a limited number of skins (approximately 4) for ease of processing the dehy bulbs. Petitioners' Prehearing Brief, Exhibit 4 (Affidavit of Michael Fry).

[40] Id.

Furthermore, fresh garlic is harvested primarily by hand, to minimize damage to the bulbs.[41] In contrast, dehy garlic is harvested in an entirely mechanized manner, using equipment dedicated to dehy garlic.[42] The extensive reliance on manual labor for harvesting fresh garlic but not dehy garlic further dictates the differences in employees used to produce fresh and dehy garlic. Also, harvesting and clipping of fresh garlic adds approximately $.10 per pound to the cost of the garlic, whereas harvesting of dehy garlic adds approximately $.03 per pound to the cost of the garlic.[43] Unlike fresh garlic, dehy garlic is not cured and is generally shipped to the processing facility the same day it is harvested. In addition, dehy garlic, unlike fresh garlic, is subject to inspection by the State of California.[44]

The storage and packing procedures for fresh and dehy garlic also differ. Fresh garlic is sized mechanically, graded by hand, stored in large wooden crates, and reinspected by the producer's employees prior to packing.[45] In contrast, dehy garlic is not sized or graded and is stored in large open sheds.[46] In addition, fresh growers have made substantial investments in controlled-atmosphere and cold storage facilities, which enable them to extend the selling period for fresh garlic up to six months (for cold storage) and 11 months (for controlled-atmosphere storage.)[47]

Seed garlic is grown in entirely different regions from dehy and fresh garlic. Whereas dehy and fresh garlic are grown at near sea-level altitudes in California's central valley, seed garlic is grown at high altitudes in isolated regions of Nevada, Oregon, and northeastern California, which are characterized by harsh winters.[48] According to an experienced seed grower, Nevada and Oregon farm acreage used for garlic seed production has never been used for fresh or dehy production, nor is seed garlic grown in the agricultural valleys of California where fresh and dehy garlic are grown.[49] Seed garlic further differs from fresh garlic, but shares some common production methodology with dehy garlic, in that it is mechanically harvested because appearance is not an important factor. The

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[41] Report at I-8-9; Petitioners' Prehearing Brief, Exhibit 5, ¶¶ 9-16 (Affidavit of Valerie Vickroy Filice). Once the garlic dries, it is mechanically undercut by a "digger," which detaches the root from the ground and loosens the soil. A crew of workers follows right behind the digger and pulls the garlic out of the ground. After the fresh garlic plants are pulled from the ground, they are left in "windrows" for several weeks to cure. Thereafter, the garlic is hand clipped to remove the root and leaf stems from the bulb. Bulbs are then carried to bins and ultimately transported to sheds for cleaning and packing.

[42] CR at I-9; PR at II-6; Petitioners' Prehearing Brief, Exhibit 4, (Affidavit of Michael Fry). Machines designed specifically for digging dehy garlic mechanically dig up the plants four rows at a time, shake the plants to loosen any dirt, and place the plants in windrows, where they remain for only 5-6 hours. Dehy growers, unlike fresh growers, do not undercut their garlic, but rather cut as close to the bulbs as they can. Fresh garlic producers are not concerned if the garlic has a lot of dirt when harvested because it is hand cleaned, whereas dehydrators must minimize the dirt content of the bulbs due to microbiological concerns, and will come through and dig again if there is too much dirt. After windrowing, the dehy bulbs are inspected for defects on a bulk loader, and then directly loaded onto transport vehicles. After digging, the dehy bulbs are conveyed by machine into trailers which hold approximately 50,000 pounds of garlic. The trailer is then taken to the end of the field, where truckers haul it to a location at or near the dehydrator's facility for weighing.

[43] See Conference Tr. at 16-18, 63.

[44] The dehydrated industry requested the state to undertake such inspections.

[45] CR at I-9; PR at II-6; Field visits with El Camino Packing and Christopher Ranch, Aug. 10 and 11, 1994.

[46] Field visit with [* * *], Aug. 11, 1994.

[47] CR at I-89; PR at II-59-60.

[48] Petitioners' Prehearing Brief, Exhibit 6 (Affidavit of Michael Compston) at ¶¶ 3-5. The winter frost in these regions causes the garlic plant to freeze, slowing its metabolism to almost zero. The exposure to severe cold and frost toughens the garlic bulbs so they will perform well as seed.

[49] Id. at ¶ 11.

types of facilities and employees for growing seed, however, differ from those for growing both fresh and dehy garlic in that seed garlic producers have made substantial capital investments in laboratories dedicated to producing virus-free seed.[50]

In sum, fresh, dehy, and seed garlic do not share common production methods, facilities, or employees. There is a theoretical possibility for more overlap since any field could be used to grow a different type of garlic from that intended at planting, but in practice this has not been the case.

6. Price

Because virtually all dehy garlic is internally consumed, there are no pricing data for this product. Dehydrators estimated a production cost, however, of approximately $[* * *] per pound for dehy garlic.[51] This is consistent with the price range ($0.12-$0.22 per pound) the dehydrators paid fresh producers for off-grades.[52] Fresh garlic prices are significantly higher, with whole fresh bulbs selling anywhere from [* * *].[53] Thus, prices for fresh garlic are many times those of dehy garlic, supporting a finding that they are separate products.

Reported seed garlic prices were comparable, and in some instances, lower, than prices for fresh garlic, but higher than the costs for dehy garlic.[54] However, [* * *].

7. Summary and Conclusion

The evidence indicates that the fundamental physical characteristics of fresh, dehy, and seed garlic are the same, and thus that the products are at least theoretically interchangeable to some degree, either during the production process or after harvest. We consider the actual differences in production processes and facilities, producer distinctions, and end uses, however, to be more probative. In addition, the other factors -- producer and customer perceptions, channels of distribution, and price (at least with respect to a comparison of fresh and dehy garlic) -- point to separate like products. Accordingly, we find that there are clear dividing lines among fresh, dehy, and seed garlic, and we therefore find three like products.

D. Whether the Like Products Include Processed Products

No party contends that "dry-processed" garlic products, i.e., powdered and granulated garlic (the end products produced by the dehydrators) should be included in the like product.[55] Nor do the

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[50] Petitioners' Prehearing Brief at Exhibit 7 (Affidavit of Tom T. Matsumoto, PhD), Exhibit 4 (Affidavit of Michael Fry) at ¶ 5. Further, unlike fresh garlic, seed garlic is not and cannot be placed in controlled-atmosphere or cold storage without beginning the germination process. CR at I-31, n.66; PR at II-18.

[51] CR at I-93, n.135; PR at II-62; ADOGA's Posthearing Brief at 4.

[52] CR at I-86, n.110; PR at II-55.

[53] See CR at I-94-96, Tables 24-26; PR at II-63-65.

[54] U.S. seed producers reported prices ranging between $0.52 and $0.58 per pound for October and November 1992 and 1993. CR at I-93, n.135; PR at II-62.

[55] See Petitioners' Prehearing Brief at 24-27; Respondents' Prehearing Brief at 18. For example, petitioners note that raw garlic and dehydrated garlic do not share the same physical characteristics, in that the former has high water content and the latter has all water eliminated and has a long shelf life; that customers of the dehydrators, unlike fresh garlic customers, require their suppliers to pass product qualification tests and enter into relatively long-term supply contracts; that the channels of distribution are different in that fresh garlic is sold to serve the fresh produce market whereas dehydrated garlic is sold primarily to the food industry for use in the preparation of prepared foods; and that the per pound price of dehydrated garlic is higher. Further,
(continued...)

parties disagree that cracked and peeled garlic, which is merely whole garlic with the skins removed, should be included in the like product.[56] The parties disagree, however, as to whether crushed, pureed, and chopped garlic, which have undergone heat-processing and pasteurization, are part of the like product.[57] Petitioners argue that these processed products (referred to by petitioners as "wet-processed" garlic) are not part of the like product,[58] whereas respondents argue that they are part of the like product.[59]

Respondents also argue that "in all probability crushed and chopped garlic from China would be included in the scope of any antidumping order." The scope of the investigation as defined by Commerce, however, specifically does not include products "prepared or preserved by the addition of other ingredients or heat processing." 59 Fed. Reg. 49058, 49059 (Sept. 26, 1994). Thus, respondents' argument that the scope is more extensive is belied by the language in Commerce's notice.

In the preliminary investigation, the Commission applied the traditional six factor like product test to find that processed products were not part of the like product. We see no reason to depart from that determination here with respect to wet-processed, as well as dry-processed, garlic. The physical characteristics of fresh and processed garlic are different in that fresh garlic is perishable, has a shorter shelf life, and does not contain additives. Wet-processed garlic and fresh garlic are manufactured using substantially different manufacturing facilities, machinery, and procedures.[60] The manufacturing process for fresh garlic is discussed above. Wet processors typically purchase fresh garlic from others and thereafter use dedicated machinery such as heat processing, abrasive peeling, dicing, milling and bottling equipment, to perform wet processing operations.[61] The only fresh garlic producer who also maintains a wet-processing facility is petitioner Christopher Ranch. Christopher does not use common employees in the production of fresh and processed garlic, and produces processed garlic in different buildings of its facility from those in which its unprocessed product is handled.[62] Finally, prices for fresh garlic differ significantly from prices of wet processed products. Petitioners report that even the most basic forms of wet processed garlic are at least twice as expensive as fresh garlic.[63] Although as respondents note, both fresh and processed garlic are often

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[55] (...continued)
ADOGA has indicated that between [* * *] of the costs associated with production of dehydrated garlic are accounted for by the back end of the production process, and that [* * *] percent of their capital expenditures are attributable to the dehydration process. ADOGA's Posthearing Brief at 3. In light of these factors, we see no reason to disagree with the parties' views that dehydrated garlic is not part of the like product.

We note that respondents' agreement that dehydrated garlic is not part of the like product runs contrary to their argument that dehydrators should be included in the domestic industry.

[56] See Petitioners' Prehearing Brief at 27; Respondents' Prehearing Brief at 18; Hearing Tr. at 61.

[57] Because dehy and seed garlic are rarely used to make these types of processed products, this issue affects only the breadth of the definition of the like product encompassing fresh garlic.

[58] In their definition of wet-processed products, petitioners include products that merely contain garlic as an ingredient, e.g., garlic pesto or salad dressing. Including these products that are not predominantly forms of garlic with processed garlic products confuses the issue, and therefore we will refer to "wet-processed" products to include only processed products that are predominantly garlic.

[59] Respondents' Prehearing Brief at 17-19.

[60] Dry processors (i.e., dehydrators) use facilities, machinery, and procedures which differ from those used by wet processors. Field visits with Christopher Ranch and [* * *], Aug. 11, 1994. See Petitioners' Postconference Brief at 17-19.

[61] See Petitioners' Postconference Brief at 17-19.

[62] See Petitioners' Prehearing Brief at 28.

[63] Petitioners' Prehearing Brief at 29.

sold next to each other for the same use as a seasoning,[64] the differences in physical characteristics, lack of common manufacturing processes, facilities, and employees, and significant price differences lead us to find that wet-processed garlic is not part of the like product.[65]

II. DOMESTIC INDUSTRIES

A. In General

Section 771(4)(A) of 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 . . . ."[66] In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed or sold in the domestic merchant market.[67]

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[64] CR at I-12, n.25; PR at II-7. Neither party raised specific arguments, nor is there evidence in the record, comparing customer and producer perceptions of fresh and processed garlic products.

[65] This result is also consistent with the Commission's analysis concerning processed products in other cases. The Commission has on several other occasions determined that products that result from further processing ("downstream products") should not be included within the like product definition. See Nitromethane from the People's Republic of China, Inv. No. 731-TA-650 (Preliminary), USITC Pub. 2661 (July 1993) at 8-9 and (Final), USITC Pub. 2773 (May 1994) at I-6-7; Bulk Ibuprofen from India, 701-TA-308 (Preliminary) and 731-TA-526 (Preliminary), USITC Pub. 2428 (September 1991) at 9; Tungsten Ore Concentrates from the People's Republic of China, Inv. No. 731-TA-497 (Preliminary), USITC Pub. 2367 (March 1991) at 9. In Tungsten Ore, Ibuprofen, and Nitromethane (Final), the Commission declined to apply its "semifinished/finished" analysis to the downstream product, stating in Tungsten Ore that it applies the "semifinished or component product criteria in instances in which the finished, or further processed product, is included within the articles subject to investigation." Tungsten Ore, USITC Pub. 2367 at 9-10, n.20. See Nitromethane (Final), USITC Pub. 2661 at I-6, n.14. In any event, the conclusion we reach in this investigation is consistent with the Commission's semifinished analysis, as articulated in Stainless Steel Bar from Brazil, India, Italy, Japan, and Spain, Invs. Nos. 731-TA-678-682 (Preliminary), USITC Pub. 2734 (February 1994) at I-11-12. Fresh garlic is not dedicated for use in processed garlic, and a substantial portion of fresh garlic is sold in the consumer market for fresh use rather than to processors. See CR at I-31; PR at II-18. Although both fresh and processed garlic serve as garlic flavoring, their physical characteristics are different based on perishability and short shelf life of the fresh product versus the processed product. The processing of garlic entails use of dedicated machinery and employees, which consequently add substantially to the cost of the product, as reflected in its price.

[66] 19 U.S.C. § 1677(4)(A).

[67] As the Commission has previously recognized, the statutory definition of domestic industry provides no basis for excluding toll or captive production. 19 U.S.C. § 1677(4)(A). See, e.g., Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain, Inv. Nos. 731-TA-711-717 (Preliminary), USITC Pub. 2803 at I-11 (Aug. 1994). The Commission, however, has noted in captive production cases that imports under investigation may not affect open-market and captive production the same way, and has sometimes focused its attention on the open-market segment of the industry in evaluating whether the imports are materially injuring the domestic industry. See e.g., Sebacic Acid from the People's Republic of China, Inv. No. 731-TA-653 (Final), USITC Pub. 2793 (July 1994) at I-9, n.35; 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, Inv. 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 and 162 (Final), USITC Pub. 1600 (November 1984); Electrolytic Manganese Dioxide from Greece and Japan, Invs. Nos. 731-TA-406 and 408 (Final), USITC Pub. 2177 (April 1989).

In light of our like product determination, we find that there are three domestic industries consisting of the domestic producers of fresh garlic, the domestic producers of dehy garlic, and the domestic producers of seed garlic. In defining each industry, we considered whether the crop tenders are part of the respective domestic industries. We also considered whether Christopher Ranch should be excluded from the domestic fresh garlic industry as a related party.[68]

B. Whether Crop Tenders are Members of the Domestic Industry

All producers of garlic, whether they produce fresh, dehy, or seed garlic, use the services of local farmers or "crop tenders" in growing the garlic.[69] At the beginning of the season, the producers enter into arms'-length contracts with farmers who own land that the producer wishes to grow garlic on. Under the typical contract, the producer provides and plants the garlic seed with its own equipment, advises the farmer throughout the growing period on matters such as irrigation and fertilization, determines when to cut the water off, and harvests the garlic.[70] The producer agrees to pay the crop tender a set amount per pound for garlic that is harvested from the crop tender's fields.[71] Based upon lists provided by respondents, there are literally hundreds of farmers who grow garlic under these types of arrangements. Respondents argue that these crop tenders should be included in the domestic industries, while petitioners argue that they should not be included.

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[68] We also considered whether independent peeling operations are part of the domestic industry producing fresh garlic. Respondents, who urged the inclusion of the independent peelers in the industry, provided staff with the names of two firms that it believes are independent peelers. One firm responded that it did not produce any type of raw garlic, and the other did not respond to the questionnaire. See CR at I-22, n.47; PR at II-14. In deciding whether a firm qualifies as a domestic producer, the Commission often has analyzed the overall nature of a firm's production-related activities in the United States, and has looked at factors such as (1) the extent and source of a firm's capital investment; (2) the technical expertise involved in U.S. production activity; (3) the value added to the product in the United States; (4) employment levels; (5) the quantities and types of parts sourced in the United States, and (6) any other costs and activities in the United States leading to production of the like product, including where production decisions are made. E.g., Dry Film Photoresist from Japan (Preliminary), USITC Pub. 2555 (August 1992) at 14. As none of the independent peelers provided information to the Commission, it is difficult to answer these inquiries. Although Christopher Ranch, which maintains a state-of-the-art peeling operation, indicated that its operation entailed a substantial capital investment of $[* * *] million, Petitioners' Prehearing Brief at Exhibit 3, ¶ 7 (Affidavit of Donald C. Christopher), another industry representative indicated that it would cost substantially less -- $350,000 -- to start a basic peeling operation. Field visit with El Camino Packing, Aug. 10, 1994. The pricing data in the record, which are based upon [* * *] show peeled garlic prices substantially higher than prices for whole fresh garlic, suggesting that the type of peeling done by those firms adds substantial value to the product. Compare CR at I-97, Table 27; PR at II-66 with CR at I-94-96, Tables 24-26; PR at II-63-65. The Commission has noted in the past, however, that no one factor -- including value added -- is determinative as to whether a producer is part of the industry. Dry Film, USITC Pub. 2555 at 14. On balance, we do not view the data available on these factors sufficiently persuasive to include peeling operations.

In addition, the U.S. fresh producers, who would be the firms providing garlic for peeling, were unable to name any firms other than [* * *] that peeled garlic. This suggests that the independent peelers play at most a minor role even if they were considered part of the industry.

[69] CR at I-6-7, I-11, and I-26; PR at II-4-5, II-7, II-16. See Petitioners' Prehearing Brief at Exhibit 4, ¶ 8 (Affidavit of Michael Fry, Director of Raw Materials for Gilroy Foods); Exhibit 5, ¶ 4 (Affidavit of Valerie Vickroy Felice, Vice President of Production at A&D Christopher Ranch); and Exhibit 6, ¶ 14 (Affidavit of Michael Compston, Director of Western Nevada Seed Operations for A&D Christopher Ranch).

[70] Ibid.

[71] Ibid.

In its preliminary determination, the Commission found that the crop tenders are not members of the domestic industry.[72] The Commission based this determination on the limited involvement of the crop tenders in actual production of garlic and the lack of coincidence of economic interest with producers of fresh garlic. The Commission noted that section 771(4)(E) of the Act, which addresses investigations involving a processed agricultural product from any raw agricultural product, did not directly apply here, but found that this provision and the cases applying it were nonetheless useful in its analysis.[73] Applying the relevant test, the Commission found that, while the crop tenders' role may be part of a continuous line of production, their economic interests were not completely coincident with those of the fresh garlic producers because their fees are negotiated at arms-length and based on the amount of crop produced rather than the ultimate market price the producers obtain for the product.[74] The Commission also found that there was little, if any, vertical integration between crop tenders and fresh garlic producers.

For the purposes of the preliminary determination, the Commission did not consider the crop tenders to be "toll producers" but requested additional information about this question in any final investigation.[75] To facilitate addressing this question, the final producer questionnaires asked the garlic producers to indicate whether they believe the crop tenders act as toll producers in the production of garlic.[76] All major producers of both fresh and dehy garlic responded that they did not consider the crop tenders to be toll producers, but two smaller fresh producers indicated that in some instances the farmers were toll producers.[77]

In addition, staff contacted 87 California farmers known to grow garlic and asked them whether they sold any garlic independently of the 26 identified producers of fresh, dehy, and seed garlic.[78] Forty-one farmers responded, thirty-eight of whom indicated they had grown garlic during the period examined. None of the 38 indicated that they sold garlic independently of the identified producers.[79]

We see no reason to depart from the reasoning and conclusion reached in the preliminary determination on this issue. The additional evidence gathered in the final investigation indicates that the producers responsible for the vast majority of both fresh and dehy garlic shipments and transfers do not consider the crop tenders to be toll producers. Unlike a toll producer who may actually produce a product on behalf of a customer, the information in the record indicates that the crop tender merely leases its land to a garlic producer, and performs minor "custodial" services on the producer's behalf, and that the crop tender's involvement in producing the garlic is therefore

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[72] USITC Pub. 2755 at I-10-12.

[73] USITC Pub. 2755 at I-11-12. 19 U.S.C. § 1677(4)(E)(iv) provides guidance for considering, "in an investigation involving a processed agricultural product from any raw agricultural product," whether the growers of the raw product should be included in the domestic industry. See e.g., Tart Cherry Juice and Tart Cherry Juice Concentrate from Germany and Yugoslavia, Invs. Nos. 731-TA-512-513 (Preliminary), USITC Pub. 1991 (May 1991).

[74] USITC Pub. 2755 at I-12.

[75] USITC Pub. 2755 at I-11, n.51.

[76] The questionnaire defined a toll agreement as an "[a]greement between two firms whereby the first firm furnishes the raw materials to produce a product that it then returns to the first firm with a charge for processing, costs, overhead." Producers' Questionnaire at 4.

[77] See CR at Appendix E; PR at Appendix E.

[78] CR at I-27; PR at II-16-17.

[79] Id.

minimal.[80] The producers themselves perform the two most capital intensive growing activities, i.e., planting and harvesting, and also oversee and instruct the crop tenders regarding cultivation and irrigation, including the crucial decision as to when the water should be cut off.[81] [82]

With respect to respondents' argument that exclusion of the crop tenders has led to underreporting of domestic garlic production, it should be noted that Commission staff contacted many of the farmers whose names were provided by respondents, and that none of these farmers indicated that they independently sold garlic.[83] Furthermore, respondents' argument ignores the fact that each crop tender's garlic production and acreage data would have been reported in the questionnaire responses of the producers for whom the crop tenders grew the garlic.

C. 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.[84] The rationale for the related parties provision is the concern that

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[80] The Commission has previously described toll arrangements as contracts under which a customer delivers raw material to a toll producer, who then manufactures the product, and returns it to the customer for a fee. Typically, a toll producer never takes title to the raw or finished material. The Commission has generally considered toll producers to be members of the domestic industry. See Stainless Steel Wire Rod from Brazil and France, Invs. Nos. 731-TA 636 and 637 (Final), USITC Pub. 2721 (January 1994); Sulfur Dyes from China, India, and the United Kingdom, Invs. Nos. 731-TA-548, 550 and 551 (Preliminary), USITC Pub. 2514 (May 1992); Shop Towels from Bangladesh, Inv. No. 731-TA-514 (Final), USITC Pub. 2487 (February 1992); Refined Antimony Trioxide from the People's Republic of China, Inv. No.731-TA-517 (Final), USITC Pub. 2497 (April 1992);

[81] See Petitioners' Prehearing Brief, Exhibit 4, ¶ 8 (Affidavit of Michael Fry); Exhibit 5, ¶¶ 4-9 (Affidavit of Valerie Filice); Exhibit 6, ¶¶ 14-16 (Affidavit of Michael Compston). Another domestic industry question that was raised in the preliminary investigation concerned whether dehydrators, such as Basic Vegetable Products, that sell fields to fresh producers through "Buy-a-Field" programs should be included in the domestic industry producing fresh garlic. As noted, the fresh garlic producers buy these fields through contractual relationships, and they generally dictate cultivation, water cut-off, and harvesting methods for the fields they have purchased. See CR at I-26 and Appendix D; PR at II-16. We view Basic's relationship with the fresh producers as another form of contractual relationship similar to the relationship between the producers and the crop tenders. Consistent with our finding concerning the crop tenders, we find that Basic and any other dehydrators who lease fields to fresh producers are not part of the domestic industry producing fresh garlic.

[82] As in the preliminary investigation, we again find that a section 771(4)(E) analysis also supports our finding that crop tenders are not part of the respective domestic garlic industries. The crop tenders' limited role in production, the fee arrangement whereby crop tenders are paid per pound harvested independent of the ultimate market price, and the general lack of interlocking ownership or vertical integration between crop tenders and producers indicates that the crop tenders are not members of the respective domestic industries in this investigation. See Fresh Kiwifruit from New Zealand, Inv. No. 731-TA-516 (Final), USITC Pub. 2510 (May 1992); Certain Fresh Atlantic Groundfish from Canada, Inv. No. 701-TA-257 (Final), USITC Pub. 1844 (1986); Fresh, Chilled, or Frozen Pork from Canada, Inv. No. 701-TA-298 (Final), USITC Pub. 2218 (1989) and Live Swine and Pork from Canada, Inv. No. 701-TA-224 (Final), USITC Pub. 1733 (July 1985).

[83] While respondents are correct in asserting that two small fresh garlic producers indicated that their crop tenders operate under toll arrangements, [* * *]. Staff Telephone Conversation with [* * *]; letter from [* * *].

[84] 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).

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.[85]

In this investigation, Christopher Ranch imported subject garlic from China during the period examined, and is thus a related party.[86] 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.[87]

The Commission also has considered the ratio of import shipments to U.S. production for related producers.[88]

The information in the record of the final investigation shows that Christopher Ranch is by far the largest domestic producer of fresh garlic, accounting for [* * *] percent of production, and is the [* * *] domestic producer of all raw garlic, accounting for [* * *] percent of domestic production.[89] Christopher Ranch's imports of Chinese garlic accounted for only [* * *] percent of its total production in crop year 1994.[90] Even to the extent that Christopher Ranch imported some Chinese garlic for sales to its customers, those isolated sales do not suggest that Christopher Ranch's interests are primarily those of an importer. Further, Christopher Ranch has indicated that it

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[85] See S. Rep. No. 249, 96th Cong., 1st Sess. at 83 (1979).

[86] CR at I-28; PR at II-17. In the preliminary investigation, the Commission cited to evidence that several other U.S. producers, namely Colusa and Vessey, purchased subject merchandise from China, but did not themselves import the garlic. The Commission found that neither Colusa nor Vessey were related parties because they did not actually import Chinese garlic, their purchases were limited to a few incidents, and there was no evidence on the record that either firm had a special relationship with an importer of record or otherwise controlled the purchase of large volumes of imports. USITC Pub. 2755 at I-14. The Commission noted that it would revisit this issue in any final investigation "if warranted." There is no new evidence obtained in the final investigation that warrants reaching a different finding in the final investigation. Although information in the final investigation indicates that one additional producer [* * *] also purchased, but did not import directly, a small amount of garlic, the same reasoning applies to find that [* * *] is not a related party. See CR at I-47, notes 86 & 87; PR at II-30-31.

[87] 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).

[88] Steel Wire Rope from the Republic of Korea and Mexico, Invs. Nos. 731-TA-546 & 547 (Final), USITC Pub. 2613 at 14 (March 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).

[89] CR at I-24, Table 3; PR at II-15.

[90] CR at I-47; PR at II-31.

imported some garlic for the purpose of using it in an attempt to grow an earlier-maturing garlic.[91] This purpose does not seem to indicate that Christopher Ranch is importing in order to benefit from LTFV pricing, notwithstanding that Christopher Ranch is performing [* * *] than other fresh producers.[92]

Given Christopher Ranch's status as the largest fresh producer, and its limited importation of Chinese garlic both to meet its customers' requests and for the purpose of attempting to grow an earlier crop, we find that appropriate circumstances do not exist to exclude Christopher Ranch from the industry.

III. CONDITION OF THE DOMESTIC INDUSTRIES

In assessing whether the domestic industries are materially injured by reason of LTFV imports, the Commission considers all relevant economic factors which have a bearing on the state of the industry in the United States.[93] 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 dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[94] [95]

A. The Domestic Fresh Garlic Industry

There are several conditions of competition distinctive to the fresh garlic industry. First, garlic is a seasonal crop. The domestic industry plants its garlic in the fall and harvests it in June and July of the following year.[96] In light of this seasonal pattern, U.S. producers have historically supplied the market during the late summer and autumn months, generally August through December.[97] During the winter, the market historically has been dominated by imports from South

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[91] CR at I-29, n.64, I-88-89 n.118, and I-93, n.135; PR at II-18, II-59, and II-62. As noted in the Report, the evidence indicates that the imports from China are not intended for use as seed, notwithstanding Christopher Ranch's experimental effort to use it as such. See CR at I-78; PR at II-50; Petitioners' Prehearing Brief at 5, 68-69.

[92] See CR at I-62-63, Table 12; PR at II-41.

[93] 19 U.S.C. § 1677(7)(C)(iii).

[94] 19 U.S.C. § 1677(7)(C)(iii).

[95] Respondents argue that domestic industry production and shipment data were underreported in the questionnaire responses, and consequently that these data are understated in the Staff Report. Respondents' Prehearing Brief at 36-41. Respondents suggest that data published by the California County Agricultural Offices are more accurate. Respondents exaggerate the magnitude of the differences in the data reported to the Commission and that published by the California County Agricultural Offices. For example, based on crop year 1994 data, production reported to the Commission accounts for 84 percent of California County data on fresh garlic production and 75 percent of dehy garlic production. CR at I-37; PR at II-23-24. In any event, Commission staff contacted a representative from the Fresno County Department of Agriculture to discuss the possible reasons for the data discrepancy. Fresno County is one of the largest counties in terms of California garlic production. The county representative explained that [* * *]. CR at I-37, n. 74; PR at II-23. Thus, we attribute part of the data discrepancy to the fact that [* * *]. Id. Finally, in judging the accuracy of the Report data, we took into account that Commission staff verified, and confirmed the accuracy of, the questionnaire data provided by [* * *].

[96] CR at I-88; PR at II-59.

[97] CR at I-81; PR at II-54.

America, predominantly Argentina and Chile.[98] In the spring and early summer, Mexican garlic is the most prevalent in the market. Unlike other fresh garlic imports, Chinese fresh garlic, which is planted and harvested slightly earlier than the U.S. product, is sold in the United States during the latter 6 months of the year.[99] Consequently, the markets for the U.S.-grown and Chinese fresh garlic overlap, resulting in direct competition.

A second distinctive competitive factor in this industry also results from the seasonal pattern for planting and harvesting garlic. Because garlic that is planted in the fall of one year will not be sold until the fall of the next year, producers must make projections a year in advance about market conditions, and make their planting decisions on this basis.[100]

A third distinctive factor for this industry is that the perishability of fresh garlic is necessarily an underlying concern driving sales of the product. In distressed market conditions, some U.S. producers have sold fresh garlic that is nearing the end of its useful shelf life to dehydrators at about one-third of its fresh market value.[101]

Finally, we note that many U.S. producers have invested in cold storage or controlled-atmosphere facilities to extend the selling period of their fresh garlic.[102] Due to the semi-perishable nature of fresh garlic, these facilities do not enable producers to store their garlic indefinitely, but do allow them to keep inventories for up to 6 months for garlic stored in cold storage and for up to 11 months for garlic stored in controlled-atmosphere facilities.[103]

Apparent consumption of fresh garlic, measured by both volume and value, increased steadily and markedly throughout the period of investigation.[104] The volume of apparent consumption increased from 85.6 million pounds in crop year 1991 to 96.2 million pounds in crop year 1992, then to 117.4 million pounds in crop year 1993, and finally to 180.3 million pounds in crop year 1994.[105] These volume increases represent an overall increase of 111 percent, with approximately one-half of the increase occurring from crop year 1993 to crop year 1994.[106] The value of apparent consumption increased 62.5 percent, from $55.8 million in crop year 1991 to $90.7 million in crop year 1994.[107]

Domestic production of fresh garlic increased each year of the investigation, from 49.1 million pounds in crop year 1991 to 100.3 million pounds in crop year 1994.[108] The rate of increase tapered off, however, during the overall period. That is, production increased 42.7 percent from crop year 1991 to crop year 1992, another 33.3 percent in crop year 1993, and only 7.4 percent in crop year 1994.[109] Thus, as apparent consumption climbed by increasing magnitudes each year, the size of

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[98] Id. and Memorandum OINV-R-163 (October 25, 1994), Figures 1a-1d.

[99] CR at I-89; PR at II-59.

[100] CR at I-87; PR at II-55.

[101] CR at I-29, n.63; PR at II-18.

[102] CR at I-89; PR at II-59-60.

[103] Id.

[104] CR at I-19, Table 2, I-20, Figure 2; PR at II-12-13.

[105] Id. Data for this investigation generally were collected on a crop year basis, covering June through May. For example, crop year 1994 covers the period from June 1993 through May 1994. CR at I-16, n.41; PR at II-9.

[106] CR at C-7, Table C-3; PR at C-7.

[107] Id.

[108] CR at I-34, Table 4, I-35, Figure 4; PR at II-21-22.

[109] CR at C-8, Table C-3; PR at C-7. As noted, U.S. fresh garlic producers make their planting decisions a year in advance of the year in which they will sell their product. According to petitioners, they further reduced plantings in the fall of 1993 in response to the influx of Chinese imports. Field visits with El Camino Packing and Christopher Ranch, Aug. 10 and 11, 1994; Petitioners' Prehearing Brief at Exhibit 9, Table 5.

production increases declined. For instance, concurrent with the 53.5 percent increase in apparent consumption from crop year 1993 to crop year 1994, production levels increased only 7.4 percent.

Reported capacity to produce fresh garlic rose from 97.9 million pounds for crop year 1991 to 141.3 million pounds for crop years 1993 and 1994.[110] Because reported capacity increased slower than production, capacity utilization rose from 50.1 percent in crop year 1991 to 66.7 percent in crop year 1994.[111]

The volume of U.S. producers' domestic shipments of fresh garlic increased each year covered by the investigation, from 42.3 million pounds in 1991 to 82.1 million pounds in crop year 1994.[112] As with domestic production, the magnitude of increase in domestic shipment quantities declined each year, and most notably from crop year 1993 to crop year 1994. From crop year 1991 to 1992, there was a 37.5 percent increase in production, as compared with an increase of 10.2 percent from crop year 1993 to crop year 1994. Meanwhile, the magnitude of apparent consumption increased each year, with apparent consumption increasing by 53.5 percent from crop year 1993 to crop year 1994.[113] The value of U.S. producers' domestic shipments rose each year from 1991 to 1993, from $32.5 million in crop year 1991 to $53.2 million in crop year 1993, but dropped to $53.0 million in crop year 1994.[114] The average unit values of U.S. producers' domestic shipments declined from $0.77 per pound in crop year 1991 to $0.65 per pound in crop year 1994.[115]

End of crop year inventories are rare because, by that time, virtually all of the harvest production from that crop year has been sold.[116] U.S. fresh garlic producers reported no inventories for crop years 1991 and 1992 and small inventories for crop years 1993 and 1994. Two firms reported inventories of [* * *] pounds for crop year 1993 and [* * *] pounds for crop year 1994, representing [* * *] percent and [* * *] percent, respectively, as a ratio of preceding-period shipments.[117]

Employment data for the fresh garlic industry show yearly increases in the average number of production and related workers, the hours worked by these employees, and the total wages and compensation paid to these employees.[118] Hourly wages and compensation fluctuated, but both were

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[110] CR at I-34, Table 4; PR at II-21. We have viewed the reported capacity data with caution because there was little uniformity in the measures against which the responding firms arrived at their data. For example, some based capacity on planting restraints, some on harvesting constraints, and others on packing restraints. CR at I-34-36; PR at I-23.

[111] CR at I-33-34, Table 4; PR at II-21. Chairman Watson and Vice Chairman Nuzum note that they generally consider capacity utilization to be less useful in analyzing agricultural industries than it might be in analyzing other industries.

[112] CR at I-41, Table 6; PR at II-27.

[113] CR at C-8, Table C-3; PR at C-8.

[114] CR at I-41, Table 6; PR at II-27.

[115] Id. The average unit value for U.S. producers' export shipments also declined.

[116] CR at I-46; PR at II-30.

[117] Id.

[118] CR at I-50-51, Table 10; PR at II-32. The number of production and related workers rose from 599 in crop year 1991 to 1,087 in crop year 1994. These employees worked a total of 1,007 hours in crop year 1991 as compared to 1,584 hours in crop year 1994, and received wages totalling $6.3 million in crop year 1991 as compared to $10.5 million in crop year 1994.

above crop year 1991 levels in crop year 1994.[119] Productivity also fluctuated but increased overall, while unit labor costs declined overall.[120]

The financial data generally show deterioration of the financial condition of the fresh garlic industry from crop year 1991 to crop year 1994, especially in crop year 1994. Notwithstanding substantial increases in total net sales volume (from 45.8 million pounds in crop year 1991 to 94.1 million pounds in crop year 1994) and total net sales value (from $35.6 million in crop year 1991 to $60.6 million in crop year 1994), the average net sales value declined from $0.78 per pound in crop year 1991 to $0.64 per pound in crop year 1994.[121] The industry maintained cost levels throughout the period examined, keeping per pound expenses at or below crop year 1991 levels. Nonetheless, the simultaneous decline in the per pound value restrained the increase in the total sales value notwithstanding the large increase in the quantity of sales.[122] As a result, net income before taxes declined each year, from $3.5 million, or 9.9 percent of net sales in crop year 1991 to $1.2 million, or 2.1 percent of net sales in crop year 1993, and in crop year 1994, the industry suffered an aggregate net loss of $1.4 million, or 2.2 percent of net sales.[123]

Capital expenditures reported by U.S. fresh garlic producers [* * *] from 1991-1994.[124] Return on assets [* * *].[125]

B. The Domestic Industry Producing Dehy Garlic

Virtually all domestically-produced dehy garlic is internally consumed by the dehydrators, although [* * *].[126] Thus, apparent consumption of dehy garlic is represented by the amount of dehy garlic internally transferred by the dehydrators plus any additional reported domestic shipments. The volume of dehy garlic consumed (which as noted is synonymous with the amount internally transferred or shipped domestically, and is also the same as production) was fairly level from 1991 to 1993, and then rose significantly from 207.3 million pounds in crop year 1993 to 230.8 million pounds in crop year 1994.[127] End of period capacity rose from 277.9 million pounds in crop year 1991 to 289 million pounds in crop year 1994, while capacity utilization increased from its 1991 level of 75.7 percent to a 1994 level of 79.9 percent.[128] No inventories of dehy garlic were reported.[129]

The number of production and related workers, the hours worked by these employees, and the wages, total compensation, hourly wages, and hourly total compensation paid to these employees fluctuated somewhat from 1991-1994, but were all higher in crop year 1994 than they were in crop

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[119] Id. Hourly wages were $6.34 in crop year 1991 and $6.61 in crop year 1994. Hourly total compensation was $7.13 in crop year 1991 and $7.59 in crop year 1994.

[120] Id. Productivity was 55.7 pounds per hour in crop year 1991 and 59.5 pounds per crop year in 1994. Unit labor costs were $138.79 per 1,000 pounds in crop year 1991 and $127.63 in crop year 1994.

[121] CR at I-58-59, Table 11; PR at II-37.

[122] Total net sales volume increased by 106 percent from crop year 1991 to crop year 1994, while total net sales value increased by 70 percent. The disparity explains why the ratio of operating expenses to net sales increased from 90.1 percent to 102.2 percent.

[123] Id. and CR at I-60, Figure 14; PR at II-39.

[124] CR at I-70, Table 17; PR at II-46.

[125] Based on the foregoing, Commissioner Rohr and Commissioner Newquist determine that the domestic fresh garlic industry is experiencing material injury.

[126] CR at I-42, n. 79, I-43, Table 7, I-61; PR at II-25, II-28, II-40.

[127] CR at I-43, Table 7; PR at II-28. See CR at I-34, Table 4; PR at II-21.

[128] Id.

[129] CR at I-45; PR at II-30.

year 1991.[130] Productivity declined from 622.1 pounds per hour in crop year 1991 to 535.7 pounds per hour in crop year 1993 and then rose to 610.6 pounds per hour in crop year 1994. Unit labor costs rose from $19.23 per 1,000 pounds in crop year 1991 to $23.44 per 1,000 pounds in crop year 1993 before dropping to $21.40 per 1,000 pounds in crop year 1994.[131]

The dehydrators were unable to segregate their financial data for the production of dehy garlic.[132] Where an industry has no separate data identifiable with the like product, the statute requires us to assess the effect of the LTFV imports by examination of the production of the narrowest group or range of products for which such data can be provided.[133] In this case, the narrowest range of products for which financial data could be provided is dehydrated, or processed, garlic. Accordingly, we examined the financial data reflecting the dehydrator's integrated operations for producing processed garlic. Total net sales of processed garlic rose 18 percent by volume and 14 percent by value during the period from crop year 1991 through crop year 1994.[134] The dehydrators' garlic operations were profitable throughout the period, although pre-tax net income margins declined from 19.2 percent in crop year 1991 to 11.5 percent in crop year 1994.

The dehydrators reported capital expenditures [* * *].[135] The industry reported [* * *].[136]

C. The Domestic Seed Garlic Industry

Approximately [* * *] percent of all reported garlic seed production is used as seed stock by the same producer that grows the seed.[137] Therefore, as with dehy garlic, we have relied on the reported data for internal transfers plus any additional domestic shipments as the best available data representing apparent U.S. consumption of seed garlic. These data show that U.S. producers' shipments, and apparent U.S. consumption, rose during the period of investigation, from 50.1 million pounds valued at $12.8 million in crop year 1991 to 56.2 million pounds valued at 18.5 million in crop year 1994.[138]

Capacity to produce seed garlic remained unchanged from 1991-1993, and then increased slightly from 66.9 million pounds in crop year 1993 to 67.9 million pounds in crop year 1994.[139] Production decreased from 54.5 million pounds in crop year 1991 to 49.5 million pounds in crop year 1992 due to a winter freeze, and then rose in the next two crop years, to 66.1 million pounds in crop year 1994.[140] As a result of steady capacity and increased production, capacity utilization increased from 81.4 percent in crop year 1991 to 97.4 percent in crop year 1994. No inventories of seed garlic were reported.[141]

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[130] CR at I-50-51, Table 10; PR at II-32.

[131] Id.

[132] See CR at I-56, n. 87; PR at II-31.

[133] 19 U.S.C. 1677(4)(D).

[134] CR at I-61-66, Table 13; PR at II-40-43.

[135] CR at I-70, Table 17; PR at II-46.

[136] Based on the foregoing, Commissioner Rohr and Commissioner Newquist determine that the domestic dehy garlic industry is neither experiencing present material injury nor is it in such a condition as to render it vulnerable to the continuing adverse effects of unfair imports.

[137] CR at I-45, Table 8; PR at II-29. The reported data, however, [* * *].

[138] CR at I-45, Table 8; PR at II-29.

[139] CR at I-34, Table 4; PR at II-21.

[140] Id.

[141] CR at I-45; PR at II-30.

All employment data for the seed industry fluctuated during the 1991-1994 period. The number of production and related workers, the hours worked by these employees, and the total wages and compensation paid to these employees were higher in crop year 1994 than they were in crop year 1991, while hourly wages and compensation were lower.[142] Productivity increased from 499.8 pounds per hour in crop year 1991 to 520.8 pounds per hour in crop year 1994, and unit labor costs declined from $27.79 per 1,000 pounds to $25.81 per 1,000 pounds.

By both quantity and value, total net sales of seed garlic fluctuated throughout the period of investigation.[143] By both measures, net sales were higher in crop year 1993 than they were in crop year 1991, but were at a 1991-1994 low in crop year 1994. The reporting seed garlic producers operated profitably throughout the period, although [* * *]. The seed garlic producers did not report capital expenditures, but did report some assets which [* * *].[144]

IV. MATERIAL INJURY TO DOMESTIC FRESH GARLIC INDUSTRY BY REASON OF LTFV IMPORTS

In final antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports that Commerce has determined are sold at LTFV.[145] The Commission must consider the volume of imports, their effect on prices for the like product, and their impact on domestic producers of the like product, but only in the context of U.S. production operations.[146]

Although the Commission may consider alternative causes of injury to the industry other than the LTFV imports, it is not to weigh causes.[147] [148] [149] For the reasons discussed below, we find that the domestic fresh garlic industry is materially injured by reason of LTFV imports from China.[150]

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[142] CR at I-50-51, Table 10; PR at II-32.

[143] CR at I-66-69, Tables 15 and 16; PR at II-46.

[144] Based on the foregoing, Commissioner Rohr and Commissioner Newquist determine that the domestic seed garlic industry is neither experiencing material injury nor is it in such a condition as to render it vulnerable to the continuing adverse effects of unfair imports.

[145] 19 U.S.C. § 1673d(b).

[146] 19 U.S.C. § 1677(7)(B)(i). The Commission also may consider "such other economic factors as are relevant to the determination." Id.

[147] See, e.g., Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988). Alternative causes may include the following:

> [T]he volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade, restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry. S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979).

Similar language is contained in the House Report. H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979).

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

[149] Commissioners Rohr and Newquist further note that the Commission need not determine that imports are "the principal, a substantial, or a significant cause of material injury." S. Rep. 249, 96th Cong., 1st Sess. 57 and 74 (1979); see also, e.g., Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741 (Ct. Int'l Trade 1989); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. at 1101.

[150] Vice Chairman Nuzum provides additional discussion of her analysis in her Additional Views, infra.

A. Volume of Imports

Imports of fresh garlic from China were significant and increased significantly, by both volume and value, from 1991 to 1994. Although the quantity of subject imports initially decreased from 6.1 million pounds in crop year 1991 to 3.5 million pounds in crop year 1992, it tripled in crop year 1993 to 9.4 million pounds, and then surged to 63.5 million pounds in crop year 1994.[151] Overall, the quantity of LTFV imports increased 949.2 percent between crop years 1991 and 1994, with 576.2 percent of this increase occurring between crop year 1993 and crop year 1994.[152] The value of the LTFV imports likewise increased markedly, from $2.5 million in crop year 1991 to $20.0 million in crop year 1994, or by 709 percent.[153]

As apparent U.S. consumption of fresh garlic grew and Chinese imports increased, the market share held by the Chinese fresh garlic increased as well. By quantity, the market share held by the Chinese imports was slightly higher in crop year 1993, at 8.0 percent, than it was in crop year 1991, at 7.1 percent.[154] In crop year 1994, however, the share of the growing market held by the Chinese imports increased by 27.2 percentage points, to 35.2 percent of the U.S. market.[155] By value, Chinese fresh garlic market share followed a similar pattern, rising slightly from 4.4 percent in crop year 1991 to 5.0 percent in crop year 1993, and then increasing to 22.1 percent in crop year 1994, for an overall gain in the market of 17.7 percentage points.[156]

The dramatic rise in Chinese market share in crop year 1994 corresponded to an 18 percentage point loss in volume-based market share by the U.S. fresh garlic producers.[157] In terms of value, U.S. producers likewise lost market share, dropping from 71.1 percent of the crop year 1993 market to 58.4 percent of the crop year 1994 market, as the value of Chinese imports rose significantly. At the same time, the quantity- and value-based market share held by imports from countries other than China also declined, evidencing that the U.S. producers' loss in market share was attributable to the corresponding gain in Chinese market share.[158]

We find that the volume and market share of Chinese fresh garlic imports were significant and that the increases in volume and market share were also significant.

B. Price Effects of Imports

The LTFV imports of fresh garlic from China adversely affect the prices for U.S.-produced fresh garlic. As noted in our discussion of the condition of the U.S. fresh garlic industry, the marketing periods for U.S.-produced fresh garlic and the imports of fresh garlic from China coincide, thereby increasing competition between these products.[159] Most purchasers of fresh garlic

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[151] CR at I-80, Table 20; PR at II-53. Chairman Watson, Vice Chairman Nuzum, and Commissioner Newquist note that this surge appears to have resulted at least in part from China's transfer in 1993 of regulatory authority from the central Government to the provinces, thus enabling many small private firms to enter the garlic exporting business. See CR at I-77; PR at II-50.

[152] CR at C-7, Table C-3; PR at C-7.

[153] Id.

[154] CR at I-84, Table 23; PR at II-57.

[155] Id. and CR at C-7, Table C-3; PR at C-7.

[156] Ibid.

[157] CR at I-84, Table 23; PR at II-57.

[158] See id.

[159] CR at I-89; PR at II-59; See EC-R-105, October 24, 1994 (Economic Memorandum) at 24.

rated the Chinese product as "comparable" in quality to the U.S. product.[160] The most frequently listed advantage of the Chinese product was price.[161] The purchasers' perception of the two products as being of comparable quality, their emphasis on price, and the existence of the overlapping marketing season demonstrate that the Chinese fresh garlic and U.S.-produced fresh garlic are substitutable and compete head-to-head, with price being a key determinative factor in purchasing decisions.

Against this background, the pervasive underselling by the Chinese imports is significant. The record contains monthly price comparisons for three sizes of whole fresh garlic bulbs and for peeled garlic cloves. In 20 of the 21 price comparisons for which purchaser's data were provided, the Chinese garlic undersold the U.S. fresh garlic.[162] The margins of underselling for the whole bulbs, which represent most of the Chinese and U.S.-produced garlic sold in the U.S. market, were high, ranging from 24.5 percent to 76.3 percent.[163] In 45 of 47 producer and importer price data comparisons, the Chinese garlic undersold the U.S. fresh garlic.[164] The margins of underselling were particularly high in crop year 1994, reaching as much as 70.0 percent.[165]

Prices for U.S.-grown fresh garlic are generally lower during the first 3-5 months following summer harvest and generally higher thereafter until the ensuing year's harvest.[166] Due to this industry pricing pattern, the most probative method of measuring the price trends is through a month-by-month comparison of crop years. A month-by-month comparison of producer/importer prices in crop year 1993 with crop year 1994 prices shows that in almost every month of crop year 1994, prices for Chinese fresh garlic were lower than prices for the same product in the corresponding month for crop year 1993.[167] At the same time, prices for the comparable U.S.-produced product likewise dropped in comparison to the price for the same product during the same month of the previous year, resulting in significantly depressed prices for U.S. fresh garlic.[168]

Furthermore, the U.S. producers' monthly selling patterns for crop year 1994 suggest that the large influx of low-priced Chinese imports during the peak of the selling season forced U.S. fresh garlic producers to hold off sales of their product until prices improved.[169] Because market prices did not recover in the last half of crop year 1994 to the same levels as prices in the last half of crop year 1993, the U.S. producers were forced to sell their product from storage at further depressed prices, and in a number of instances to sell their fresh garlic to dehydrators at one-third of its fresh market value.[170]

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[160] CR at I-90; PR at II-60. The purchasers' responses and the large volume of sales of the imports to the fresh market refute respondents' argument that Chinese garlic enters into a "lower tier" of the garlic market and does not compete directly against allegedly higher quality domestic garlic.

[161] CR at I-91; PR at II-60.

[162] CR at I-104-108, Tables 28-31; PR at 69-72.

[163] Id.

[164] CR at I-93-98, Tables 24-27; PR at II-63-66.

[165] Id.

[166] CR at I-93; PR at II-62.

[167] CR at I-99-100, Figures 17-18; PR at II-67. See Petitioners' Prehearing Brief at Exhibit 9, Table 24-26.

[168] Id.

[169] See Petitioners' Prehearing Brief at Exhibit 9, Table 32.

[170] See CR at I-29, n.63; PR at II-18.

C. Impact of Imports on the Domestic Industry

The impact on the domestic fresh garlic industry from the increased market penetration and price underselling of the subject fresh garlic imports is manifested in the deteriorating condition of the domestic industry. Although the industry experienced declines in profitability throughout the 1991-1994 period examined, the industry experienced operating losses for the first time in crop year 1994, immediately following the massive increase in imports of low-priced Chinese garlic.[171] This operating income loss resulted primarily from the price depression and volume displacement caused by the LTFV imports. Despite the industry's increased sales revenues, the forced lowering of prices meant that the industry was selling more fresh garlic at lower prices.

The 14.2 percent increase in sales did not keep up with the 53.5 percent increase in apparent consumption during crop years 1993 and 1994.[172] As noted, U.S. fresh garlic producers make their planting decisions on the basis of their projections of market conditions for the following year. U.S. fresh garlic producers therefore planted in the fall of 1992 in anticipation of capturing some of the expansion in the growing market for fresh garlic. This crop was harvested in the summer of 1993, and its production is reflected in the crop year 1994 data. At the beginning of the 1994 crop year, however, (i.e., the last half of 1993), massive volumes of lower-priced subject imports were introduced into the market.[173]

As previously stated, the LTFV imports and domestically-produced fresh garlic are close substitutes and pricing is important in purchasing decisions. The price comparisons of crop year 1993 monthly prices to crop year 1994 monthly prices demonstrate that the increasing volumes of imports of Chinese garlic at increasingly lower prices forced the U.S. prices down, resulting in significantly depressed prices for U.S. fresh garlic. Consequently, the significant volumes of low-priced Chinese imports took sales away from the U.S. product and forced the U.S. producers to drop prices of the fresh garlic they did sell, to a point where they were selling at a loss.[174]

As reflected in the financial data, the average net sales value per pound for fresh garlic sold as produce declined from $0.77 in crop year 1993 to $0.72 in crop year 1994.[175] Although the industry managed to keep expenses down, it was unable to overcome the adverse impact of the price depression and consequent decline in unit values caused by the large volumes of low-priced Chinese imports. As a result, the industry suffered substantial financial losses.

In sum, we find that there is material injury to the U.S. industry producing fresh garlic by reason of the LTFV imports of fresh garlic from China.

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[171] See CR at I-58-59, Table 11; PR at II-37.

[172] See CR at C-7-8, Table C-3; PR at C-7-8.

[173] See CR at I-82, Table 21; PR at II-55.

[174] One fresh garlic purchaser expressly confirmed a lost revenues allegation resulting from lower priced Chinese fresh garlic imports, and several other purchasers confirmed that the low price of Chinese garlic was an important factor leading them to purchase Chinese garlic. CR at I-110-113; PR at II-73.

[175] CR at I-59, Table 11; PR at II-37.

V. NO MATERIAL INJURY TO DOMESTIC DEHY GARLIC INDUSTRY AND DOMESTIC SEED GARLIC INDUSTRIES BY REASON OF LTFV IMPORTS[176]

A. Dehy Garlic Industry

Official U.S. import statistics do not break out garlic by fresh, dehy, or seed categories.[177] Petitioners argue that all subject imports are of fresh garlic since all of the imported Chinese garlic was hand-harvested and packed in containers similar to those in which U.S.-produced fresh garlic is packed.[178] One importer, however, reported imports of dehy garlic from China, in the amount of [* * *] pounds in crop year 1993 and [* * *] pounds in crop year 1994.[179] The volume of imports reported as dehy garlic, however, was insignificant in comparison to the volume of U.S. dehy garlic producers' production and transfers/shipments.[180] We therefore find that imports of dehy garlic from China, if any, are insignificant and consequently that the domestic dehy garlic industry is not materially injured by reason of LTFV imports from China.[181]

B. Seed Garlic Industry

As noted, official U.S. import statistics do not break out imports of seed garlic. Any garlic sold as seed in California, whether imported or domestically-produced, is subject to state regulation.[182] None of the LTFV garlic imports were advertised as seed or submitted for state approval as seed.[183] Therefore, there is no evidence that any of the LTFV imports consisted of seed garlic.[184] We therefore determine that the domestic seed garlic industry is not materially injured by reason of LTFV imports from China.

VI. NO THREAT OF MATERIAL INJURY TO THE DOMESTIC DEHY AND SEED GARLIC INDUSTRIES BY REASON OF ALLEGEDLY LTFV IMPORTS

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

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[176] Having determined that the domestic dehy and seed garlic industries are not currently experiencing material injury, Commissioner Rohr and Commissioner Newquist do not join in this discussion.

[177] CR at I-78-79; PR at II-52.

[178] Hearing Tr. at 25. See CR at I-77-78, 88; PR at II-50, II-59.

[179] It appears that this categorization may have been based on the actual sale of the garlic rather than its intended use. See CR and PR at Appendix I.

[180] See CR at I-34, Table 4, I-43, Table 7; PR at II-21, II-28. Although some of the LTFV imports were actually sold to processors, these sales are best viewed as equivalent to the U.S. fresh producers' sales of off-grades or distress sales to processors. In any event, based upon the questionnaire responses, which represent 50 percent of total garlic imports from China, less than 4 percent of the total imports were sold to processors. CR at I-31; PR at II-18.

[181] Because virtually all U.S.-produced dehy garlic is internally consumed, there are no pricing data for sales of that product. Nor are there pricing data for imported dehy garlic.

[182] See Petitioners' Prehearing Brief at Exhibit 7 (Affidavit of Tom T. Matsumoto, Ph.D).

[183] Moreover, the U.S. Department of Agriculture (USDA) denied a request to quarantine virus-ridden Chinese garlic imports because the USDA regulations cover only bulbs grown for seed, and therefore did not cover the Chinese garlic imports. CR at I-93, n.135; PR at II-62.

[184] Although Christopher Ranch planted some Chinese garlic in an experimental effort to induce an earlier crop, those imports were not subject to the California State regulations of seed garlic sales.

injury is real and that actual injury is imminent."[185] We do not make such a determination "on the basis of mere conjecture or supposition."[186] In making our determination, we have considered all of the statutory factors that are relevant to this investigation.[187] [188]

There is no evidence in the record indicating that the Chinese industry currently produces dehy or seed garlic for export to the United States, and there is no record evidence that they have any plans to do so.[189] Therefore, none of the statutory threat factors support a finding of a threat of material injury.[190] Accordingly, we find no threat of material injury to either the domestic dehy or seed garlic industries by reason of imports of fresh garlic from China.

VII. CRITICAL CIRCUMSTANCES

Commerce has made a final determination that critical circumstances exist with respect to imports of fresh garlic from China.[191] Commerce based its finding on best information available ("BIA") because all exporters of garlic in China failed to respond to Commerce's questionnaire. Because the margins assigned to the Chinese imports were in excess of 25 percent, Commerce imputed knowledge of dumping and concluded that imports have been massive over a relatively short period of time.[192] Commerce relied on BIA and drew an adverse inference that there was a massive increase in imports.[193]

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[185] 19 U.S.C. §§1673d(b) and 1677(7)(F)(ii).

[186] 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." Metallverken Nederland, B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990). Congress acknowledged that "a determination of threat will require a careful assessment of identifiable current trends and competitive conditions in the marketplace." Calabrian Corp. v. United States, 797 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992) (citing H.R. Rep. No. 1156, 98th Cong., 2d Sess. 174 (1984)).

[187] 19 U.S.C. § 1677(7)(F)(i). In addition, we must consider whether antidumping findings or 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). . . . Three statutory threat factors have no relevance to this investigation. Factor (I) is not applicable in this investigation because no subsidies have been alleged. Factor VIII on product shifting is not an issue because there is no evidence that foreign manufacturers of garlic produce any other products currently under investigation or subject to an order. Factor IX regarding imports of both raw and processed agricultural products is inapplicable because the scope of this investigation does not cover processed garlic products. See Commerce's Notice of Final Determination of Sales at Less Than Fair Value, 59 Fed. Reg. 49058, 49059.

[188] Commissioner Rohr and Commissioner Newquist note that in making their threat determination they customarily begin by considering the vulnerability of the industry, because the degree to which imports can threaten an industry is dependent on the condition of the industry. As noted, they found that the dehy and seed industries are neither currently experiencing material injury nor vulnerable to the continuing adverse effects of unfair imports.

[189] See CR at I-77-78; PR at II-50.

[190] We also note that, although China imposed export quotas and licenses effective April 1, 1994, these measures do not control prices at which the subject imports are sold in the U.S. market, and could be lifted at any time.

[191] Final Determination of Sales at Less Than Fair Value: Fresh Garlic from the People's Republic of China, 59 Fed. Reg. 49058, 49059-60 (Sept, 26, 1994).

[192] Id. Commerce also used BIA to find the Chinese imports to be dumped and assessed a dumping margin of 376.67 percent, which is the highest margin alleged in the petition. Id. at 49059. Because Commerce determined that importers knew, or should have known, that imports of garlic from China were being sold at LTFV prices, Commerce did not need to consider whether there was a history of dumping. Id.

[193] Id.

When Commerce makes an affirmative critical circumstances determination, the Commission is required to determine, for each domestic industry for which it makes an affirmative injury determination, "whether retroactive imposition of antidumping duties on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time."[194] The purpose of the provision is to provide relief from effects of the massive imports and to deter importers from attempting to circumvent the dumping laws by making massive shipments immediately after the filing of an antidumping petition.[195]

In this case, Commerce would impose any retroactive duties on imports entering the United States after April 12, 1994 (i.e., 90 days prior to the date of publication of Commerce's preliminary determination and corresponding suspension of liquidation on July 11, 1994).[196] The 90-day period for which retroactive suspension would occur would include 18 days of the month of April, all of May and June, and the first 11 days of July.

Monthly imports since the petition was filed in January 1994 show no clear trends, but do show that imports in each month from March through July were about half those of the imports in January and February.[197] Total imports of fresh garlic from China for April, May, June and July were 2.2 million kilograms.[198] Although the total imports that would likely be offset by retroactive suspension equal approximately 51 percent of fresh garlic imports since the petition was filed, the volume of these imports pale in comparison to the volumes of LTFV imports that entered the United States prior to the filing of the petition.

The pattern does not indicate that the products were imported in an effort to circumvent an anticipated antidumping order. Subject imports declined in each month from May through July, contradicting such a notion. Although petitioners reported alleged efforts to import Chinese garlic immediately prior to the scheduled date for Commerce's preliminary determination, the evidence supporting those allegations was largely anecdotal, and is not supported by the actual volumes of imports.[199]

On balance, given the evidence of reduced and declining imports during the 90-day period for which retroactive duties could be assessed, we determine that retroactive imposition of antidumping duties on the merchandise is not necessary to prevent the recurrence or prolongation of material injury. We thus make a negative determination with respect to critical circumstances on subject imports from China.

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[194] 19 U.S.C. § 1673d(b)(4)(A)(i).

[195] See H.R. Rep. No. 317, 96th Cong., 1st Sess. 63 (1979).

[196] See Notice of Preliminary Determination of Sales at Less Than Fair Value, 59 Fed. Reg. 35310 (July 11, 1994).

[197] CR at I-82, Table 21; PR at II-55, as amended by Memorandum INV-R-163 (Oct. 25, 1994).

[198] Id. In arriving at this aggregate number, we included two-thirds of the reported imports for April and all of the reported imports for July, since all parties agree that imports for the most part ceased after Commerce issued its final determination finding 376 percent margins on July 11, 1994.

[199] Petitioners also argue that the European Union restrictions and Mexican ban on imports of garlic from China demonstrate "foreign economic conditions" leading to massive imports of Chinese garlic to the United States. Petitioners' Prehearing Brief at 95-96. Again, the actual import numbers do not demonstrate massive volumes of imports prior to Commerce's preliminary LTFV determination. We therefore do not find that such conditions resulted in a material increase in the extent of injury suffered by the U.S. industry. See H.R. Rep. No. 576, 100th Cong., 2d Sess. 611 (1988).

VIII. CONCLUSION

Based on the foregoing, we determine that the domestic industry producing fresh garlic is materially injured by reason of the LTFV imports from China, but that critical circumstances do not exist with respect to those imports. We also determine that the domestic industries producing dehy and seed garlic are neither materially injured nor threatened with material injury by reason of the LTFV imports.

ADDITIONAL VIEWS OF VICE CHAIRMAN JANET A. NUZUM

Fresh Garlic from the People's Republic of China
Inv. No. 731-TA-683 (Final)

I concur with the majority of my colleagues in making an affirmative determination of material injury to the fresh garlic industry by reason of garlic imports from the People's Republic of China, which the Department of Commerce has determined are being sold at less than fair value ("LTFV"). These views provide additional discussion of my particular analysis of the record which brought me to an affirmative determination in this investigation.[1]

I. CONDITIONS OF COMPETITION

Before addressing the relationship between the subject imports and the domestic industry during the period examined, I believe it is useful to identify certain conditions of competition that are distinctive to this industry. These conditions of competition form the context for analyzing the volume and price effects of imports and their impact on domestic producers.

The fresh garlic industry is characterized by several important conditions of competition. First, as do producers of many agricultural products, the fresh garlic industry operates on a seasonal timetable. The domestic fresh garlic industry is wholly located in California, where garlic is generally planted in the fall (September/October) and harvested the following summer (June/July).[2] Traditional sources of imported garlic, such as Mexico and South America, have different planting/harvesting schedules, so that imports have historically tended to complement the domestic industry's cycle, making fresh garlic available to U.S. consumers all year long.[3]

The Chinese garlic growing season, however, largely coincides with that of California. The garlic harvest occurs a little earlier in China than in California, enabling the subject imports to enter the U.S. market at the same time that domestic fresh garlic is being harvested and prepared for market.[4] Subject imports and domestic product generally appear on the U.S. market during the latter six months of the calendar year.[5] Thus, unlike imports from other countries, the imports of garlic from China compete directly with the domestically-grown product.

Moreover, due to the seasonality of fresh garlic production, producers must make annual projections about the following year's market conditions, including any likely changes in demand. Producers' planting decisions are then based on this information.[6] Thus, producer perceptions of market conditions for the following crop year may be evident from their annual planting decisions.

Competition in the fresh garlic market is also affected by the perishability of fresh garlic. Fresh garlic will remain marketable without any cold or controlled-atmosphere storage for up to three months after harvest. With use of cold storage, the shelf life of fresh garlic increases to as much as

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[1] I also concur in the negative determinations with respect to the domestic industry producing garlic for dehydration (so-called "dehy" garlic) and seed garlic. My views on the issues of like product and domestic industry are wholly contained in the majority opinion.

[2] CR at I-88, PR at II-59.

[3] CR at I-88, PR at II-59, and Memorandum OINV-R-163 (October 25, 1994), Figures 1a-1d.

[4] CR at I-89, PR at II-59.

[5] See EC-R-105, October 24, 1994 (Economic Memorandum) at 24-25. I note, however, that in crop year 1994, subject imports entered the United States not only during the latter six months of calendar year 1993 but also during the first six months of calendar year 1994. See Memorandum OINV-R-163, October 25, 1994, Figure 1d.

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

six months after harvest; with use of controlled-atmosphere storage, the shelf life increases to as much as eleven months after harvest. Cold and controlled-atmosphere storage thus enable grower/packers and importers to spread their sales out over a longer period of time and reduce any periods of market saturation.[7]

Finally, the four-year period investigated -- crop year 1991 through crop year 1994 -- was marked by large and consistent increases in domestic consumption of fresh garlic. These increases apparently are due to growing awareness of beneficial health qualities associated with garlic consumption as well as increased popularity of ethnic foods that contain garlic.[8] These increases in domestic consumption provide a backdrop for analyzing the effects of the significant increases in subject imports.

II. ANALYSIS OF IMPORT VOLUMES, PRICE EFFECTS, AND IMPACT ON DOMESTIC PRODUCERS OF FRESH GARLIC

An important factor leading to my affirmative determination is the dramatic increase in the volume of subject imports, with particular focus on the most recent crop year.[9] Imports of fresh garlic from China declined from 6.06 million pounds in crop year 1991 to 3.54 million pounds in crop year 1992, then increased to 9.4 million pounds in crop year 1993. In crop year 1994, however, subject imports suddenly increased to 63.5 million pounds -- aone-year increase of 576 percent.[10]

The dramatic increase in subject imports is also reflected in the market share held by Chinese garlic. By quantity, the market share for fresh garlic consumption held by the subject imports fell from 7.1 percent in crop year 1991 to 3.7 percent in crop year 1992. Thereafter, it increased to 8 percent in crop year 1993 before jumping more than four-fold to 35.2 percent in crop year 1994.[11]

The increase in the share of the fresh garlic market held by subject imports is even more striking when measured against the increases in domestic consumption of fresh garlic during the period. By quantity, domestic consumption of fresh garlic increased from 85.6 million pounds in crop year 1991 to 117.4 million pounds in crop year 1993, or approximately 37 percent.[12] The rate of increase in consumption accelerated from 12.3 percent from crop year 1991 to crop year 1992, to 22.1 percent from crop year 1992 to crop year 1993.[13] Domestic consumption of fresh garlic then increased by over 50 percent to more than 180 million pounds in crop year 1994.[14] Thus, in one year, subject imports increased from less than one-tenth of a smaller market to more than one-third of a much larger market. This is clearly a significant increase in subject imports. Further, by crop year 1994, the volume of subject imports -- 63.5 million pounds accounting for more than 35 percent of the domestic fresh garlic market -- also was significant.

The pricing data gathered by the Commission revealed widespread underselling by the subject imports. Contrary to respondents' argument, it does not appear the underselling was due to a two-

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[7] CR at I-89; PR at II-59-60. There is a considerable cost to doing so, however (around one cent per pound per month). Id.

[8] CR at I-21; PR at II-10.

[9] Most of the information in the record (imports, domestic shipments, prices, etc.), is reported on a crop year basis. The crop year runs from June to May. CR at I-16, n.41; PR at II-9.

[10] CR at I-80, Table 20; PR at II-53.

[11] CR at I-84, Table 23; PR at II-57.

[12] Derived from data in Table 23, CR at I-84; PR at II-57.

[13] Id.

[14] Id.

tiered domestic market for fresh garlic where domestic garlic is sold at a premium.[15] Most purchasers indicated that domestically-produced fresh garlic and Chinese fresh garlic are comparable in terms of quality.[16] The information gathered by the Commission also indicates that the overwhelming majority of imports of garlic from China (more than 90 percent) move in the same channels of distribution as most domestic fresh garlic, namely, wholesalers and distributors that sell to the fresh market.[17] Given this evidence, I am unpersuaded by respondents' arguments that Chinese garlic is sold in a different market tier than, and thus does not compete with, domestically-produced fresh garlic.

With respect to examining the impact of subject imports on domestic prices, let me begin by turning to the information concerning underselling. In assessing the significance of underselling, I take into account a variety of factors, including the comparable quality of Chinese and domestic fresh garlic, their overlapping presence in the market, the importance of price to purchasers, and the very large dumping margins found by the Department of Commerce -- 376.67 percent.[18] The pricing comparisons between domestic fresh garlic and the subject imports revealed widespread underselling at what I conclude are significant margins. Producer and importer prices for fresh garlic sold to wholesalers/distributors showed underselling by the subject imports in 45 out of 47 possible comparisons, with margins ranging from 1 to 70 percent.[19] Purchaser prices likewise showed underselling by the subject imports in 20 out of 21 possible comparisons, with margins ranging from 0.8 to 76 percent.[20] In several comparisons, the largest margins of underselling occurred during August through December, the 3-5 months following the domestic harvest in crop year 1994. Margins of underselling also generally were larger in crop year 1994 than the margins of underselling during corresponding months in crop year 1993. The increases in underselling margins coincided with the surge in subject imports in early crop year 1994.[21]

Changes in prices for fresh garlic within a crop year reflect the industry's seasonality. The Commission obtained pricing information for the last half of crop year 1992 and for all of crop years 1993 and 1994. Those data show that for most of the products for which prices were collected, prices tended to be low during July/August through November and then recover to higher levels during January through May.[22] Evidence of a price increase or decrease within a single crop year is not particularly probative of adverse price effects, because in this market prices typically change from month to month. Rather, comparisons of monthly prices in one crop year to the prices in the corresponding months in another crop year are more likely to indicate whether the domestic industry is experiencing price depression or suppression.

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[15] Respondents contended that this two-tier market arose because of the inferior quality of Chinese garlic and a "deliberate smear campaign" aimed at Chinese product. Respondents' Pre-hearing Brief at 49-54.

[16] CR at I-90, I-91; PR at II-60. Eleven out of fifteen responding purchasers rated Chinese fresh garlic as "comparable" to the U.S. product, while only four purchasers indicated that the Chinese product was "inferior." Advantages of U.S.-produced garlic included consistent quality, reliable supply, and shorter lead times. The most frequently listed advantage of Chinese product was price. It also bears noting that most of the subject merchandise was USDA Grade No. 1. CR at F-9, Table F-5; PR at F-8, Table F-5.

[17] CR at I-31, PR at II-18.

[18] 59 Fed. Reg. 49058, 49060 (Sept. 26, 1994).

[19] CR at I-94-97, Tables 24-27; PR at II-63-66.

[20] CR at I-105-108, Tables 28-31; PR at II-69-72.

[21] CR at I-101, I-102, Figures 19-20; PR at II-67.

[22] See CR at I-94-97, Tables 24-27, and I-105-I-108, Tables 28-31; PR at II-63-65, II-69-72. This pattern helps underscore the importance of cold- and controlled-atmosphere storage facilities that enable domestic producers to extend the shelf life of their harvest until market prices recover.

A comparison of prices in crop years 1993 and 1994 shows that domestic garlic prices had both lower peaks and lower troughs in crop year 1994 than in crop year 1993.[23] Further, domestic prices for fresh garlic were generally lower during January-May 1994 than during the same months of 1993.[24] This is particularly significant because, although the industry might expect domestic prices to be very low following the harvest (i.e., August through November), they also had reason to believe that prices would recover in the period January through May. Prices in January-May 1994 did not recover to the same levels that prevailed the previous year, however.[25] In that connection, although the surge in subject imports had subsided by January 1994, the levels of subject imports continued to be considerably higher during the first five months of calendar 1994 as compared to the same months in either calendar years 1993 or 1992.[26] This evidence further supports the conclusion that subject imports had significant adverse price effects on domestic producers' prices.

In assessing the impact of subject imports on the domestic fresh garlic industry, I note that the industry's financial performance worsened, notwithstanding increases in production, shipments, employment and net sales throughout the period. At first glance, this might tend to support respondents' contention that there is no causal link between subject imports and the condition of the domestic industry. A closer examination of the record, however, leads me to conclude the contrary.

Increases in domestic production, shipments and net sales (by quantity) equalled or exceeded increases in domestic consumption from crop year 1991 to crop year 1992 and from crop year 1992 to crop year 1993.[27] The increase in domestic consumption from crop year 1993 to crop year 1994, by contrast, vastly exceeded the increases in domestic production, shipments and net sales.[28] Moreover, the value of domestic shipments actually decreased from crop year 1993 to crop year 1994 after successive increases in the prior years.[29] These trends indicate a levelling-off of the domestic industry's performance during the later part of the period examined, even though the domestic market was booming.

The industry's financial information indicates that the decline in the industry's profitability from crop year 1993-94 was attributable to declining net sales values, and not to a "substantial increase in expenses for fresh garlic operations."[30] Total production costs measured on a per pound basis consistently ranged between $0.66 and $0.70 per pound, and never exceeded crop year 1991 levels.[31] The net sales value of fresh garlic sold for all uses, however, declined to a period low of $0.64 per pound in crop year 1994, less than total expenses of $0.66 per pound. This led to the industry's first net losses for the period.[32]

Another indication of the adverse impact of subject imports on the domestic industry is the increase in distress sales from crop year 1993 to crop year 1994. Sales of fresh garlic for uses other

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[23] CR at I-99-100, Figures 17-18; PR at II-67.

[24] Id.

[25] CR at I-95-I-97, Tables 25-27; PR at II-64-66. Specifically, domestic producer prices for Products 1, 2 and 4 are lower in January-May 1994 than during the same months in 1993.

[26] See Memorandum INV-R-163 (Oct. 25, 1994) and figures attached thereto.

[27] Domestic consumption increased 12 percent during crop years 1991-92 and 22 percent during crop years 1992-93. By comparison, domestic production increased 43 percent and 33 percent, domestic shipments increased 37.5 percent and 28 percent, and net sales increased 39.9 percent and 28.7 percent, respectively. CR at C-7, C-8, Table C-3; PR at C-7, C-8, Table C-3.

[28] Id. Domestic consumption increased 53 percent, while domestic production increased 7.4 percent, domestic shipments by 10.2 percent, and net sales by 14.2 percent.

[29] CR at I-41, Table 6; PR at II-27.

[30] Respondents' Pre-hearing Br. at 44.

[31] CR at I-59, Table 11; PR at II-37.

[32] CR at I-58, I-59, Table 11; PR at II-37.

than fresh use are generally avoided by producers and importers because of the much lower prices that such sales bring.[33] For example, the net sales value for fresh garlic sold for fresh use reached a period-low $0.72 per pound in crop year 1994.[34] Prices for distress sales of fresh garlic, however, were $0.24 per pound in crop year 1994, about one-third the price for fresh garlic for fresh use.[35] Nevertheless, the proportion of fresh garlic sold for other uses (i.e., distress sales) increased from 9 percent of total quantity of net sales in crop year 1993 to 15 percent in crop year 1994, while the volume of distress sales nearly doubled.[36] The fact that domestic producers would sell so much more fresh garlic for uses other than fresh use at the same time that consumption of fresh garlic for fresh use was increasing so strongly indicates that producers were unable to sell into the fresh market. One apparent reason for the increase in distress sales is the surge in subject imports.

Thus, the surge in imports of Chinese garlic combined with the depressing effects those imports had on domestic prices resulted in financial deterioration for the domestic industry as net income fell from $1.243 million in crop year 1993 to a net loss of $1.355 million in crop year 1994. No other factor, including domestic operating expenses, appears to account for this financial decline. Indeed, given the other evidence of positive trends in domestic consumption and industry performance, including production and shipments, one might have expected improved financial performance in crop year 1994 over crop year 1993. The fact that this did not occur is evidence of the adverse impact of LTFV imports of garlic from China on the domestic industry.

III. CONCLUSION

In sum, the clear slow-down in the domestic industry's growth, the declines in the value of net sales and the increases in distress sales of fresh garlic all occurred as imports of garlic from China were surging into the market at prices well below domestic prices for fresh garlic. On this basis, I conclude that the domestic fresh garlic industry is materially injured by reason of the LTFV imports of garlic from China.

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[33] CR at I-29, n.63; PR at II-18.

[34] CR at I-59, Table 11; PR at II-37.

[35] Id.

[36] Derived from data provided in Table 11, CR at I-58; PR at II-37.

VIEWS OF COMMISSIONER CAROL T. CRAWFORD
Fresh Garlic from The People's Republic of China
Inv. No. 731-TA-683 (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 fresh garlic from the People's Republic of China ("China") found by the Department of Commerce to be sold at less-than-fair-value ("LTFV"). My determination is based on a like product that differs from my colleagues'. Therefore, my analysis and separate views follow.

I. INTRODUCTION

The statute directs that we determine whether there is "material injury by reason of" the LTFV 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. The statute, however, 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.[37] 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, 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.[38] 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 garlic is materially injured by reason of the LTFV imports from China.

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[37] 19 U.S.C. §1677(7)(C)(iii).

[38] In examining the quantity sold, I take into account sales from both existing inventory and new production.

II. LIKE PRODUCT

The Commerce Department has defined the scope of investigation to be a single class or kind of merchandise that includes

> all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. . . .[39]

This definition means that all forms of raw garlic from China, whether fresh garlic, dehy garlic or seed garlic are subject to investigation in this case. My colleagues have determined that the three forms of raw garlic included in this single class or kind of merchandise are sufficiently different that they constitute separate like products. I disagree.

A. Dehy Garlic and Fresh Garlic

Dehy garlic and fresh garlic are two forms of one product, raw garlic. Even though they differ in appearance and water content, they are both bulbs of garlic that share the same essential physical characteristic, that is, they are both garlic. Each form of garlic is used as a flavor in food preparation, although neither is able to be used in its state immediately after harvest. Both are further processed before being consumed. Dehy garlic is processed by dehydrators into dehydrated garlic (e.g. garlic flakes) while fresh garlic is peeled, cracked, crushed, etc. by the end users (e.g. restaurants, individuals) before it is used.[40] Nonetheless, both forms have the same use as a flavor in food preparation.

One of the noteworthy aspects of petitioners' argument that dehy garlic and fresh garlic are separate like products is their definition of the two products. It is not based on distinct physical characteristics or uses. Rather, it is based on the intent of the producer. Dehy garlic is raw garlic grown for the intended purpose of future dehydration; fresh garlic is raw garlic grown for the purpose of sales in the fresh market.[41]

The two forms of garlic, though of the same species, are cultivated in different ways. Fresh garlic is grown and cultivated to produce garlic that is pleasing in visual appearance; dehy garlic is grown to produce high volumes for further processing, and thus appearance does not matter. They are also harvested differently. Dehy garlic is usually harvested by machine, while fresh garlic is harvested by hand. They are grown, however, from the same seeds, often in the same fields, with only the amount of water, density of planting, and method of harvest different. Switching a field from one type of garlic to another is easy at the beginning of the growth cycle, and nearly all producers of fresh garlic "buy fields" from the producers of dehy garlic.[42]

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[39] CR at I-3; PR at II-3.

[40] Because the processing is done by different people, the channels of distribution for the two forms of garlic are different.

[41] CR at I-5, n.6; PR at II-4.

[42] CR at D-3, D-4; PR at D-3, D-4. In a closely analogous case, the Commission found metallurgical and crystalline grade silicon carbide to be the same like product. Crystalline grade silicon carbide, like fresh garlic, attracted a higher price, and was sought by different customers. Because both grades were produced in the same furnace at the same time, however, the Commission concluded that they were one like product. Silicon Carbide from the People's Republic of China, Inv. No. 731-TA-651 (Final), USITC Pub. 2779 (June 1994).

If the grower of fresh garlic succeeds, he is able to command a considerable price premium for his product.[43] This would normally indicate that fresh garlic and dehy garlic are not highly substitutable at the consumer level. Fully 15 to 20 percent, however, of garlic grown and harvested with the intention of being sold as fresh in fact turns out to be inferior and therefore is sold for further processing.[44] Thus, there is a significant amount of actual interchangeability between fresh garlic and dehy garlic, notwithstanding the different intended end uses and the differences in the harvesting methods.[45]

On the basis of the above, I conclude that the differences between dehy garlic and fresh garlic are therefore insufficient to constitute separate like products.

B. Seed Garlic

The other like product question is whether seed garlic is a separate like product from the dehy garlic and fresh garlic into which it grows. This is logically analogous to other upstream/downstream or semifinished/finished situations that the Commission has analyzed in the past.[46]

In Stainless Steel Bar from Brazil, India, Italy, Japan, and Spain,[47] the Commission announced a new five-part test for determining whether a product used to make another product should be treated as the same like product. I review each of these factors in turn.

(i) Dedication for use. First we ask whether the upstream product is dedicated for use in the downstream product. That is certainly the case here -- seed garlic can only be used to grow dehydrated and fresh garlic. It has no other uses whatsoever. In past decisions, I have regarded this factor alone as decisive, and would do so again today. But the other factors announced by the majority in Stainless Steel Bar also suggest including seed garlic in the same like product as the forms of garlic into which it grows.

(ii) Separate markets. This factor focuses on whether the upstream product is produced by an independent group of producers; if so, the competition for the downstream product may attenuate the impact of competition from the subject imports. The record in this case shows that in 1994 the three principal producers of dehy garlic accounted for [* * *] percent of seed garlic production.[48] In addition, the majority of seed garlic is consumed internally by the dehy garlic producers, and 65.6 percent of the open market seed sales goes to fresh garlic producers.[49] As a result, there is, at most, a very limited separate market for seed garlic.

(iii) Physical Differences. The extent of physical change in processing is an important factor. As the Commission said in Stainless Steel Bar, the less the physical characteristics of the upstream product are changed by downstream processing, the more likely it is that the two products should be considered a single like product. In this case, there is no change in any physical characteristic

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[43] Nearly all dehy garlic is captively consumed, and thus there is no reliable market price for dehy garlic. The cost of producing dehy garlic, however, is about [* * *] while fresh garlic is a much higher-value product, generally priced at over $0.60 per pound. CR at I-93, n. 135; PR at II-62.

[44] CR at I-10; PR at II-6.

[45] The facts here are essentially the same as in Phthalic Anhydride from Venezuela, Inv. No. 731-TA-668 (Final), USITC Pub. 2809 (Sept. 1994) (while the degree of interchangeability may vary due to an end user's production facility, there is actual interchangeability between the two forms).

[46] See, e.g., Fresh and Chilled Atlantic Salmon from Norway, Invs. Nos. 701-TA-302 and 731-TA-454 (Final), USITC Pub. 2371 (Apr. 1991) (salmon eggs included in the same like product as adult salmon).

[47] Invs. Nos. 731-TA-678 through 682 (Preliminary), USITC Pub. 2734 (Feb. 1994).

[48] CR at I-24; PR at II-15.

[49] CR at I-31; PR at II-18.

except size. Garlic grows from small pieces of garlic cloves into larger garlic bulbs.[50] No processing or assembly is required.

(iv) Differences in Cost. The difference in cost between the upstream and downstream products can be significant. A small cost difference suggests a single like product. This criterion is difficult to apply here. Seed garlic costs more per pound than dehy garlic, and less per pound than fresh garlic, because a very small of amount of seed may grow into a very large amount of "finished" garlic. Moreover, the absence of significant market sales of seed garlic makes gauging its share of finished garlic's total value even more difficult.

(v) Nature and Significance of Downstream Production. The existence of separate facilities or production lines, or the amount of capital equipment and labor used in processing, is relevant to deciding whether products should be considered a single or separate like products. The integration of the seed and finished garlic markets also make it difficult to apply this criterion in this case. Seed garlic is grown on different farms in different locations from dehy garlic or fresh garlic. The widespread use of contract growers, however, makes those farms appear more like separate stations on a very long, but integrated, production line.

In sum, applying the five criteria I believe are appropriate in this case, seed garlic does not appear to be sufficiently distinct from dehy garlic and fresh garlic to be considered a separate like product. The economic interests of the entire garlic industry are directly affected by imports of LTFV garlic from China, and we should gauge the impact of those imports on the whole industry.

I therefore find there to be one like product, consisting of all forms of raw garlic.

III. DOMESTIC INDUSTRY

Based on my like product determination, I find that the domestic industry consists of the producers of all three forms of garlic. Thus, the domestic garlic industry consists of the producers of seed garlic, the producers of dehy garlic and the producers of fresh garlic.

Even though my definition of the domestic industry differs from my colleagues' definition, the facts relevant to the issue of related parties are the same. That is, those domestic producers of fresh garlic that imported or purchased subject imports are part of the domestic industry found by my colleagues and part of the domestic industry that I have found. I concur in the conclusions of my colleagues that Christopher Ranch is a related party and that appropriate circumstances do not exist to exclude it from the domestic industry. Based on the evidence in the record, I concur that Christopher Ranch's primary interests lie in producing the like product rather than importing subject imports.

IV. 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:

[50] CR at I-11; PR at II-7.

(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 . . .[51]

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.[52] 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 garlic 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 LTFV garlic imports from China ("subject imports") were fairly large during the period of investigation, in terms of both quantity and value. The volume of subject imports increased from about 6 million pounds in 1991 to over 63 million pounds in 1994.[53] Chinese imports accounted for roughly 13.6 percent of U.S. consumption by quantity and 13.5 percent by value in 1994, up from 1.8 percent and 2.5 percent, respectively, in 1991.[54] Based on this large increase and the market share in 1994, I find the volume of the subject imports to be significant.

B. Effect of LTFV Imports on Domestic Prices

The effect on prices is more difficult to discern. We must consider a number of factors relating to the industry and the nature of the products. These factors include the degree of substitutability between the subject imports and the domestic like product; the availability of substitute products; how purchasers of the product react to an increase or decrease in the price of the product they purchase; capacity utilization and the ability to increase capacity in the industry; the availability of supply from inventories or by diverting supply to and from export markets; the presence of fairly traded imports; and the characteristics of the U.S. market. 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 a fairly small price effect on the domestic garlic industry.

I begin by examining what effect subject imports would have had on domestic prices had they not been dumped. Had subject imports not been dumped, they would have been sold in the U.S. market at a much higher price. The size of the dumping margin suggests that few, if any, of the

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[51] 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).

[52] 19 U.S.C. §1677(7)(C)(iii).

[53] Yearly data are collected on the basis of a crop year that begins in June of the previous year and ends in May of the year shown. For example, crop year 1994 would cover the period June 1993 to May 1994. Unless otherwise noted, all references are to crop years.

[54] CR at C-3, Table C-1; PR at C-3, Table C-1.

Chinese imports would have entered the domestic market had they been fairly priced. That being the case, we can assess how the domestic market would have changed if the subject imports had not been dumped. Specifically, we can assess whether the domestic industry would have been able to raise its prices.

The degree of substitutability measures how demand for one product responds to a change in the price of another substitute or competing product. It measures how similar, or substitutable products are from the perspective of the purchaser, by asking how much of a relative price increase (or decrease) would cause the purchaser to switch to a substitute product. If only a small price change elicits a switch, the products are described as close substitutes; if only a large price change elicits a switch, the products are described as poor substitutes. This test helps to estimate the likely effect on domestic sales if subject imports had been priced higher, at fairly traded prices.

The degree of substitutability depends upon the extent of product differentiation. Product differentiation varies by product uses, quality differences and differences in terms and conditions of sale. Products are close substitutes if both product attributes as well as terms and conditions of sale are very similar. If products are close substitutes, purchasers will tend to respond more readily to relative price changes by switching their purchases to an alternative product.

As discussed above, the scope of investigation includes all three forms of garlic. Nearly all of the Chinese imports sold in the U.S. market, however, are fresh garlic.[55] Thus, the Chinese imports competed directly with only one form of the like product. Record evidence indicates that the marketing seasons for Chinese imports of fresh garlic and domestic fresh garlic coincide and that there are no significant quality differences between the two, which make them good substitutes.[56] On the other hand, other non-price factors such as reliability of supply, lead times and the use of cold and controlled atmosphere facilities make domestic fresh garlic preferable to purchasers, and thus reduce somewhat their substitutability with Chinese fresh garlic.[57] The overall substitutability of domestic garlic and Chinese garlic is also limited because subject imports compete directly only with domestic fresh garlic. In 1994, fresh garlic accounted for about 25 percent of domestic production.[58] Consequently, direct competition between subject imports and the like product was limited to 25 percent of domestic production. There were no Chinese imports competing with the other 75 percent of domestic production, a fact which reduces the overall degree of substitutability between the two substantially. For this reason, I find that subject imports and the domestic like product are, at best, moderate substitutes for each other.

How purchaser demand responds to product price changes depends in large part on the availability of alternatives to the like product and/or subject imports.[59] If there are good substitutes for garlic, then any increase in its price will cause purchasers to shift from garlic to the good substitutes. The record indicates that there are no good substitutes for garlic, due to its unique flavor.[60] Moreover, garlic is an inexpensive item, and thus purchaser demand is fairly insensitive to changes in garlic prices; that is, demand is unlikely to decline when the price increases. Therefore, the domestic industry would have been able to increase its prices somewhat without sales decreasing significantly. There are numerous domestic producers, however, that compete with each other. This competition limits the ability of the domestic industry to increase prices.

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[55] CR at I-77-78; PR at II-50.

[56] EC-R-105 at 24-25.

[57] EC-R-105 at 25-26.

[58] CR at I-34, Table 4; PR at II-21.

[59] The substitutability discussion above refers to the substitutability between subject imports and domestic like product. Here, I examine the substitutability of the domestic like product with alternative products.

[60] EC-R-105 at 14-15.

We can estimate the effects of changes in market prices on the industry's output and sales primarily by examining the domestic industry's capacity utilization and the availability of alternative markets. It is very difficult to measure capacity, and thus capacity utilization, in the garlic industry, particularly in the short run. While large amounts of land may be available for planting, the amount of fresh and dehy garlic that can be planted is limited by the availability of seed garlic. Because it takes 2 to 3 years to produce seed garlic for planting, the domestic industry's ability to increase its garlic output through expanded plantings is quite limited in the short run.[61] This constraint, however, only limits the total number of garlic bulbs that can be produced; it does not dictate the proportions of fresh and dehy garlic that are produced from the bulbs. In other words, the availability of seed garlic does not prevent shifts in production from dehy garlic to fresh garlic, or vice versa, in response to relative price changes in the two forms of garlic. Consequently, I find that the relevant measure of capacity in this industry is the capacity utilization of the equipment and facilities used to plant, harvest and pack garlic. The record indicates that such capacity increased throughout the period of investigation and that available capacity exists with which the domestic industry could increase production.[62] Thus the domestic industry would have been able to shift from producing dehy garlic to fresh garlic had the price of fresh garlic increased.[63] A shift in production from dehy garlic to fresh garlic results in an overall increase in pounds of domestic garlic production.[64]

In addition, there are reasonably good export markets for domestic garlic, so the domestic industry also could have increased its sales.[65] Garlic now sold in export markets could have been diverted back to the U.S. market. For these reasons, I find that the domestic industry would have been able to increase its output and its sales in response to an increase in prices.

Non-subject imports have been present in the market throughout the period of investigation. Because of different planting, harvesting and marketing seasons, however, non-subject imports enter the market at different times than Chinese imports and thus do not compete directly with subject imports. As a result, there would have been no competition from non-subject imports to limit domestic price increases had Chinese imports been priced fairly. Nevertheless, there are numerous domestic producers that compete with each other, and this competition would tend to limit domestic price increases.

Therefore, had subject imports been sold at the higher, fairly traded price, the domestic industry could have increased both its prices and its sales volume. Because there are no viable substitutes for garlic or competition from non-subject imports, purchasers would have had no alternative source and would have switched to domestic fresh garlic if subject imports had been priced out of the market. The demand for domestic fresh garlic would have increased significantly, given the large volume and market share of Chinese fresh garlic that would have become unavailable. Domestic producers would have been able to increase their prices only within limits allowed by competition among domestic producers, available capacity in the industry and the ability to shift sales from export markets to the U.S. market.

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[61] EC-R-105 at 9-10.

[62] CR at I-33 to I-36, and Table 4; PR at II-20 to II-23; EC-R-105 at 9-10.

[63] The record demonstrates that such shifts can and do occur. Dehy garlic producers rent a portion of their land to fresh garlic producers (e.g. "Buy a Field" programs), shifting production in response to market forces. CR at I-26; PR at II-16.

[64] The overall increase occurs because fresh garlic is heavier than dehy garlic due to its higher water content. I note that a shift in production from dehy garlic to fresh garlic would reduce the output of dehy garlic. Producers of dehy garlic would be compensated, however, for this shift with revenues from the rental of their land and from increased prices for their seed garlic due to increased demand for domestic fresh garlic.

[65] CR at I-39, Table 5; PR at II-25; EC-R-105 at 11-12.

Based on the above, it is likely that the domestic industry would have responded to changes in garlic demand by increasing its prices somewhat. The primary response by the domestic industry, however, would have been an increase in its output and sales. Therefore, I find that, on balance, LTFV imports have had 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.[66] For the following reasons, I find that the subject imports have had a significant impact on the domestic industry through their effect on the volume of production and sales.

As discussed above, had the subject imports not been dumped, it is likely that most, if not all, of the Chinese garlic would have been priced out of the U.S. market. The domestic industry could have increased its output and sales to meet the additional demand that would have been created by the loss of subject import supply. It is likely that the domestic industry would have captured most, if not all, of the market share held by Chinese imports for three reasons. First, demand for garlic has been increasing in recent years, and the demand for the displaced Chinese garlic would not have disappeared.[67] Second, there are no viable substitutes for garlic. Third, because of different planting, harvesting and marketing seasons, non-subject imports enter the U.S. market at different times than Chinese imports.[68] Consequently, non-subject imports would not have been available in the market to meet the additional demand created by the loss of subject import supply. Given the large market share of subject imports, the market share that the domestic industry would have captured would also have been large. To capture the displaced Chinese sales, the domestic industry would have switched its production from dehy garlic to fresh garlic. This switch would have resulted in a much larger quantity, in pounds, of garlic sold because fresh garlic is heavier than dehy garlic. Thus, the domestic industry would have increased its output and sales significantly if subject imports had been priced fairly.

This significant increase in the domestic industry's output and sales would have translated into a significant increase in the industry's revenues.[69] This increase in revenue is magnified by the switch from producing the lower-value dehy garlic to the higher-value fresh garlic.[70] As discussed above, the domestic industry also would have been able to increase its prices, and thus its revenues. The combined effect on the domestic industry's revenues is sufficiently large that the domestic industry would have been materially better off if Chinese imports had been priced fairly.

V. CRITICAL CIRCUMSTANCES

I concur in the conclusion of my colleagues with respect to critical circumstances. I find that retroactive imposition of antidumping duties does not appear necessary to prevent recurrence of

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[66] 19 U.S.C. §1677(C)(iii).

[67] CR at I-18, Table 1; PR at II-11; EC-R-105 at 14.

[68] See, e.g. CR at I-82, Table 21; PR at II-55; Petitioners' Prehearing Brief at 66-67.

[69] As discussed previously, producers of dehy garlic would have been compensated for reducing dehy garlic production by receiving revenue from land rental and increased prices for the seed garlic.

[70] Because nearly all of dehy garlic is captively consumed, there is no reliable market price for dehy garlic. The cost of producing dehy garlic, however, is about [* * *] per pound. Fresh garlic is a much higher-value product, generally priced at over $0.60 per pound in 1994. CR at I-93, n. 135; PR at II-62.

material injury and that the effectiveness of the order would not be materially impaired if retroactive duties are not imposed.[71]

VI. CONCLUSION

In light of the significant volume of subject imports and the significant effects on domestic industry production, sales and revenues,[72] I determine that the domestic industry would have been materially better off had the LTFV imports been fairly priced. Therefore, I find that the domestic industry is materially injured by reason of LTFV imports of garlic from the People's Republic of China. Further, I make a negative determination with respect to critical circumstances.

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[71] See 19 U.S.C. §1673d(b)(4)(i) and (ii).

[72] As discussed above, the price effects are small.

PART II

INFORMATION OBTAINED IN THE INVESTIGATION

INTRODUCTION

Following a preliminary determination by the U.S. Department of Commerce that imports of fresh garlic[1] 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. 35310, July 11, 1994), the U.S. International Trade Commission, effective July 11, 1994, instituted investigation No. 731-TA-683 (Final) under section 735(b) of the Tariff Act of 1930 (the Act) (19 U.S.C. § 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of 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 August 3, 1994 (59 F.R. 39574).[2] The hearing was held in Washington, DC, on September 27, 1994.[3]

Commerce's final LTFV determination was made on September 19, 1994. Commerce determined that imports of fresh garlic from China are being, or are likely to be, sold in the United States at LTFV. The applicable statute directs that the Commission notify Commerce of its final injury determination by November 7, 1994. The Commission voted on this investigation on October 26, 1994.

BACKGROUND AND PREVIOUS INVESTIGATIONS

This investigation results from a petition filed by the Fresh Garlic Producers Association on January 31, 1994, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of fresh garlic from China.[4] In response to that petition the Commission instituted investigation No. 731-TA-683 (Preliminary) under section 733 of the Act (19 U.S.C § 1673b(a)) and, on March 17, 1994, determined that there was a reasonable indication that the industry in the United States producing fresh garlic was materially injured or threatened with material injury by reason of the subject imports.

A summary of the data collected in this investigation is presented in appendix C. The Commission has not previously conducted investigations concerning the garlic subject to this investigation.

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[1] For purposes of this investigation, Commerce has defined "fresh garlic" as all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or by heat processing, the foregoing used principally as a food product and for seasoning, provided for in subheadings 0703.20.00, 0710.80.70, 0710.80.97, 0711.90.60, and 2005.90.95 (statistical reporting numbers 0703.20.0000, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9500) of the Harmonized Tariff Schedule of the United States (HTS). Differences between grades are based on color, size, sheathing, and level of decay.

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

[3] A list of the participants in the hearing is presented in appendix B.

[4] The Fresh Garlic Producers Association consists of the following firms: A&D Christopher Ranch (A&D Christopher), Gilroy, CA; Belridge Packing Co. (Belridge), Wasco, CA; Colusa Produce Corp. (Colusa), Colusa, CA; Denice & Filice Packing Co. (Denice & Filice), Hollister, CA; El Camino Packing (El Camino), Gilroy, CA; The Garlic Co., Shafter, CA; and Vessey and Company, Inc. (Vessey), El Centro, CA.

THE PRODUCT

Description

In its final determination, Commerce defined the product subject to investigation as follows:

> "all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing, used principally as a food product and for seasoning.[5]

Processed garlic, including dehydrated and pureed garlic, is not contained within Commerce's scope. According to Commerce officials, however, the scope of investigation is meant to comprise all forms of "raw" garlic regardless of the uses to which that garlic may subsequently be put.[6]

Production Process

Fresh and Dehy Garlic

There are three possible uses for raw garlic: as a fresh food product, as seed stock for raising future crops, or for processing into dehydrated or pureed garlic. In the Western Hemisphere, both fresh and dehy garlic are grown primarily in sunny, relatively dry areas of California, Mexico, Argentina, and Chile. Moreover, the production of fresh and/or dehy garlic largely depends on the latitude of the growing area--the lower the latitude the earlier the planting and harvesting. In California, garlic is planted in the fall and harvested the following summer, but in Mexico garlic is planted during the summer and harvested the following spring. By contrast, in Argentina and Chile, where the seasons are inverted from those of North America, planting takes place in March-May for harvest in the following December-February. The result of such staggered crop years is that garlic traditionally has been available from one source or another in the Western Hemisphere throughout the entire year, and no two countries have seriously affected one another in the U.S. market. The crop year in China, however, basically coincides with that in California, except that Chinese garlic is

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[5] Although fresh garlic is often chilled or cooled in storage to maintain its freshness prior to shipment, it is rarely, if ever, frozen, and no further mention of frozen garlic will be made throughout the remainder of this report. Petitioners included "frozen" garlic in the scope of their petition for the sole purpose of preventing the circumvention of any future antidumping duty order on "fresh" garlic.

[6] Conversation with John Beck, Commerce, Sept. 22, 1994. Prior to issuance of questionnaires in this final investigation, petitioners indicated to Commission staff that some producers of garlic may have misconstrued the definition of the product used in the preliminary investigation, believing that the term "fresh garlic" meant only garlic for fresh use or garlic that had been manually harvested. See letter from Collier, Shannon, Rill, & Scott to Jonathan Seiger, July 18, 1994. As a result, some producers of garlic for other uses (such as dehydration) or that had been mechanically harvested did not report data in response to the Commission's questionnaire because they did not believe the questionnaire to be applicable to their operations. Commission staff accordingly revised the final questionnaires to collect separate data on garlic that had been manually harvested ("fresh garlic"), garlic that had been mechanically harvested and intended for non-fresh use ("dehy garlic"), and garlic specially raised for seed ("seed garlic"). Notwithstanding this, the questionnaires also solicited data on "raw garlic," or all forms of garlic regardless of method of harvest or intended end use.

For purposes of this report, therefore, when referring to the scope of Commerce's investigation on fresh garlic, the terms "raw garlic" or "garlic" will be used. By contrast, the terms "fresh garlic," "dehy garlic," and "seed garlic" are used to describe the domestic products as defined in the Commission's questionnaires.

harvested somewhat earlier, allowing it to enter the U.S. market coincident with the harvesting of the U.S.-produced product.[7]

The garlic crop year begins with the acquisition of seed stock. Once seed supplies have been acquired, both grower-packers (i.e., fresh market producers) and dehydrators contract with California farmers for raising their crop.[8] Following the selection and allocation of desired acreage, field preparation and planting are performed by the grower-packer or dehydrator. Grower-packers and dehydrators provide farmers with seed and all other necessary inputs for raising the crop. They also provide for harvesting of the finished garlic when the crop is ready. Under the direction of the grower-packer or dehydrator, the farmer is responsible for fertilizing, weeding, and irrigating the crop.[9] Garlic farmers use garlic in their crop rotation programs. Most farmers raising garlic also raise a number of other crops.[10] One crop is grown per season, and the same land cannot be used again in garlic production for at least 4 years.

In California, fresh and/or dehy garlic is usually planted in September through November and harvested in June through August, expanding from individual cloves (seed stock) to mature compound bulbs in about 9 months. The planting stage for garlic production is critical in that the intended end use of garlic determines the density of planting. Fresh garlic is planted at 130,000 to 200,000 seeds per acre (10-13 cloves per bed foot), whereas dehy garlic is planted at 240,000 to 300,000 seeds per acre (18-23 cloves per bed foot).[11] The lower density for fresh garlic facilitates hand harvesting, which is used to minimize bulb damage. Because dehy garlic is mechanically harvested, its planting density is usually twice that of fresh garlic. All garlic cultivation involves irrigation; weed, insect, and disease control; fertilization; harvesting; and windrowing. These activities are basically similar for fresh and dehy garlic. As in the case of planting, however, the methods used to harvest and further handle the garlic differ according to its intended use.

The next critical stage in garlic production is the determination of when to make the last application of water prior to harvesting, commonly referred to as "water shut-off." For fresh garlic, water shut-off usually occurs 2 to 3 weeks before harvest, in order to encourage the formation of extra skins, which enhances the appearance of the bulb.[12] For dehy garlic, the water shut-off may be somewhat closer to harvest so as to encourage maximum bulb size and yield. The grower-packer or dehydrator generally evaluates the soil moisture content of each field in order to determine whether a final watering is needed and, if so, when it should be applied.

The timing of the final application of water determines the number of bulb skins. At maturity, garlic bulbs for the fresh market are compact and firm, usually with seven or eight skins.[13] The number of skins is critical because, during undercutting, windrowing, harvesting, cleaning, grading, sorting, and packing, the bulbs often lose three or four of these skins.[14]

In harvesting garlic for the fresh market, specialized machinery is used to undercut the bulb and loosen the soil, but the actual harvesting is done by hand. After undercutting and hand-lifting out of the ground, the bulbs are carefully placed in windrows and protected from the elements. The bulbs are then left to dry in the field for between 10 and 20 days. At that point, the garlic is hand-

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[7] See the section of this report entitled "U.S. Imports" for a discussion of seasonal import trends.

[8] See, e.g., field visits with El Camino Packing and Gilroy Foods, Aug. 10 and 11, 1994.

[9] Field visit with South County Packing, Aug. 9, 1994.

[10] Transcript of public hearing, Sept. 27, 1994 (transcript), p. 224.

[11] Field visit with Gilroy Foods, Aug. 11, 1994; prehearing brief of Bogle & Gates, pp. 7-8.

[12] Field visit with El Camino, Aug. 10, 1994.

[13] Ibid.

[14] According to industry sources, fresh garlic producers like to harvest with at least five skins remaining on the garlic, because the garlic will lose two skins in handling. Dehydrators, however, harvest with three to four skins. Field visit with El Camino, Aug. 10, 1994.

topped, clipped, and placed in large bins, which remain in the field for 2 to 3 weeks before being transported to special facilities where the garlic is cleaned, graded, sorted, and packed.

Dehy garlic, on the other hand, is mechanically lifted from the soil, placed in windrows that (unlike those used for fresh garlic) are exposed to the sun, cleaned of dirt and debris by a large "bulker," and transported to a dehydration facility. These bulbs generally are larger than those used for fresh garlic, may be less consistent in size, and may have a number of blemishes or other exterior imperfections giving them a less desirable appearance than fresh garlic bulbs. Although bulb quality also is important to dehydrators, the size and physical appearance of dehy garlic at this stage would usually preclude it from being sold in the fresh market.[15]

Fresh garlic normally will remain of marketable quality for up to 3 months after harvesting and is generally shipped within this time. In recent years, however, grower-packers and importers have invested in the use of cold storage and controlled-atmospheric storage facilities to extend the shelf life of fresh garlic in a marketable state up to 10 or 11 months, well into the next crop year. This allows grower-packers and importers to spread sales over a longer period, albeit at substantial additional cost.[16]

U.S. standards for grades of fresh garlic include one U.S. Department of Agriculture grade, USDA grade No. 1. All other fresh garlic is designated as unclassified, which is not a grade within the meaning of these standards.[17] In recent years, an estimated 80 to 85 percent of fresh garlic was USDA grade No. 1; the remainder was believed to have been sold for processing. In normal industry practice, fresh garlic is sorted and packed according to size, ranging from 1-1/2 inches in diameter, through 1/4-inch increments, to 2-3/4 inches or more.[18] Such practices also include the sale of USDA grade No. 1-quality fresh garlic not labeled as such. Large diameter garlic, known as elephant garlic, is not recognized as a separate grade and, indeed, is a separate species.[19] Most imported fresh garlic from China is considered USDA grade No. 1 and generally ranges in size from 1-1/2 inches to 2-1/2 inches in diameter. In recent years, increasing amounts of domestically-produced USDA grade No. 1 fresh garlic, as well as some imported fresh garlic from China, have been sold for dehydration or for seed stock.

Seed Garlic

In the United States, raw garlic for seed stock is grown principally in Nevada and Eastern Oregon, where the dry, cooler high desert climate is ideal for producing disease-free, invigorated seed stock or starter bulbs. Limited production also takes place in northeastern California. Seed stock consists of cloves that are grown from pieces of other cloves using sophisticated, modern laboratory tissue culture techniques to ensure that the resulting seed stock is virus- and disease-free

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[15] Field visit with Gilroy Foods, Aug. 11, 1994.

[16] Field visit with A&D Christopher, Aug. 11, 1994. For example, controlled-atmosphere storage can cost from $*** to $*** per square foot; moreover, the additional cost of controlled-atmosphere storage has been estimated at around ***. Field visit with El Camino Packing, Aug. 10, 1994.

[17] USDA grade No. 1 garlic is described as "garlic of similar varietal characteristics which is mature and well cured, compact, with cloves well filled and fairly plump, free from mold, decay, shattered cloves, and from damage caused by dirt or staining, sunburn, sunscald, cuts, sprouts, tops, roots, disease, insects, or mechanical or other means. Each bulb shall be fairly well enclosed in its outer sheath. Unless otherwise specified, the minimum diameter of each bulb shall be not less than 1-1/2 inches in diameter." Title 7, part 51, section 3 of the Code of Federal Regulations, Office of the Federal Register, National Archives and Records Administration, Washington, DC, revised Jan. 1, 1993, pp. 500-501. With regard to lesser quality grades, a common designation for off-specification garlic is "commercial grade," for example.

[18] Field visit with El Camino Packing, Aug. 10, 1994.

[19] Petitioners' posthearing brief, p. 24; field visit with A&D Christopher, Aug. 11, 1994.

prior to planting.[20] These cloves are then provided, along with the fertilizers and pesticides necessary for planting, to growers in Oregon and Nevada under a contractual agreement between the grower and the fresh market producer or dehydrator. The fresh market producer or dehydrator also stipulates the specifications under which the crop is to be grown and usually provides for harvesting of the seed stock.[21]

The normal production cycle for raising seed stock is 5 years from the time of first planting. Cloves are removed from the bulbs of each year's production to plant the next season's crop, with this process repeated through 4 more seasons of growth. At the end of the fifth year, the seed garlic bulbs are harvested and their cloves removed for planting by fresh market producers or dehydrators to produce raw garlic. By taking a field out of production each year and planting another field of cloves the same year, seed stock growers always have a crop of seed stock production ready for harvest. In those instances when seed garlic production in Nevada or Oregon is down, seed garlic may be purchased from California sources, or fresh market producers or dehydrators may use for seed some raw garlic originally intended for other uses, incurring significant risk of lower yields.[22] According to industry sources, there are an estimated 100 contract growers of seed garlic for dehydrators and 25 to 30 growers for fresh market producers.[23]

In the United States, the development of seed garlic varieties and strains is a costly and time-consuming process. Most fresh market producers and dehydrators use special varieties that have been bred to include those characteristics considered most desirable (e.g., disease resistance) and to thrive under high-desert seed-garlic growing conditions. Imported raw garlic is significantly different from U.S.-grown seed garlic and, partly because it is not virus-free, is seldom used as seed garlic in the United States.[24]

Uses

Approximately 20-25 percent of domestic raw garlic production is grown for fresh use. Fresh garlic may be used fresh or cooked, whole (such as in baked garlic), or in cloves. In such instances, it is valued for its appearance as well as flavor. It may also be used in chopped or pureed form.[25] It is used in the preparation of other foods, especially to impart flavor to meats, vegetables, stews, soups, and sauces. According to industry sources, it is preferred for fresh food preparations and is more appropriately described as a food.[26] Although it is possible to dehydrate fresh garlic after a period of time, it is not possible to reconstitute dehydrated garlic, once processed, back into a fresh form.

Approximately 65 percent of domestic raw garlic production is grown for dehydration. Dehydrated garlic (i.e., the processed form of dehy garlic), is used principally in the preparation of

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[20] Field visit with A&D Christopher, Aug. 9, 1994.

[21] Ibid.

[22] Ibid. This was the case during the extremely severe freeze in the winter of 1991.

[23] Ibid. Very few of these growers (usually individual farmers) grow significant amounts of seed garlic for open-market sales; most grow seed garlic only for internal use.

[24] Moreover, the U.S. Department of Agriculture (USDA) does not consider imports of fresh garlic from China to have been imported as seed. Field visit with A&D Christopher, Aug. 9, 1994; petitioners' prehearing brief, p. 6, exhibit 2.

[25] Moreover, one grower-shipper of fresh garlic also owns facilities for peeling, cracking, crushing, and chopping fresh garlic. According to industry sources, these forms of processed fresh garlic are often displayed alongside fresh garlic as an alternative to using unprocessed fresh garlic bulbs. Processed fresh garlic is generally offered as a way for consumers to reduce their food preparation time. ***.

[26] See petitioners' postconference brief, Feb. 25, 1994, p. 9.

other prepared foods, including frozen and canned food products, plus dry soups and seasoning mixes. Whereas fresh garlic is used in large amounts, often whole or in cloves, dehy garlic generally is used in very small amounts. In addition to being easy to use, it is especially preferred by institutional users for its shelf-stable characteristics, which enable it to be easily stored unrefrigerated for long periods of time. Diced or pureed garlic, if processed and in jars, can be stored for up to 2 years unopened and then for another several months if refrigerated after opening.[27]

About 15 percent of raw garlic grown domestically is used as seed stock for growing future crops (seed garlic). Although seed garlic can be used for human consumption, it rarely is so used. Likewise, it is unusual to use garlic grown for fresh or dehydrated use as seed.[28]

Substitute Products

In many food preparations, fresh and dehydrated garlic could substitute for each other. With regard to the substitutability of various types of raw garlic, however, because dehy garlic has been handled differently than fresh garlic from the time of planting through harvest, dehy generally would be unsuitable for fresh-market sales.[29] A normal harvest of dehy garlic would include an assortment of different size bulbs, some with bruises and all containing a higher soluble solids content preferred for processing. It would be more likely for fresh garlic to go to dehydration uses than for dehy garlic to be sold on the fresh market.[30] In recent years, there have been a few instances where producers of fresh garlic were left no alternative but to sell their fresh production to dehydrators, always at a significant loss.[31] Also, some fresh garlic has been used as seed stock on an irregular basis in recent years, usually when the cultivated seed is for some reason in short supply.[32]

During the period examined, garlic from China has been used in both the fresh and dehydrated markets, depending on the quality of the product upon importation and on overall price levels.[33] In one instance, imported Chinese garlic also has been used as seed stock, so as to get an early start on the growing season.[34] According to industry sources, earlier shipments of Chinese garlic were of very poor quality.[35] More recently, however, imported Chinese garlic, although generally smaller in size than U.S. garlic, has improved significantly in quality.[36] According to one industry source, many U.S. consumers neither know nor are concerned whether the fresh garlic they buy was domestically produced or imported.[37] Another source has reported that all U.S. fresh garlic distributors know about the availability of fresh garlic from China and virtually all have either

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[27] Field visit with A&D Christopher, Aug. 11, 1994.

[28] Field visit with A&D Christopher, Aug. 9, 1994.

[29] For example, water shut-off is significantly later for dehy than for fresh garlic, harvesting is done mechanically rather than by hand, and bulbs, once removed from the soil, are not protected from the sun. Field visit with Gilroy Foods, Aug. 11, 1994.

[30] Gilroy Foods, a dehydrator, prior to the period examined raised raw garlic both for dehydration and for fresh sales. For garlic intended for the fresh market, however, ***. ***.

[31] Field visit with El Camino, Aug. 10, 1994.

[32] Field visit with A&D Christopher, Aug. 9, 1994.

[33] Transcript, p. 152.

[34] ***.

[35] Ibid.

[36] Transcript, pp. 36-37; field visit with A&D Christopher, Aug. 11, 1994.

[37] Transcript of preliminary conference, p. 95.

purchased it or have had it offered to them.[38] A third source has stated that any differences in quality between U.S.-produced fresh garlic and that imported from China are inconsequential.[39]

U.S. TARIFF TREATMENT

Fresh or chilled garlic (whether or not reduced in size) is specifically provided for in subheading 0703.20.00 of the HTS. The column 1-general (most-favored-nation (MFN)) rate of duty for this subheading, applicable to imports from all MFN countries, including China, is 1.7 cents per kilogram (about 0.77 cent per pound). Frozen garlic is provided for in HTS subheadings 0710.80.70 and 0710.80.97, which encompass numerous frozen vegetables not elsewhere enumerated. The column 1-general duty rates for these subheadings are 25 percent and 17.5 percent ad valorem, respectively. Dried (dehydrated) garlic is provided for in HTS subheading 0712.90.40 at a general duty rate of 35 percent ad valorem. Prepared or preserved garlic is provided for in HTS subheading 2005.90.95, other vegetables prepared or preserved and not elsewhere enumerated, at a general duty rate of 17.5 percent ad valorem.

THE NATURE AND EXTENT OF SALES AT LTFV

Commerce based its final determination on best information available (BIA). Use of BIA was necessary because Commerce did not receive responses to its antidumping questionnaire from any Chinese exporter to whom it had sent such questionnaires, despite repeated attempts to solicit responses. The BIA rate used by Commerce was 376.67 percent, the higher of the two margins calculated in the petition.[40]

In calculating the estimated dumping margin, the petitioner compared the U.S. price of fresh garlic sold to a major U.S. purchaser in October 1993 with constructed value for Chinese garlic. Because Commerce considers China to be a non-market-economy country, the petitioner based Chinese constructed value on costs for similar production in India, a country considered comparable to China in its level of economic development.

THE U.S. MARKET

Apparent U.S. Consumption

Data on apparent U.S. consumption of raw garlic were compiled from information submitted in response to questionnaires of the U.S. International Trade Commission and from official import statistics. As the Commission received questionnaire responses from all seven petitioning companies (producers of fresh garlic) and from the three largest producers of dehy garlic, reported crop year 1994 shipments are believed to account for a substantial majority of actual crop year 1994 shipments of raw garlic.[41] By contrast, because of the somewhat limited response to the Commission's importer

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[38] Ibid, p. 37.

[39] Ibid, p. 99.

[40] Commerce chose the higher of the two margins in accordance with its two-tiered BIA methodology, whereby reasonably cooperative respondents receive lower margins and wholly uncooperative respondents higher ones. In this case, Commerce considered the complete absence of questionnaire responses to constitute evidence of non-cooperation and assigned the higher rate. In addition, Commerce made an affirmative determination of critical circumstances.

[41] Data in this report are generally shown on a crop-year basis, beginning in June of the previous year and ending in May of the year shown. For example, crop year 1994 would cover the period June 1993 through May 1994.

questionnaire, reported imports from China represent only 40 percent, by quantity, of crop year 1994 official statistics on imports from China. Accordingly, apparent U.S. consumption of raw garlic has been calculated using official import statistics.

Further, apparent consumption is presented here with regard to the U.S. market for raw garlic and, alternatively, with regard to the U.S. market for fresh garlic.[42] Although official statistics do not separate imports of garlic depending on their intended use, staff believes, and parties do not dispute, that the vast majority of imports of garlic during the period of investigation were intended for the fresh market.[43] Table 1 and figure 1 present apparent consumption as the sum of producers' U.S. shipments of all forms of raw garlic and official import statistics; table 2 and figure 2 present apparent consumption as the sum of producers' U.S. shipments of fresh garlic and official import statistics.

Raw Garlic

Apparent U.S. consumption of raw garlic, in terms of quantity, increased slightly in crop year 1992 and continued to increase, at a greater rate, in crop year 1993, climbing to 9 percent above its crop year 1991 level (table 1 and figure 1). In crop year 1994, consumption rose even more sharply, by 23 percent. Value-based data show similar trends, although the increase between crop year 1992 and crop year 1993 was considerably greater. The total rise in the value of apparent consumption amounted to 51 percent over the 4-year period.

The U.S. producers' share of apparent consumption increased in value terms from crop year 1991 to crop year 1993 while remaining essentially flat in volume terms; in crop year 1994, however, U.S. producers lost 10 percentage points of volume-based market share, and 8 percentage points when market share is viewed in terms of value.

Fresh Garlic

Both in terms of quantity and value, apparent U.S. consumption of fresh garlic increased steadily and markedly (table 2 and figure 2). The overall increase in volume terms between crop year 1991 and crop year 1994 was 111 percent. In contrast to the larger market for raw garlic, U.S. producers substantially increased their market share overall between crop year 1991 and crop year 1993. As with the raw garlic market, however, crop year 1994 saw a sharp decline in producer market share, by 18 percentage points in terms of volume.

Parties agree that the last several years have witnessed a trend towards increased use of garlic, both in its raw form and as an ingredient in processed foods.[44] Petitioners estimate that demand for fresh garlic has been increasing between 10 and 15 percent per year during the period examined. Reasons for the surge include the increased popularity of ethnic foods containing garlic and the increasing awareness of the health benefits of garlic.[45]

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[42] Because there were virtually no imports during the period examined of dehy or seed garlic, apparent consumption for these products is equivalent to producers' U.S. shipments. See tables 7 and 8, infra.

[43] Submitted questionnaire data from importers also reinforce this assumption. To the extent, however, that any portion of the official statistics consists of sales to the dehy market, consumption figures for fresh garlic may be overstated.

[44] Transcript, pp. 38, 44, and 156.

[45] Questionnaire response of United Garlic Co.

Table 1
Raw garlic: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, crop years 1991-94

Item	1991	1992	1993	1994
	Quantity (*1,000 pounds*)			
Producers' U.S. shipments	302,662	316,010	336,328	369,146
U.S. imports from–				
China[1]	6,055	3,540	9,395	63,532
Other sources	37,279	34,474	33,527	34,677
Total	43,334	38,014	42,922	98,209
Apparent consumption	345,996	354,024	379,250	467,355
	Value (*1,000 dollars*)			
Producers' U.S. shipments	75,231	82,925	103,807	110,948
U.S. imports from–				
China[1]	2,474	1,446	3,719	20,014
Other sources	20,778	20,227	17,915	17,697
Total	23,252	21,673	21,634	37,711
Apparent consumption	98,483	104,598	125,441	148,659
	Share of the quantity of U.S. consumption (*percent*)			
Producers' U.S. shipments	87.5	89.3	88.7	79.0
U.S. imports from–				
China[1]	1.8	1.0	2.5	13.6
Other sources	10.7	9.7	8.8	7.4
Total	12.5	10.7	11.3	21.0
	Share of the value of U.S. consumption (*percent*)			
Producers' U.S. shipments	76.4	79.3	82.8	74.6
U.S. imports from–				
China[1]	2.5	1.4	3.0	13.5
Other sources	21.1	19.3	14.2	11.9
Total	23.6	20.7	17.2	25.4

[1] Includes imports from Hong Kong.

Note.–Because of rounding, figures may not add to the totals shown; shares are computed from the unrounded figures.

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

Table 2
Fresh garlic: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, crop years 1991-94

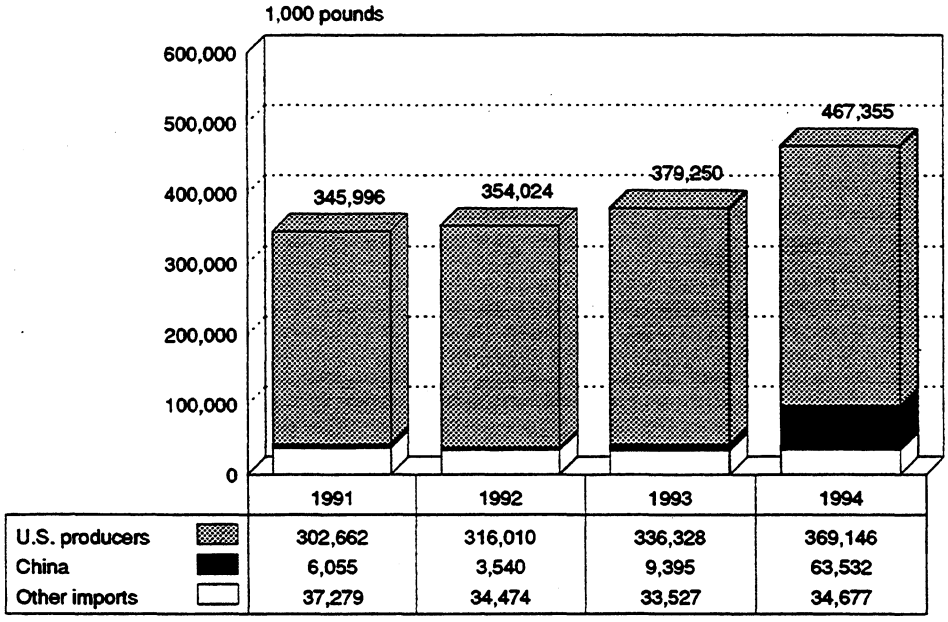
Item	1991	1992	1993	1994
	Quantity (*1,000 pounds*)			
Producers' U.S. shipments	42,286	58,137	74,520	82,102
U.S. imports from--				
China[1]	6,055	3,540	9,395	63,532
Other sources	37,279	34,474	33,527	34,677
Total	43,334	38,014	42,922	98,209
Apparent consumption	85,620	96,151	117,442	180,311
	Value (*1,000 dollars*)			
Producers' U.S. shipments	32,538	39,766	53,191	52,966
U.S. imports from--				
China[1]	2,474	1,446	3,719	20,014
Other sources	20,778	20,227	17,915	17,697
Total	23,252	21,673	21,634	37,711
Apparent consumption	55,790	61,439	74,825	90,677
	Share of the quantity of U.S. consumption (*percent*)			
Producers' U.S. shipments	49.4	60.5	63.5	45.5
U.S. imports from--				
China[1]	7.1	3.7	8.0	35.2
Other sources	43.5	35.8	28.5	19.3
Total	50.6	39.5	36.5	54.5
	Share of the value of U.S. consumption (*percent*)			
Producers' U.S. shipments	58.3	64.7	71.1	58.4
U.S. imports from--				
China[1]	4.4	2.4	5.0	22.1
Other sources	37.3	32.9	23.9	19.5
Total	41.7	35.3	28.9	41.6

[1] Includes imports from Hong Kong.

Note.--Because of rounding, figures may not add to the totals shown; shares are computed from the unrounded figures.

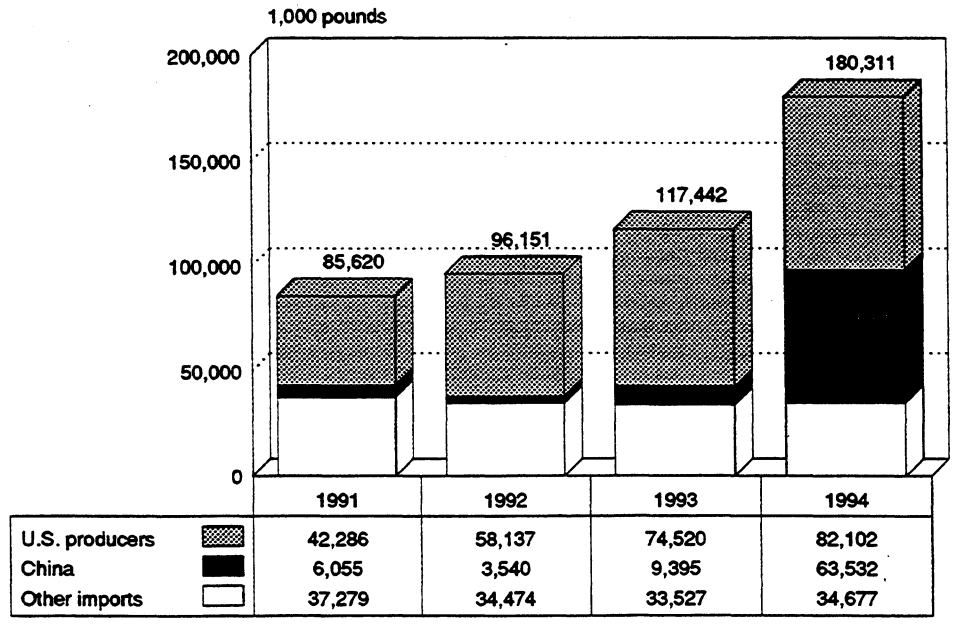
Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

Figure 1
Raw garlic: Apparent U.S. consumption, by sources, crop years 1991-94



Source: Table 1.

Figure 2
Fresh garlic: Apparent U.S. consumption, by sources, crop years 1991-94



Source: Table 2.

U.S. Producers

According to the petition, there are 10 producers of fresh garlic in the United States, including the 7 petitioning companies. In addition to these firms, the Commission sent questionnaires to 5 producers of dehy garlic, 2 independent peelers, and 8 firms known to produce or suspected of producing seed garlic for sale in the open market.[46] Of the 26 firms that were sent questionnaires, 11 firms, including the entire petitioning group, provided usable data. Two firms, both producers of garlic seed, responded that their seed-growing activities were experimental in nature and, accordingly, their production levels were minuscule. Of the 11 firms providing data, 8 were primarily fresh market producers, and 3 primarily dehy garlic producers. Overall, 8 companies reported production of fresh garlic, 3 companies reported production of dehy garlic, and 4 companies reported production of seed garlic. The Commission did not receive responses from 10 firms: 1 of the 5 dehy garlic producers, 2 of the 10 fresh garlic producers, 6 of the 8 seed garlic producers, and 1 of the 2 independent peelers.[47]

Virtually all responding firms, including all of the responding dehy garlic producers, stated support for the petition.[48] These firms and their shares of U.S. production of raw, fresh, dehy, and seed garlic in crop year 1994 are shown in table 3. Responding firms, their garlic production concentration, and their locations, are shown in the following tabulation:

Firm	Primary product	Plant location
A&D Christopher	Fresh	Gilroy, CA
Basic Vegetable	Dehy	Hanford, CA
Belridge	Fresh	McKittrick, CA
Colusa	Fresh	Colusa, CA
Denice & Filice	Fresh	Hollister, CA
El Camino	Fresh	Gilroy, CA
The Garlic Co.	Fresh	Shafter, CA
Gilroy Foods	Dehy	Gilroy, CA
***	Fresh	***
Rogers Foods	Dehy	Turlock, CA
Vessey	Fresh	El Centro, CA

Several responding producers indicated that they are subsidiaries or divisions of larger firms. Those firms and their corporate parents are listed in the tabulation below:

Producer	Parent company	Percent ownership
***	***	100
***	***	100
***	***	100

[46] Through contacts with ***, an importer of fresh garlic, the Commission identified an additional producer, ***, and sent a questionnaire to that firm.

[47] Two firms, ***, provided unusable responses. Other firms not responding that responded in the preliminary investigation include two non-petitioning domestic producers of fresh garlic (***). Based on data from the preliminary investigation, these firms account for approximately *** percent of reported domestic garlic production. The Commission also did not receive a response from ***, a significant merchant shipper of seed garlic. Other nonresponding seed garlic producers are believed to be very small.

[48] One firm, ***, took no position.

Table 3
Garlic: U.S. producers' share of production and position on the investigation, by firms, crop year 1994

Firm	Share of reported crop year 1994 production: Raw garlic	Fresh garlic	Dehy garlic	Seed garlic	Position
	Percent				
Petitioning group:					
Belridge	***	***	***	***	Supports
A&D Christopher	***	***	***	***	Supports
Colusa	***	***	***	***	Supports
Denice & Filice	***	***	***	***	Supports
El Camino	***	***	***	***	Supports
The Garlic Co.	***	***	***	***	Supports
Vessey	***	***	***	***	Supports
Subtotal	24.6	***	0.0	***	
Non-petitioners:					
***	***	***	***	***	***
Basic Vegetable	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
Gilroy Foods	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
Pepper House	***	***	***	***	***
Rogers Foods	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
Subtotal	75.3	***	100.0	***	
Total production (*1,000 pounds*)	397,246	100,307	230,798	66,142	

[1] Did not produce.
[2] Did not respond or provided unusable data.
[3] Less than 0.05 percent.

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

A&D Christopher, Gilroy, CA, is the largest packer of fresh market garlic in the United States, accounting for *** percent of reported production of fresh garlic in crop year 1994. A substantial majority (*** percent) of A&D Christopher's sales of fresh produce consists of garlic; other crops grown include bell peppers and sweet corn. A&D Christopher plants approximately *** acres in garlic each year, primarily using ***. Although A&D Christopher ***, it *** ***.[49] A&D Christopher not only sells raw garlic in bulb form to the fresh market but also sells a full line of fresh garlic products, including peeled garlic cloves, chopped and minced garlic, garlic puree, and garlic-flavored ready-to-serve mixes such as pesto, salad dressing, and salsa. Unlike smaller fresh garlic producers, A&D Christopher ***.

With regard to dehy garlic, Gilroy Foods (Gilroy), is ***. Moreover, Gilroy claims that it ***. Dehydrated garlic accounts for between *** of Gilroy's sales, which are concentrated in ***. Gilroy is ***, and is ***. Virtually all of the raw dehy garlic harvested by Gilroy is ***.[50] Unlike garlic sold in the fresh market, dehydrated garlic is ***. Gilroy primarily sells dehydrated garlic to ***. During the 1980s, Gilroy also operated as a producer of garlic for the fresh market, but exited that business prior to the period examined.[51]

Two firms, Vessey and Gilroy, ***. Vessey ***. For its part, Gilroy ***.

Several large producers of dehy garlic operate programs whereby fields of garlic are sold to fresh market producers, who then harvest the garlic according to their methods. The sales are made by contract prior to planting, wherein the fresh market producer agrees to buy a given number of acres at a fixed, per-pound price.[52] The most widely used of these programs is the "Buy-a-Field" program operated by Basic Vegetable Products, Inc. (Basic).[53] In its questionnaire, the Commission requested producers to indicate the extent to which they operated programs similar to Basic's "Buy-a-Field" program or whether they had participated in such programs during the period examined. The firms' responses are presented in appendix D.

As indicated in the section of this report entitled "The Product," fresh, dehy, and seed garlic producers use the services of local farmers or "crop tenders" in growing the garlic. Respondents allege that these farmers should be included within the definition of the domestic industry producing garlic.[54] In order to help resolve this issue, the Commission asked questionnaire respondents to indicate whether they believe such firms act as toll producers in the production of garlic, and thus implicitly could be considered part of the garlic industry.[55] Comments from responding firms are presented in appendix E.

In addition, the Commission contacted 87 California farmers known to grow garlic and requested them to indicate the extent to which they sold garlic independently from the 26 firms to

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[49] During the period examined, A&D Christopher did, however, ***.

[50] Gilroy also ***.

[51] ***. Field visit with Gilroy Foods, Aug. 11, 1994; petitioners' posthearing brief, Answers to Commission Questions, p. 22.

[52] Petitioners' posthearing brief, Answers to Commission Questions, p. 21.

[53] Basic noted that *** percent of its total garlic acreage is sold under the "Buy-a-Field" program. Posthearing brief of Bogle & Gates, p. 6.

[54] Transcript, p. 18.

[55] In past investigations, the Commission has often included firms with toll production in the domestic industry. See USITC, Stainless Steel Wire Rod from Brazil and France, Invs. Nos. 731-TA-636 and 637 (Final), USITC Publication 2721 (Jan. 1994).

whom questionnaires were sent (i.e., producers of fresh, dehy, and/or seed garlic).[56] The Commission received written and oral responses from 44 farmers. Forty-one of these farmers indicated that they grew garlic during the period examined. No farmers, however, indicated that they sold garlic independently from the garlic producers already contacted by the Commission.[57]

U.S. Importers

Based on data provided to the Commission by the U.S. Customs Service concerning imports under HTS subheading 0703.20.00, the Commission selected 27 firms that made significant imports under this subheading, and sent questionnaires to those firms.[58] The Commission also sent questionnaires to those importers named in the petition, along with all firms to which it had sent producer questionnaires, for a total of 52 firms.[59] The Commission received responses from 30 firms, and usable data from only 17 firms, 5 of which were producers of garlic during the period examined.[60] Ten firms responded that they did not import any garlic from China or other sources during the period examined, and 3 firms submitted unusable responses. Accordingly, 22 firms failed to respond to the Commission's questionnaire.[61]

Among responding firms, United Garlic Co., which is ***-percent owned by ***, is ***. Seven other firms also reported imports from China, as did ***.[62] Other firms, notably two additional members of the petitioning group, reported imports mostly from Mexico.

Channels of Distribution

The vast majority of domestic and imported fresh garlic is sold to the fresh use market. U.S. producers and importers of fresh garlic sell most of their product to wholesalers/distributors, which in turn sell garlic to other distributors or retailers (supermarkets, grocery stores, and restaurants). Smaller quantities of fresh garlic are sold by producers and importers in the non-fresh use market to food processors (including dehydrators). Most sales of fresh garlic to processors by U.S. producers

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[56] The question was so worded in order to determine whether the farmers sold any garlic not otherwise accounted for by the producers' questionnaire responses. Any garlic grown for a producer would have already been reported in the producer's production and shipment data, and inclusion of the same garlic as separately reported by the farmer would have resulted in double-counting.

[57] Four firms did not answer that specific question.

[58] The Commission determined that a firm had made "significant imports" if it imported over $50,000 worth of garlic during any particular calendar year during the period examined.

[59] The percentage of total imports of raw garlic from China accounted for by the firms sent questionnaires is not known, but is not believed to be complete.

[60] Three of these firms were petitioners; see the section of this report entitled "U.S. Producers' Imports" for further discussion of these firms' importing operations.

The Commission experienced considerable difficulty locating and contacting several of the firms named in the petition or through the Customs Net Import File (CNIF). Several significant importers apparently ceased operations during the period examined (e.g., ***, the largest importer from China during 1992, according to the CNIF). As a result, even had all firms contacted with a questionnaire responded, the Commission would still not have complete coverage of subject imports. Transcript, p. 197.

[61] Several of these firms, notably ***, were significant importers of garlic from China during 1993.

[62] ***, the fourth-largest importer of fresh garlic from China in crop year 1994, was the only petitioning company reporting imports from China. With the exception of ***, other importers from China were much smaller companies.

and importers are for product unsuitable for the fresh market ("off-grade").[63] Finally, U.S. importers of Chinese fresh garlic have sold modest amounts of fresh product to U.S. fresh garlic producers (figure 3).[64]

According to questionnaire data, U.S.-produced dehy garlic, which accounts for approximately two-thirds of U.S.-produced raw garlic, is produced by dehydrators and internally consumed in dehydration and production of other food products.[65] Generally, seed garlic is produced in the high desert regions of Nevada and Oregon, and typically sold to fresh and dehy garlic producers during the fall (September-November) of each year.[66] Shipments of seed garlic are typically cracked and packaged in 50-pound bags and palletized (1 ton) for delivery to customers.[67] Several dehydrators produce and internally consume seed garlic for plantings in their dehy garlic production, but may purchase garlic seed on the open market depending on their planting requirements.

As shown in the following tabulation, over 90 percent of U.S.-produced and imported Chinese fresh garlic (by volume) was sold to wholesalers/distributors in 1993. The remaining U.S. producers' fresh garlic shipments (9.6 percent) were to processors, while importers' shipments to processors were less than 4 percent. Importers' shipments to U.S. producers constituted 4.8 percent of 1993 total shipments. The majority of U.S. producers' seed garlic shipments during 1993 were to U.S. producers, while the remaining 34.4 percent were to processors.

	U.S. producers	U.S. importers
Fresh Garlic:		
Wholesalers/distributors	90.4	91.3
Processors (incl. dehydrators)	9.6	3.9
U.S. fresh garlic producers	(1)	4.8
Total	100.0	100.0
Seed Garlic:[2]		
Wholesalers/distributors	(1)	(1)
Processors (incl. dehydrators)	34.4	(1)
U.S. fresh garlic producers	65.6	(1)
Total	100.0	(3)

[1] No data reported.
[2] Open market sales only; the majority of seed garlic shipments were company transfers.
[3] Total not calculated.

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[63] Both petitioners and importers of Chinese garlic reported distressed sales of fresh garlic to dehydrators during the period examined. These sales, however, appear to result from distressed market conditions and are not common practice for either U.S. producers or importers of fresh garlic. Counsel for the American Dehydrated Onion and Garlic Association (ADOGA) testified that fresh garlic loses nearly two-thirds of its fresh market value when sold for dehydration purposes; transcript, p. 123. In addition, ***. Posthearing brief of Bogle & Gates, p. 5.

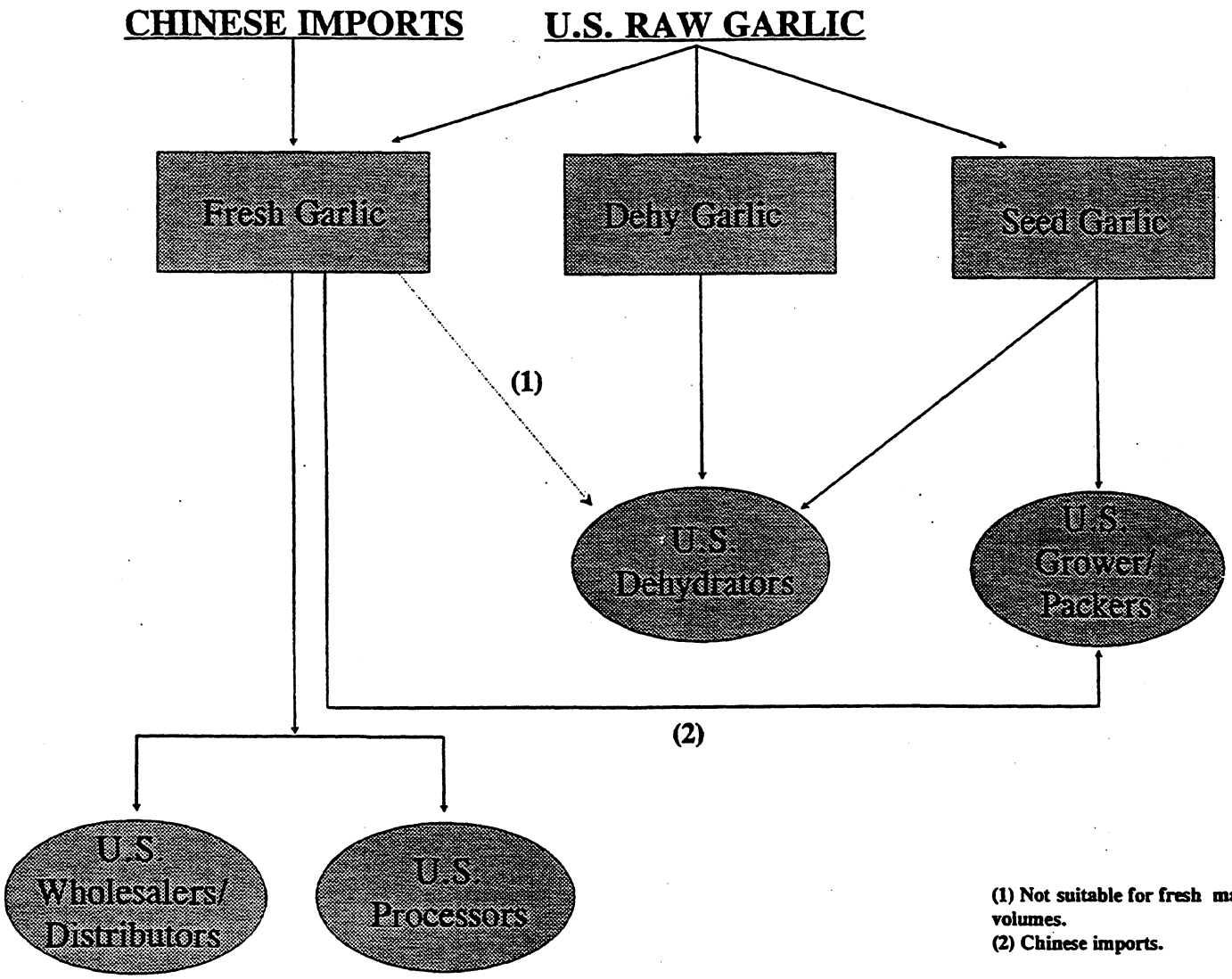
[64] *** reported prices for its Chinese fresh garlic imports. According to ***, *** Chinese fresh garlic primarily for seed purposes, attempting to induce an earlier harvest season. ***. Petitioners Vessey and Colusa also indicated purchasing Chinese fresh garlic for resale to their customers. Transcript of preliminary conference, pp. 33-34 and 84-86.

[65] Few imports from China of dehy garlic were reported by questionnaire respondents. ***. Field visit with Gilroy Foods, Aug. 11, 1994.

[66] Unlike fresh garlic, seed garlic cannot be placed in cold- or controlled-atmosphere storage without beginning the germination process. Staff interview with Michael Stewart, Empire Farms, July 22, 1994.

[67] ***. Field visit with A&D Christopher, Aug. 11, 1994.

Figure 3
Raw garlic: Channels of distribution



(1) Not suitable for fresh market, small volumes.
(2) Chinese imports.

Source: Questionnaire responses.

CONSIDERATION OF MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES

Section 771(7)(B) of the Act (19 U.S.C. § 1677(7)(B)) provides that in making its determination in this investigation the Commission--

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

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

> In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.
>
> In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether (I) there has been significant price underselling by the imported merchandise as compared with the price of like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.
>
> In examining the impact required to be considered under subparagraph (B)(iii), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to, (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and (IV) 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.

Available information on the volume of imports (item (B)(I) above) is presented in the section of this report entitled "U.S. Imports." Information on the other factors specified is presented in this section, and, except as noted, is based on the questionnaire responses of 11 firms that accounted for a substantial majority of U.S. production of fresh garlic (regardless of use) during crop year 1994.

U.S. Production, Capacity, and Capacity Utilization

Reported U.S. capacity to produce raw garlic increased between crop year 1991 and crop year 1994, rising by 13 percent overall (table 4). The steady rise in capacity was primarily driven by

Table 4
Raw garlic: U.S. capacity, production, and capacity utilization, by products, crop years 1991-94

Item	1991	1992	1993	1994
	End-of-period capacity (*1,000 pounds*)			
Fresh garlic	97,932	104,456	141,274	141,274
Dehy garlic	277,900	277,900	278,000	289,000
Seed garlic	66,916	66,916	66,916	67,916
Total	442,748	449,272	486,190	498,190
	Production (*1,000 pounds*)			
Fresh garlic	49,102	70,087	93,416	100,307
Dehy garlic	210,258	213,214	207,334	230,798
Seed garlic	54,477	49,481	59,633	66,142
Total	313,837	332,782	360,383	397,246
	Capacity utilization (*percent*)			
Fresh garlic	50.1	66.3	62.5	66.7
Dehy garlic	75.7	76.7	74.6	79.9
Seed garlic	81.4	73.9	89.1	97.4
Average	70.9	73.9	73.1	78.5

Note.--Capacity utilization is calculated using data of firms providing both capacity and production information.

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

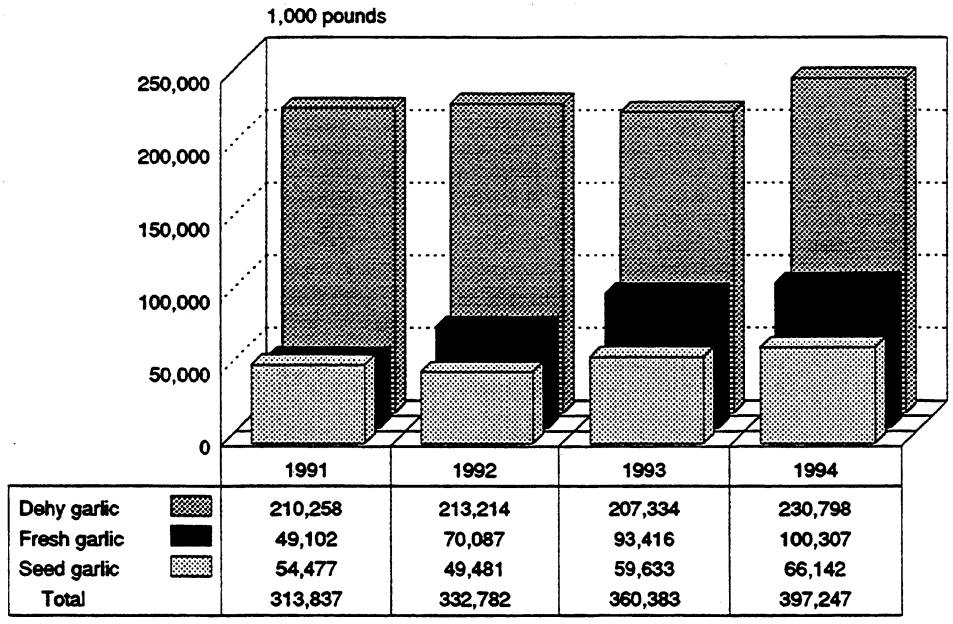
increases in the capacity to produce fresh garlic; capacity for dehy and seed garlic remained essentially unchanged during the period examined.[68]

Production of raw garlic also increased relatively steadily over the four crop years, but somewhat more strongly than capacity. Production increased moderately from crop year 1991 to crop year 1992, by 6 percent, then slightly more rapidly in crop year 1993, and most strongly of all in crop year 1994, increasing 10 percent over the crop year 1993 level. Between crop years 1991 and 1993, increases in fresh garlic production accounted for most of the rise in overall production; however, in crop year 1994 all three types of raw garlic showed significant increases in production (figures 4 and 5).

Between crop year 1991 and crop year 1993, because capacity increased more slowly than production, capacity utilization for raw garlic rose slightly overall. This indicator, however, increased more sharply in crop year 1994, rising to nearly 80 percent. All three types of raw garlic

[68] A&D Christopher noted that ***. Colusa noted that ***.

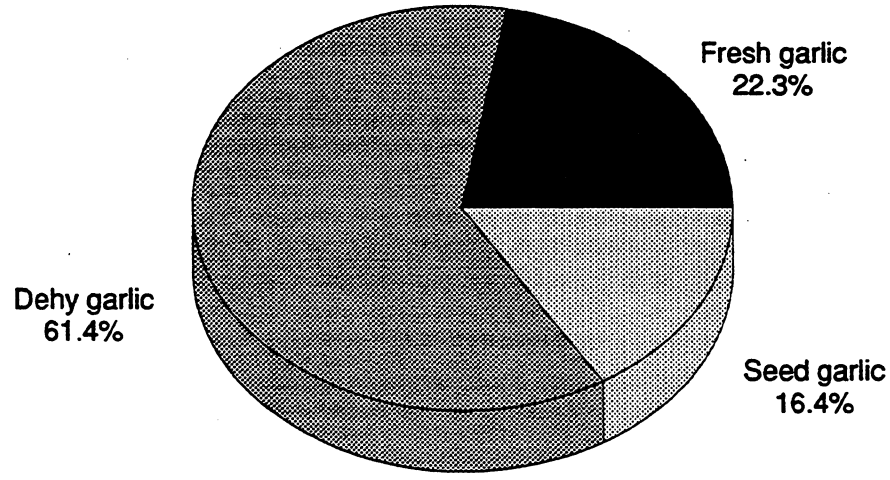
Figure 4
Raw garlic: U.S. production, by products, crop years 1991-94



	1991	1992	1993	1994
Dehy garlic	210,258	213,214	207,334	230,798
Fresh garlic	49,102	70,087	93,416	100,307
Seed garlic	54,477	49,481	59,633	66,142
Total	313,837	332,782	360,383	397,247

Source: Table 4.

Figure 5
Raw garlic: Share of U.S. production, by products, crop years 1991-94 averaged



Source: Table 4.

showed improvements in utilization ratios in crop year 1994. Between crop year 1991 and crop year 1993, fresh and seed garlic showed substantial increases in capacity utilization.

The Commission's questionnaire requested producers to report separate data on production and capacity by grade. The concept of "capacity" with regard to various grades of fresh garlic, however, may not be analytically meaningful. Responding firms measured capacity to produce garlic in several ways, primarily depending on the location of the firms' constraints in the production process.[69] Further, several producers reported an inability to allocate capacity among the various grades of fresh garlic because garlic bulbs obtain grade designations through the sorting process; in other words, it is not known when garlic is planted whether it will eventually be USDA No. 1 grade, commercial grade, etc.[70]

The extent to which garlic production involves multishift operations tends to depend on whether the producer in question is a producer of fresh or dehy garlic. With regard to packing fresh garlic, operations for the larger fresh market producers tend to be multishift. Harvesting operations, on the other hand, tend to involve one shift for fresh producers, and two or more shifts for dehy producers; however, in the case of dehy garlic producers, the process is far more mechanized and labor requirements less extensive.

Several producers reported changes in their operations during the period examined that have an impact on reported capacity and production. With regard to production of seed garlic, Rogers Foods, Inc. (Rogers) reported that ***.[71] Also in 1991, Vessey ***. A&D Christopher opened two distribution centers in Los Angeles and in New Jersey in 1990 and 1992, respectively, while in 1992 it ***. In 1993, A&D Christopher also ***. The only closing of a garlic production facility was reported by Colusa. In December 1993, shortly before the filing of the petition in this investigation, Colusa closed its ***.[72]

No responding producer reported production (either harvesting or packing) of any other product with the same equipment used in garlic production. As for the various types of garlic subject to investigation, no fresh market producer indicated that fresh, dehy, and/or seed garlic were interchangeable in terms of the equipment used for planting, harvesting, or further handling. Two dehy garlic producers, however, Basic and Rogers, indicated ***.

In their briefs and at the hearing, respondents alleged that the Commission's data on production of both fresh and dehy garlic were significantly understated, when compared to data on garlic production collected by California County Agricultural Offices.[73] Based on crop year 1994 data, production reported to the Commission accounts for 84 percent of California County data on fresh garlic production, and 75 percent of California County data on dehy garlic production.[74] These

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[69] For instance, some firms interpreted practical capacity as the capacity to plant, others as the capacity to harvest, others as the capacity to pack, etc. Transcript, pp. 111-112.

[70] Nevertheless, reported information on capacity, production, and capacity utilization of various grades of fresh garlic is presented in appendix F.

[71] A&D Christopher also noted that ***. Field visit with A&D Christopher, Aug. 9, 1994.

[72] Transcript, p. 33.

[73] See, e.g., transcript, p. 142; respondents' posthearing brief, p. 8.

[74] In order to determine possible reasons for the discrepancy, the Commission contacted a representative from Fresno County, the largest garlic-growing county in California. According to Bruce Clayton of the Fresno County Department of Agriculture, ***. Conversation with Bruce Clayton, Fresno County Department of Agriculture, Oct. 3, 1994; transcript, p. 102; respondents' posthearing brief, p. 20; posthearing brief of Bogle & Gates, pp. 7-10.

data, along with relevant data from the U.S. Department of Agriculture (USDA), are presented in appendix G.[75]

U.S. Producers' Domestic Shipments, Company Transfers, and Export Shipments

Raw Garlic

Eleven producers reported company transfers, domestic shipments, and/or export shipments of raw garlic during the period examined. U.S. shipments of raw garlic increased marginally between crop year 1991 and crop year 1992, then began to grow more sharply in crop year 1993, reaching a level of approximately 369 million pounds in crop year 1994, 22 percent greater than the level at the beginning of the period (table 5 and figure 6). When viewed in terms of dollar value, the trend was similar, but the increase was more marked from crop year 1991 to crop year 1993, resulting in a steady increase in unit values during that period.[76] Unit values fell off, however, in crop year 1994 from their crop year 1993 level. Export shipments showed a steady increase, both in terms of quantity and value, during the period examined.

Fresh Garlic

Eight producers reported domestic and/or export shipments of fresh garlic during the period examined (table 6 and figure 7).[77] The quantity of such shipments increased steadily from crop year 1991 to crop year 1994. Shipment value increased in tandem with quantity, but not as sharply. Unit values, which had recovered slightly from an earlier decline of 9 cents per pound in crop year 1992, again fell by 6 cents a pound in crop year 1994. Trends in export shipments were similar to those manifested by domestic shipments, except for the fact that exports did not decline in value in crop year 1994 as did domestic shipments. Unit values showed a declining trend.[78]

Information on U.S. producers' domestic and export shipments of fresh garlic, by grades, is presented in appendix F.

Dehy Garlic

Three producers reported company transfers and/or domestic shipments of dehy garlic during the period examined. As seen from table 7 and figure 8, the vast majority of U.S. shipments of this

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[75] Prior to 1992, USDA did not collect independent data on garlic production, instead relying on California County Agricultural Commissioners' data. Posthearing brief of Bogle & Gates, p. 8.

[76] Although shipment value also increased from crop year 1993 to crop year 1994, the rise was accounted for by increases in the value of company transfers (primarily internal consumption of dehy garlic), rather than by any increase in sales of garlic in the open market. The value of open-market sales of raw garlic actually declined during this period.

[77] No producers reported any company transfers.

[78] Respondents alleged that the Commission's data on export shipments of fresh garlic are substantially understated because of underreporting by petitioning firms. Transcript, p. 92; respondents' prehearing brief, p. 40. Responding firms account for approximately between 41 and 53 percent, by value, of official U.S. export statistics for fresh garlic (based on crop year 1993 data). The gap in coverage is primarily accounted for, however, by the fact that a significant volume of imported garlic was re-exported during the period examined, and not all importers responded to the Commission's questionnaire. Transcript, pp. 93, 171; petitioners' posthearing brief, p. 7 (Answers to Commission Questions), exhibit 7.

Table 5
Raw garlic: Shipments by U.S. producers, by types, crop years 1991-94

Item	1991	1992	1993	1994
	Quantity (*1,000 pounds*)			
Company transfers	249,853	249,736	249,512	277,625
Domestic shipments	52,809	66,274	86,816	91,521
Subtotal	302,662	316,010	336,328	369,146
Exports	***	***	***	***
Total	***	***	***	***
	Value (*1,000 dollars*)			
Company transfers	39,789	40,931	47,128	55,347
Domestic shipments	35,442	41,994	56,679	55,601
Subtotal	75,231	82,925	103,807	110,948
Exports	***	***	***	***
Total	***	***	***	***
	Unit value (*per pound*)			
Company transfers	$0.16	$0.16	$0.19	$0.20
Domestic shipments	.67	.63	.65	.61
Average	.25	.26	.31	.30
Exports	.85	.66	.69	.61
Average	.26	.27	.32	.31

Note.--Unit values are calculated using data of firms supplying both quantity and value information.

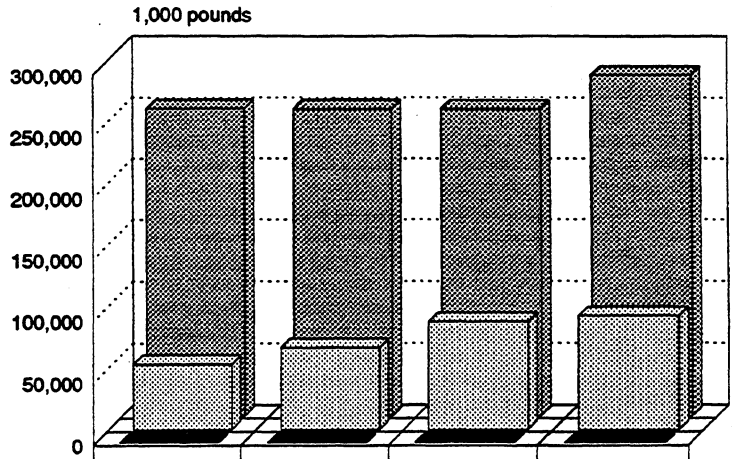
Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

product were of company transfers and, in turn, the majority of reported company transfers is believed to consist of product internally consumed in the manufacture of dehydrated garlic.[79]

The quantity of U.S. shipments of dehy garlic declined very slightly between crop year 1991 and crop year 1993, falling by 1 percent. In crop year 1994, however, such shipments reversed direction, climbing by 11 percent to a level 10 percent higher than that at the beginning of the period examined. From crop year 1991 through 1993, movements in the value of U.S. shipments, although moderate, ran contrary to those regarding quantity, with shipment value increasing 14 percent. Unit values rose slowly over the 4-year period.

[79] ***. Reported domestic shipments in table 7 represent ***.

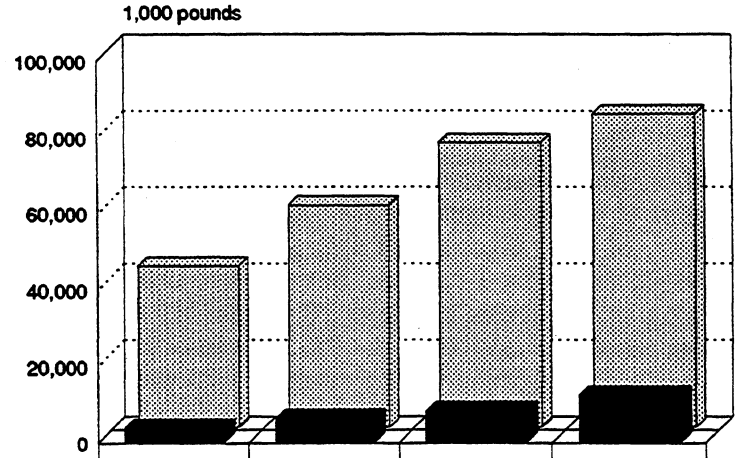
Figure 6
Raw garlic: Shipments by U.S. producers, by types, crop years 1991-94



	1991	1992	1993	1994
Company transfers	249,853	249,736	249,512	277,625
Domestic shipments	52,809	66,274	86,816	91,521
Exports	***	***	***	***
Total	***	***	***	***

Source: Table 5.

Figure 7
Fresh garlic: Shipments by U.S. producers, by types, crop years 1991-94



	1991	1992	1993	1994
Company transfers	0	0	0	0
Domestic shipments	42,286	58,137	74,520	82,102
Exports	3,482	5,885	7,883	12,042
Total	45,768	64,022	82,403	94,144

Source: Table 6.

Table 6
Fresh garlic: Shipments by U.S. producers, by types, crop years 1991-94

Item	1991	1992	1993	1994
	Quantity (*1,000 pounds*)			
Domestic shipments	42,286	58,137	74,520	82,102
Exports	3,482	5,885	7,883	12,042
Total	45,768	64,022	82,403	94,144
	Value (*1,000 dollars*)			
Domestic shipments	32,538	39,766	53,191	52,966
Exports	3,078	4,329	***	7,588
Total	35,616	44,095	***	60,554
	Unit value (*per pound*)			
Domestic shipments	$0.77	$0.68	$0.71	$0.65
Exports	.88	.74	***	.63
Average	.78	.69	***	.64

Note.--Unit values are calculated using data of firms supplying both quantity and value information.

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

Seed Garlic

As with dehy garlic, most U.S. shipments reported were company transfers, reflecting the seed garlic grown internally by dehydrators and by the largest fresh garlic producer (table 8 and figure 9). Approximately *** percent of reported 1993 shipments and *** percent of reported 1994 U.S. shipments constituted unrelated sales to fresh and dehy garlic producers. Small quantities of exports were also reported. Accordingly, trends in seed garlic shipments are heavily influenced by trends in company transfers.

The quantity of U.S. shipments of seed garlic, as reported by four producers, first declined in crop year 1992, then recovered in crop year 1993 to a level 9 percent above that of crop year 1991. Shipment volume continued to climb in crop year 1994, rising by 3 percent. Movements in the value of shipments and unit values were similar to those for quantity.

Table 7
Dehy garlic: Shipments by U.S. producers, by types, crop years 1991-94

Item	1991	1992	1993	1994
	Quantity (*1,000 pounds*)			
Company transfers	***	***	***	***
Domestic shipments	***	***	***	***
Subtotal	210,258	213,214	207,334	230,798
Exports	0	0	0	0
Total	210,258	213,214	207,334	230,798
	Value (*1,000 dollars*)			
Company transfers	***	***	***	***
Domestic shipments	***	***	***	***
Subtotal	29,884	32,199	34,156	39,479
Exports	0	0	0	0
Total	29,884	32,199	34,156	39,479
	Unit value (*per pound*)			
Company transfers	$0.14	$0.15	$0.16	$0.17
Domestic shipments	***	***	***	***
Average	.14	.15	.16	.17
Exports	(1)	(1)	(1)	(1)
Average	.14	.15	.16	.17

[1] Not applicable.

Note.–Unit values are calculated using data of firms supplying both quantity and value information.

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

Figure 8
Dehy garlic: Shipments by U.S. producers, by types, crop years 1991-94

* * * * * * *

Table 8
Seed garlic: Shipments by U.S. producers, by types, crop years 1991-94

Item	1991	1992	1993	1994
	Quantity (*1,000 pounds*)			
Company transfers	***	***	***	***
Domestic shipments	***	***	***	***
Subtotal	50,118	44,659	54,474	56,246
Exports	***	***	***	***
Total	***	***	***	***
	Value (*1,000 dollars*)			
Company transfers	***	***	***	***
Domestic shipments	***	***	***	***
Subtotal	12,809	10,960	16,460	18,503
Exports	***	***	***	***
Total	***	***	***	***
	Unit value (*per pound*)			
Company transfers	$0.25	$0.24	$0.30	$0.32
Domestic shipments	***	***	.35	.46
Average	.26	.25	.30	.33
Exports	***	***	***	***
Average	.26	.24	.30	.33

Note.--Unit values are calculated using data of firms supplying both quantity and value information.

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

Figure 9
Seed garlic: Shipments by U.S. producers, by types, crop years 1991-94

* * * * * * *

U.S. Producers' Inventories

Inventory data were supplied by only 2 of the 11 firms producing raw garlic during the period examined.[80] Moreover, fresh garlic is the only type of raw garlic for which inventories were reported. Inventories of fresh garlic were reported only for crop years 1993 and 1994 and are shown in the following tabulation (in thousands of pounds):

Item	Crop year-- 1993	1994
* * * * * * *		

As a ratio to preceding-period shipments, these inventories increased from *** percent in crop year 1993 to *** percent in crop year 1994. The lack of reported inventories is a result of the manner in which the data were collected, i.e., on a crop-year basis ending in May. At the end of the crop year, virtually all of the harvest production from that crop year has been sold and/or processed, as appropriate.[81] Fresh garlic producers have, however, invested considerable sums in both cold-storage and controlled-atmosphere storage facilities that enable garlic from a particular crop to be sold virtually year round.[82] Of the 11 producers of raw garlic providing data to the Commission, 8 firms indicated that they own or lease cold-storage facilities, and 5 firms own or lease controlled-atmosphere storage facilities.[83] Even with the proliferation of such facilities, however, it is still unusual for one year's garlic crop to be carried over for sale or processing into the following year.[84]

The Commission's questionnaire asked firms to indicate whether they had experienced any inventory shortages during the period examined. Only one firm, ***, indicated that it had had any problems of this nature. *** reported that it experienced inventory shortages periodically during the period examined because of ***. In such instances, *** found it necessary to purchase raw material.[85]

U.S. Producers' Imports

Out of 11 producers providing data on domestic production of raw garlic, 4 reported data on imports (table 9). Although one firm reported imports from China, most imported larger quantities from Mexico, or from other sources not subject to this investigation.[86] Total imports of raw garlic by U.S. producers equalled 7.2 percent, by quantity, of those firms' harvest production of garlic in

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[80] Inventories of fresh garlic, by grade, are presented in appendix F.

[81] Petitioners' posthearing brief, Answers to Commission Questions, p. 16.

[82] Controlled-atmosphere storage works in the following manner: ***. Field visit with A&D Christopher, Aug. 11, 1994.

[83] Of firms reporting these capabilities, only one, ***, was a dehy garlic producer; the remainder were all ***. Moreover, ***.

[84] Respondents alleged that U.S. producers of fresh garlic have affected price movements by varying inventory levels. Transcript, p. 157. Petitioners reject this allegation, noting that the propensity to hold inventories tends to react to price levels rather than affect them. Transcript, p. 96.

[85] Normally, ***.

[86] ***.

crop year 1994. The ratio of these firms' imports of raw garlic to their production, based on crop year 1994 data, is shown in the following tabulation:

Producer	Imports as percentage of domestic production
* * * * * * *	

Table 9
Raw garlic: U.S. producers' imports, by products and by sources, crop years 1991-94

* * * * * * *

The volume of total imports of raw garlic by U.S. producers declined steadily from crop year 1991 to crop year 1993, but increased in crop year 1994 to approximately 26 percent more than the crop year 1991 level. Imports from China followed the same pattern as total imports, whereas imports from nonsubject sources tended to increase during the period examined. Value-based data on imports from China followed similar trends. Unit values declined, regardless of source.

U.S. Employment, Wages, and Productivity

Raw Garlic

Ten of the 11 firms producing raw garlic reported usable employment data (table 10 and figures 10-13). The number of workers employed in the production of raw garlic increased steadily from crop year 1991 to crop year 1994, by 62 percent. The number of hours worked by these employees also increased consistently, with a somewhat smaller increase during the period examined than demonstrated by the number of workers. Hourly compensation increased slightly overall during the period, from $8.76 in crop year 1991 to $8.94 in crop year 1994.

Labor productivity, as measured by pounds per hour, dropped sharply in crop year 1992 and remained at that approximate level during the remainder of the period examined. U.S. producers' labor costs rose slightly overall. In general, workers employed directly by the responding firms in planting, harvesting, and/or packing garlic do not have union representation. One dehy garlic producer, Basic, reported that its production workers are represented by the General Teamsters Warehousemen and Helpers Union (Local 890). Gilroy and A&D Christopher reported that they are not currently unionized but that the United Farm Workers have recently tried to organize workers at both companies.[87] In general, workers employed in the packing houses are permanent, salaried workers; by contrast, virtually all responding firms used contract labor in harvesting.[88]

Rogers and Gilroy, two firms that ***, reported that ***. A&D Christopher also reported ***. Other firms, as noted in the section of this report entitled "U.S. Producers," exclusively produce either fresh or dehy garlic.

[87] A&D Christopher noted ***.

[88] Field visit with ***. ***.

Table 10
Average number of U.S. production and related workers producing raw garlic, hours worked,[1] wages and total compensation paid to such employees, and hourly wages, productivity, and unit labor costs,[2] by products, crop years 1991-94[3]

Item	1991	1992	1993	1994
	Number of production and related workers (PRWs)			
Fresh garlic	599	710	1,021	1,087
Dehy garlic	241	267	310	305
Seed garlic	133	159	159	179
Total	973	1,136	1,490	1,571
	Hours worked by PRWs (*1,000 hours*)			
Fresh garlic	1,007	1,247	1,475	1,584
Dehy garlic	338	373	387	378
Seed garlic	109	121	117	127
Total	1,454	1,741	1,979	2,089
	Wages paid to PRWs (*1,000 dollars*)			
Fresh garlic	6,380	8,519	10,008	10,463
Dehy garlic	2,933	3,407	3,434	3,431
Seed garlic	1,019	1,164	1,035	1,157
Total	10,332	13,090	14,477	15,051
	Total compensation paid to PRWs (*1,000 dollars*)			
Fresh garlic	7,175	9,633	11,165	12,024
Dehy garlic	4,043	4,811	4,859	4,938
Seed garlic	1,514	1,738	1,527	1,707
Total	12,732	16,182	17,551	18,669
	Hourly wages paid to PRWs			
Fresh garlic	$6.34	$6.83	$6.79	$6.61
Dehy garlic	8.68	9.13	8.87	9.08
Seed garlic	9.35	9.62	8.85	9.11
Average	7.11	7.52	7.32	7.20

Table continued on next page.

Table 10--Continued
Average number of U.S. production and related workers producing raw garlic, hours worked,[1] wages and total compensation paid to such employees, and hourly wages, productivity, and unit labor costs,[2] by products, crop years 1991-94[3]

Item	1991	1992	1993	1994
	Hourly total compensation paid to PRWs			
Fresh garlic	$7.13	$7.72	$7.57	$7.59
Dehy garlic	11.96	12.90	12.56	13.06
Seed garlic	13.89	14.36	13.05	13.44
Average	8.76	9.29	8.87	8.94
	Productivity (*pounds per hour*)			
Fresh garlic	55.7	55.6	59.9	59.5
Dehy garlic	622.1	571.6	535.7	610.6
Seed garlic	499.8	408.9	509.7	520.8
Average	236.1	190.7	179.5	187.2
	Unit labor costs (*per 1,000 pounds*)			
Fresh garlic	$138.79	$139.03	$126.45	$127.63
Dehy garlic	19.23	22.56	23.44	21.40
Seed garlic	27.79	35.12	25.61	25.81
Average	39.42	48.74	49.40	47.73

[1] Includes hours worked plus hours of paid leave time.
[2] On the basis of total compensation paid.
[3] Firms providing employment data accounted for 96 percent of reported total U.S. shipments (based on quantity) in crop year 1994.

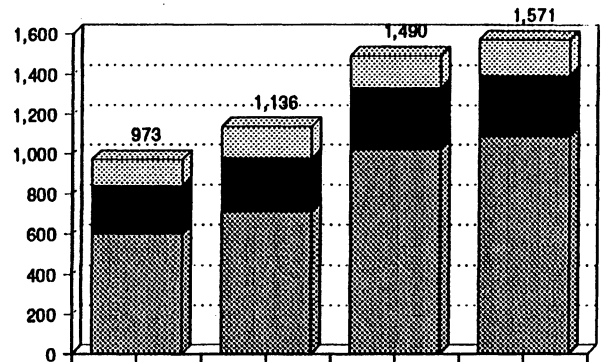
Note.--Ratios are calculated using data of firms supplying both numerator and denominator information.

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

In its questionnaire, the Commission requested U.S. producers to provide detailed information concerning reductions in the number of production and related workers producing garlic if such reductions involved at least 5 percent of the work force or 50 workers. The Commission received reports of layoffs from two fresh garlic producers, ***. The reported reductions, and the cited causes, are shown in the following tabulation:

Firm	Date	Number of workers	Duration	Reason given
*	*	*	*	* * *

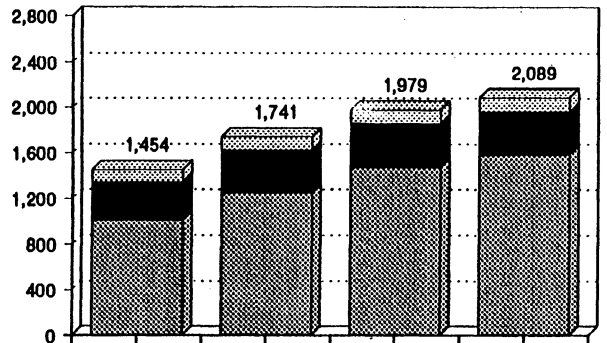
Figure 10
Raw garlic: Average number of U.S. production and related workers, by products, crop years 1991-94



	1991	1992	1993	1994
Seed garlic	133	159	159	179
Dehy garlic	241	267	310	305
Fresh garlic	599	710	1,021	1,087

Source: Table 10.

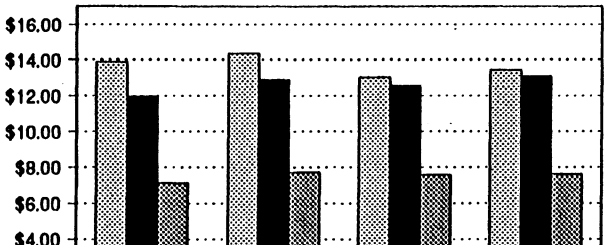
Figure 11
Raw garlic: Hours worked by production and related workers, by products, crop years 1991-94



	1991	1992	1993	1994
Seed garlic	109	121	117	127
Dehy garlic	338	373	387	378
Fresh garlic	1,007	1,247	1,475	1,584

Source: Table 10.

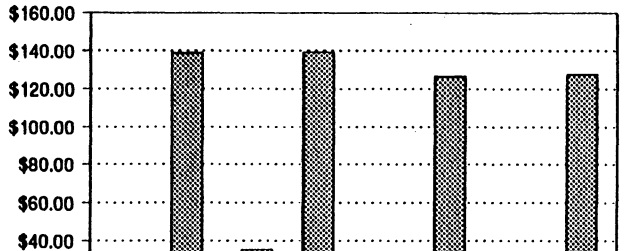
Figure 12
Raw garlic: Hourly total compensation paid to production and related workers, by products, crop years 1991-94



	1991	1992	1993	1994
Seed garlic	$13.89	$14.36	$13.05	$13.44
Dehy garlic	$11.96	$12.90	$12.56	$13.06
Fresh garlic	$7.13	$7.72	$7.57	$7.59
Average	$8.76	$9.29	$8.87	$8.94

Source: Table 10.

Figure 13
Raw garlic: Unit labor costs per 1,000 pounds, by products, crop years 1991-94



	1991	1992	1993	1994
Seed garlic	$27.79	$35.12	$25.61	$25.81
Dehy garlic	$19.23	$22.56	$23.44	$21.40
Fresh garlic	$138.79	$139.03	$126.45	$127.63
Average	$39.42	$48.74	$49.40	$47.73

Source: Table 10.

Fresh Garlic

Of eight firms reporting production of fresh garlic, seven reported stand-alone or allocated employment data for such garlic. According to these data, the number of workers employed in the production of fresh garlic, the hours worked in such production, and wages and total compensation paid to such workers all showed strong increases from crop year 1991 to crop year 1994, ranging from 57 to 82 percent. Hourly wages, however, showed no particular trend. Labor productivity increased marginally during the period examined, while unit labor costs declined slightly.

Dehy Garlic

The number of workers employed in dehy garlic production, the hours worked by such workers, and wages and compensation paid to such workers generally increased steadily, although, except for total compensation, these indicators did decline slightly in crop year 1994 from the previous crop year. On an hourly basis, wages and compensation increased as well, and were considerably higher than hourly wages and compensation for fresh garlic. Productivity also was the highest for dehy among the various forms of garlic, reflecting the mechanized nature of the harvest; this indicator, however, declined from crop year 1991 to crop year 1993 before recovering in crop year 1994. Unit labor costs, which were very low compared to fresh garlic, showed no definite trend.

Seed Garlic

As with workers engaged in fresh garlic production, the number of workers employed in seed garlic production increased steadily during the period examined, as did the hours worked by such employees, except for a slight decline in crop year 1993. Wages and total compensation paid to such workers, however, fluctuated fairly randomly over the 4-year period. On an hourly basis, wages and total compensation declined slightly overall. Labor productivity fluctuated but increased overall, with the magnitude of this indicator approaching that for dehy garlic.

Financial Experience of U.S. Producers

This section presents separately the financial experience of U.S. producers on the three main forms of raw garlic: fresh, dehy, and seed. The financial data for the three forms cannot be consolidated to present data for all raw garlic producers as the data for dehy producers (both revenue and cost) are for processed (dehydrated) garlic, not raw garlic. There is no reliable basis to value the raw garlic used for the processed product as there are no reported sales of raw garlic harvested and used for processing. The values in the shipment section of this report for dehy garlic are the dehy firms' estimated cost at that point in the production process. Based on the available data, the financial data most representative for the dehy producers are the financial data at the processed garlic level.[89]

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[89] Commission staff asked Basic and Gilroy whether they could report income-and-loss data at the raw garlic stage. Both firms indicated that ***. Telephone conversations with John S. Duffus, Director of Garlic Production, Basic Vegetable Products, Inc., and Stephen L. Brinkman, Vice President of Finance and Administration, Gilroy Foods, Aug. 26, 1994. This matter was further explored at the time of verification of the questionnaire data of Basic and Gilroy, but there was no reliable basis available from the records of these companies to value raw garlic.

Eight producers of fresh garlic and three producers of dehy garlic provided financial data on their fresh and processed garlic operations, respectively.[90] The eight producers of fresh garlic accounted for 100 percent of reported U.S. production of fresh garlic (or about 24 percent of U.S. production of all raw garlic) in crop year 1994. The three producers of dehy garlic accounted for about *** percent of all reported U.S. production of dehy garlic (or about *** percent of U.S. production of all raw garlic) in crop year 1994. Two dehy garlic producers--Basic and Rogers--also supplied financial data on their seed garlic operations.

Seven firms operated their business as a corporation, whereas three firms operated their business as a partnership, and one firm as a proprietorship. The Commission asked each firm to report data on a crop-year basis and on an accrual basis of accounting method. All responding firms except *** reported on an accrual basis.[91] ***.

The Commission collected financial data from each firm on a crop year basis rather than on a fiscal year basis to be consistent with the trade data. As mentioned previously, in the United States, garlic is generally planted in the fall, harvested and packed in the following June through August, and sold starting from June throughout the year, as some of the crop is kept in cold- or controlled-atmosphere storage up to about 11 months. From planting to harvesting to selling a crop covers more than 12 months, and it is difficult to get data which will provide matching revenues and expenses for the same crop. Producers stated in the conference in the preliminary investigation that they do not keep such matching data for each crop.[92] The data on a "nearly accrual" basis of accounting method reflect the financial performance for each crop year.

Fresh Garlic

The financial data for operations producing fresh garlic are presented in table 11. Total net sales increased by 70 percent from $35.6 million in 1991 to $60.6 million in 1994. The net sales value of garlic for fresh use rose by *** percent from 1991 to 1994, and sales of garlic for all other uses rose by *** percent during the same period. On a quantity basis, total net sales of garlic slightly more than doubled from 45.8 million pounds in 1991 to 94.1 million pounds in 1994. During the same period, net sales of garlic for fresh use in pounds increased by *** percent, and sales of garlic for all other uses jumped by about *** percent.

Net income before income taxes declined from $3.5 million, or 9.9 percent of net sales, in 1991 to $1.2 million, or 2.1 percent of net sales, in 1993. The industry suffered an aggregate net loss of $1.4 million, or 2.2 percent of net sales, in 1994 (figure 14). Seed, growing, harvesting, and packing costs accounted for the majority of the costs. They ranged from about 66 percent of total net sales in 1991 to about 76 percent in 1994. Harvesting, hauling, sorting, and packing costs generally rose during 1991-94. Storage costs increased from 1.2 percent of total net sales in 1991 to 2.6 percent in 1994. Selling, general, and administrative expenses remained at about *** percent of total net sales during 1991-93 and then rose to *** percent of total net sales in 1994.

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[90] The fresh market producers are A&D Christopher, Belridge, Colusa, Denice & Filice, El Camino, The Garlic Co., ***, and Vessey. The producers of dehy garlic are Basic, Gilroy, and Rogers. The producer and importer questionnaires of A&D Christopher and Gilroy and the producer questionnaire of Basic were verified by the Commission. For A&D Christopher, ***. For Gilroy, ***. For Basic, ***. All the revised data are reflected in this report.

[91] A&D Christopher mentioned that ***. Telephone conversation with Ms. Teresa Costa, Vice President, A&D Christopher, Sept. 2, 1994.

[92] Transcript of the preliminary conference, pp. 92-93.

Table 11
Income-and-loss experience of U.S. producers on their operations producing fresh garlic, crop years 1991-94[1]

Item	1991	1992	1993	1994
	Quantity (*1,000 pounds*)			
Sold for fresh use	***	***	74,964	79,717
Sold for all other uses	***	***	7,438	14,427
Total net sales	45,768	64,022	82,402	94,144
	Value (*1,000 dollars*)			
Net sales:				
Sold for fresh use	***	***	57,376	57,078
Sold for all other uses	***	***	1,670	3,476
Total	35,615	44,093	59,046	60,554
Operating expenses:				
Seeds, materials and supplies	3,000	3,493	4,271	4,220
Planting/growing costs	9,152	12,104	15,573	17,235
Harvesting costs	4,844	6,265	9,237	10,138
Hauling, sorting, and packing costs	6,552	9,861	14,565	14,585
Storage costs	441	951	1,424	1,586
Other overhead costs	3,901	4,790	6,356	6,993
Partners' and officers' salaries	***	***	***	***
Selling, general, and administrative expenses	***	***	***	***
Interest expense	474	240	357	396
All other expenses	0	(6)	0	(1)
Total expenses	32,095	42,236	57,803	61,909
Net income or (loss) before income taxes	3,520	1,857	1,243	(1,355)
Depreciation[2]	***	***	***	***
Cash flow[3]	***	***	***	***
	Ratio to net sales (*percent*)			
Operating expenses:				
Seeds, materials and supplies	8.4	7.9	7.2	7.0
Planting/growing costs	25.7	27.5	26.4	28.5
Harvesting costs	13.6	14.2	15.6	16.7
Hauling, sorting, and packing costs	18.4	22.4	24.7	24.1
Storage costs	1.2	2.2	2.4	2.6
Other overhead costs	11.0	10.9	10.8	11.5
Partners' and officers' salaries	***	***	***	***

Table continued on next page.

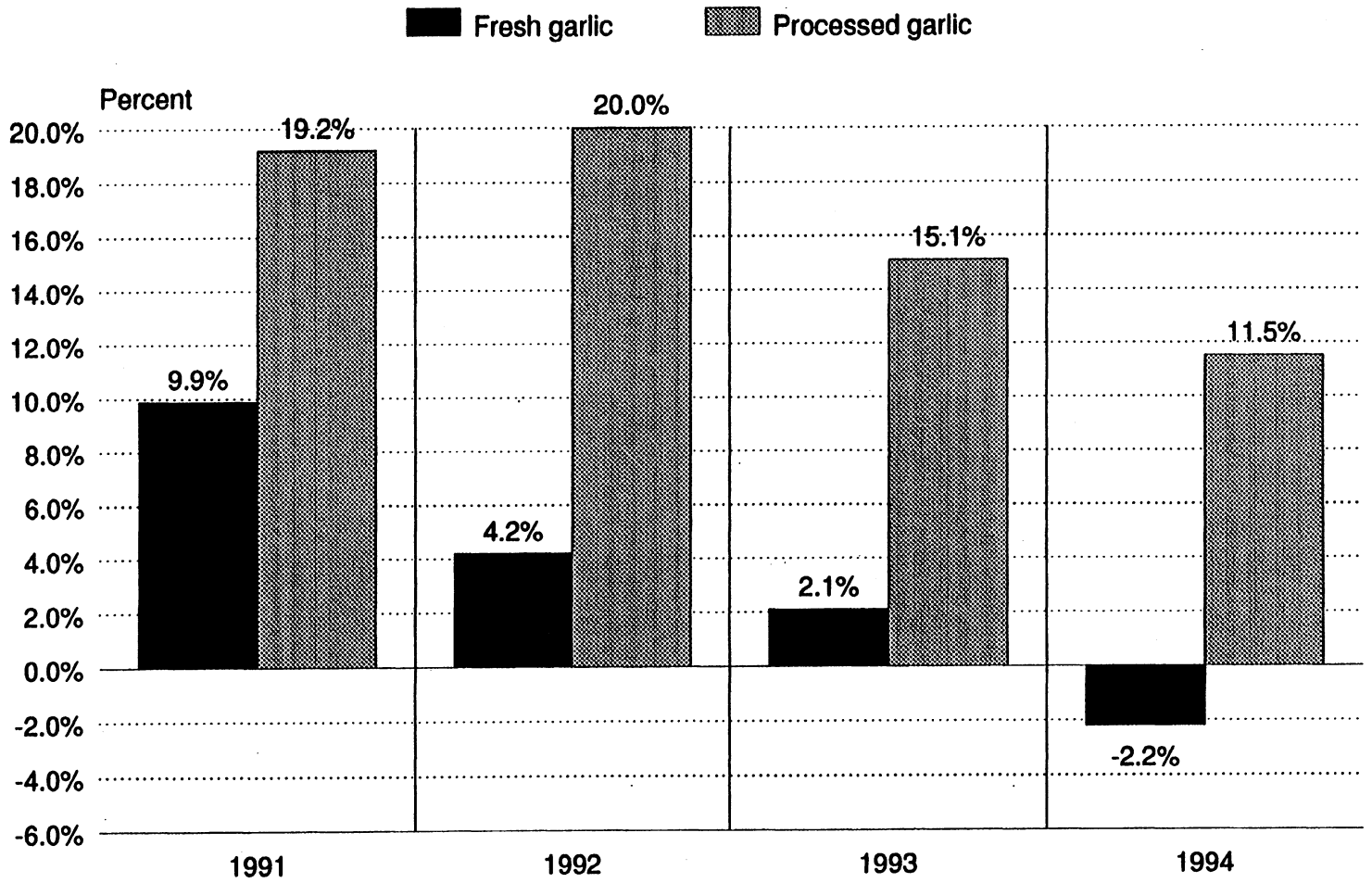
Table 11--Continued
Income-and-loss experience of U.S. producers on their operations producing fresh garlic, crop years 1991-94[1]

Item	1991	1992	1993	1994
	Ratio to net sales (*percent*)			
Operating expenses--Continued:				
Selling, general, and administrative expenses	***	***	***	***
Interest expense	1.3	.5	.6	.7
All other expenses	.0	(4)	.0	(4)
Total expenses	90.1	95.8	97.9	102.2
Net income or (loss) before income taxes	9.9	4.2	2.1	(2.2)
	Value (*per pound*)			
Net sales:				
Sold for fresh use	$***	$***	$.77	$.72
Sold for all other uses	***	***	.22	.24
Average	.78	.69	.72	.64
Operating expenses:				
Seeds, materials and supplies	.06	.05	.05	.04
Planting/growing costs	.20	.19	.19	.18
Harvesting costs	.11	.10	.11	.11
Hauling, sorting, and packing costs	.14	.15	.18	.15
Storage costs	.01	.01	.02	.02
Other overhead costs	.09	.07	.08	.07
Partners' and officers' salaries	***	***	***	***
Selling, general, and administrative expenses	***	***	***	***
Interest expense	.01	(5)	(5)	(5)
All other expenses	.00	(4)	.00	(4)
Total expenses	.70	.66	.70	.66
Net income or (loss) before income taxes	.08	.03	.02	(.01)
	Number of firms reporting			
Net losses	1	1	3	6
Data	6	8	8	8

[1] These producers, their fiscal yearends, and accounting methods are *** (Dec. 31, cash basis), *** (Dec. 31, accrual basis), *** (Dec. 31, accrual basis), *** (Mar. 31, accrual basis), *** (Dec. 31, cash basis), *** (Dec. 31, accrual basis), *** (Dec. 31, accrual basis), and *** (Sept. 30, modified accrual basis). Colusa and *** had no activities in 1991.
[2] *** did not provide depreciation expense.
[3] Cash flow is defined as net income or loss plus depreciation.
[4] Negative figure, but less than significant digits displayed.
[5] Positive figure, but less than significant digits displayed.

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

Figure 14
Net income before income taxes of U.S. producers on their operations producing garlic as a share of net sales, by products, crop years 1991-94



Source: Tables 11, 13, and 15.

The average net sales value per pound of garlic sold for fresh use decreased by *** percent from $*** in 1991 to about $*** in 1992, increased by *** percent to $0.77 in 1993, and then dropped by 6 percent to $0.72 in 1994. The average net sales value per pound of garlic sold for all other uses declined by *** from $*** in 1991 to $0.22 in 1993, and then increased by 9 percent to $0.24 in 1994. Net income before income taxes per pound dropped from $0.08 in 1991 to $0.02 in 1993. The U.S. firms reported an aggregate net loss of $0.01 per pound in 1994. During 1991-92, total expenses per pound decreased by $0.04, while the average sale price declined by $0.09, resulting in a $0.05 per pound drop in net income. During 1992-93, the rise of $0.04 in total expenses per pound offset the increase in the average sale price of $0.03. During 1993-94, the decline of $0.04 in total expenses per pound only partially offset the decrease in the average sale price of $0.08, resulting in a net loss of $0.01 per pound. Key financial data, by firms, are presented in table 12.

Processed Garlic

The financial data for operations producing processed garlic are presented in table 13. None of the responding firms reported any sales of garlic for fresh use or as unprocessed dehy garlic. Almost all sales were of the downstream product, processed (dehydrated) garlic. The total net sales value rose by 14 percent from 1991 to 1994. During the same period, total net sales in pounds increased by 18 percent. The firms operated profitably throughout the 1991-94 period. Pre-tax net income margins, however, rose from 19.2 percent in 1991 to 20.0 percent in 1992 but then declined to 15.1 percent in 1993 and 11.5 percent in 1994. Key financial data, by firms, are presented in table 14.

Seed Garlic

The financial data for operations producing seed garlic (for domestic shipments only) are presented in table 15. ***, a dehy garlic producer, reported some sales of seed garlic in 1993 and 1994. ***, another dehy garlic producer, also provided financial data on its seed garlic operations, but was not able to report detailed operating expenses as requested in the producer's questionnaire.

The total net sales value declined by *** percent from 1991 to 1992, rose by *** percent from 1992 to 1993, and dropped by *** percent from 1993 to 1994. Total net sales in pounds showed a similar trend during the period. Pre-tax net income margins fell from about *** percent in 1991 and 1992 to *** percent in 1993 because of a *** percent *** on sales reported by ***.

The pre-tax net income margin increased to *** percent in 1994. The lower net income margins in 1993 and 1994 were mainly due to the *** compared to the average sale prices received by ***. *** did not sell garlic for seed use in 1991-92. Key financial data, by firms, are presented in table 16.

Capital Expenditures and Investment

All responding producers except *** provided data on capital expenditures and total assets employed in fresh garlic operations (table 17). Capital expenditures on fresh garlic operations increased from $*** million in 1991 to $*** million in 1992, fell to $*** million in 1993, and then rose to $*** million in 1994. Total assets on fresh garlic operations increased from $*** million in 1991 to $*** million in 1993, then slipped to $*** million in 1994. Net return on total assets before income taxes dropped from *** percent in 1991 to *** percent in 1993, and was a negative *** percent in 1994.

All three responding producers provided data on capital expenditures and the total assets employed in processed garlic operations. The two dehy garlic producers that reported some seed garlic operations did not allocate any capital expenditures and only *** reported some assets for seed garlic operations. These data are also presented in table 17.

Table 12
Income-and-loss experience of U.S. producers on their operations producing fresh garlic, by firms, crop years 1991-94

Item	1991	1992	1993	1994
	Value (*1,000 dollars*)			
Sold for fresh use:				
The Garlic Company	***	***	***	***
Vessey & Co.	***	***	***	***
Belridge	***	***	***	***
A&D Christopher	***	***	***	***
Denice & Filice	***	***	***	***
Colusa	***	***	***	***
El Camino	***	***	***	***
***	***	***	***	***
Total	***	***	57,376	57,078
Sold for all other uses:				
The Garlic Company	***	***	***	***
Vessey & Co.	***	***	***	***
Belridge	***	***	***	***
A&D Christopher	***	***	***	***
Denice & Filice	***	***	***	***
Colusa	***	***	***	***
El Camino	***	***	***	***
***	***	***	***	***
Total	***	***	1,670	3,476
Total net sales:				
The Garlic Company	***	***	***	***
Vessey & Co.	***	***	***	***
Belridge	***	***	***	***
A&D Christopher	***	***	***	***
Denice & Filice	***	***	***	***
Colusa	***	***	***	***
El Camino	***	***	***	***
***	***	***	***	***
Total	35,615	44,093	59,046	60,554
Total expenses:				
The Garlic Company	***	***	***	***
Vessey & Co.	***	***	***	***
Belridge	***	***	***	***
A&D Christopher	***	***	***	***
Denice & Filice	***	***	***	***
Colusa	***	***	***	***
El Camino	***	***	***	***
***	***	***	***	***
Total	32,095	42,236	57,803	61,909

Table continued on next page.

Table 12--Continued
Income-and-loss experience of U.S. producers on their operations producing fresh garlic, by firms, crop years 1991-94

Item	1991	1992	1993	1994
	Value (*1,000 dollars*)			
Net income or (loss) before income taxes:				
The Garlic Company	***	***	***	***
Vessey & Co.	***	***	***	***
Belridge	***	***	***	***
A&D Christopher	***	***	***	***
Denice & Filice	***	***	***	***
Colusa	***	***	***	***
El Camino	***	***	***	***
***	***	***	***	***
Total	3,520	1,857	1,243	(1,355)
	Ratio to net sales (*percent*)			
Total expenses:				
The Garlic Company	***	***	***	***
Vessey & Co.	***	***	***	***
Belridge	***	***	***	***
A&D Christopher	***	***	***	***
Denice & Filice	***	***	***	***
Colusa	***	***	***	***
El Camino	***	***	***	***
***	***	***	***	***
Average	90.1	95.8	97.9	102.2
Net income or (loss) before income taxes:				
The Garlic Company	***	***	***	***
Vessey & Co.	***	***	***	***
Belridge	***	***	***	***
A&D Christopher	***	***	***	***
Denice & Filice	***	***	***	***
Colusa	***	***	***	***
El Camino	***	***	***	***
***	***	***	***	***
Average	9.9	4.2	2.1	(2.2)

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

Table 13
Income-and-loss experience of U.S. producers on their operations producing processed garlic, crop years 1991-94[1] [2]

Item	1991	1992	1993	1994
	Quantity (*1,000 pounds*)			
Net sales:				
Dehy garlic unprocessed	0	0	0	0
Dehy garlic processed	***	***	***	***
Sold for fresh use	0	0	0	0
Sold for all other uses	***	***	***	***
Total	70,706	72,848	77,757	83,690
	Value (*1,000 dollars*)			
Net sales:				
Dehy garlic unprocessed	0	0	0	0
Dehy garlic processed	***	***	***	***
Sold for fresh use	0	0	0	0
Sold for all other uses	***	***	***	***
Total	94,878	99,834	101,550	108,340
Operating expenses:				
Seeds, materials and supplies	11,434	***	***	14,743
Planting/growing costs	14,463	15,164	17,263	21,227
Harvesting costs	2,126	2,336	2,764	2,773
Hauling, sorting, and packing costs	1,845	1,976	2,159	2,119
Storage costs	***	***	***	***
Dehydration and other processing costs	19,928	18,921	21,539	21,715
Other overhead costs	***	***	***	***
Partners' and officers' salaries	***	***	***	***
Selling, general, and administrative expenses	11,100	11,984	12,680	14,446
Interest expense	5,061	5,194	4,832	5,179
All other expenses	***	***	***	***
Total expenses	76,626	79,858	86,191	95,870
Net income before income taxes	18,252	19,976	15,359	12,470
Depreciation	2,029	2,429	2,767	2,819
Cash flow[3]	20,281	22,405	18,126	15,289
	Ratio to net sales (*percent*)			
Operating expenses:				
Seeds, materials and supplies	12.1	***	***	13.6
Planting/growing costs	15.2	15.2	17.0	19.6
Harvesting costs	2.2	2.3	2.7	2.6
Hauling, sorting, and packing costs	1.9	2.0	2.1	2.0
Storage costs	***	***	***	***
Dehydration and other processing costs	21.0	19.0	21.2	20.0
Other overhead costs	***	***	***	***

Table continued on next page.

Table 13--Continued
Income-and-loss experience of U.S. producers on their operations producing processed garlic, crop years 1991-94[1] [2]

Item	1991	1992	1993	1994
	Ratio to net sales (*percent*)			
Operating expenses--Continued:				
Partners' and officers' salaries	***	***	***	***
Selling, general, and administrative expenses	11.7	12.0	12.5	13.3
Interest expense	5.3	5.2	4.8	4.8
All other expenses	***	***	***	***
Total expenses	80.8	80.0	84.9	88.5
Net income before income taxes	19.2	20.0	15.1	11.5
	Value (*per pound*)			
Net sales:				
Dehy garlic unprocessed	$0.00	$0.00	$0.00	$0.00
Dehy garlic processed	***	***	***	***
Sold for fresh use	.00	.00	.00	.00
Sold for all other uses	***	***	***	***
Average	1.34	1.37	1.31	1.29
Operating expenses:				
Seeds, materials and supplies	.16	***	***	.18
Planting/growing costs	.20	.21	.22	.25
Harvesting costs	.03	.03	.04	.03
Hauling, sorting, and packing costs	.03	.03	.03	.03
Storage costs	***	***	***	***
Dehydration and other processing costs	.28	.26	.28	.26
Other overhead costs	***	***	***	***
Partners' and officers' salaries	(4)	(4)	(4)	(4)
Selling, general, and administrative expenses	.16	.16	.16	.17
Interest expense	.07	.07	.06	.06
All other expenses	***	***	***	***
Total expenses	1.08	1.10	1.11	1.15
Net income before income taxes	.26	.27	.20	.15
	Number of firms reporting			
Net losses	0	0	0	0
Data	3	3	3	3

[1] Data presented in this table are for the downstream product, processed garlic. Hence, data on quantity and value of net sales (shipments) are different from those presented in table 7.
[2] These producers, their fiscal yearends, and accounting methods are *** (Dec. 31, accrual basis), *** (Nov. 30, accrual basis), and *** (Sept. 30, accrual basis). *** provided data on a fiscal year.
[3] Cash flow is defined as net income or loss plus depreciation.
[4] Less than $0.005.

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

Table 14
Income-and-loss experience of U.S. producers on their operations producing processed garlic, by firms, crop years 1991-94

Item	1991	1992	1993	1994
	Value (*1,000 dollars*)			
Dehy garlic unprocessed:				
Rogers	***	***	***	***
Basic	***	***	***	***
Gilroy	***	***	***	***
Total	0	0	0	0
Dehy garlic processed:				
Rogers	***	***	***	***
Basic	***	***	***	***
Gilroy	***	***	***	***
Total	***	***	***	***
Sold for fresh use:				
Rogers	***	***	***	***
Basic	***	***	***	***
Gilroy	***	***	***	***
Total	0	0	0	0
Sold for all other uses:				
Rogers	***	***	***	***
Basic	***	***	***	***
Gilroy	***	***	***	***
Total	***	***	***	***
Total net sales:				
Rogers	***	***	***	***
Basic	***	***	***	***
Gilroy	***	***	***	***
Total	94,878	99,834	101,550	108,340
Total expenses:				
Rogers	***	***	***	***
Basic	***	***	***	***
Gilroy	***	***	***	***
Total	76,626	79,858	86,191	95,870
Net income or (loss) before income taxes:				
Rogers	***	***	***	***
Basic	***	***	***	***
Gilroy	***	***	***	***
Total	18,252	19,976	15,359	12,470
	Ratio to net sales (*percent*)			
Total expenses:				
Rogers	***	***	***	***
Basic	***	***	***	***
Gilroy	***	***	***	***
Average	80.8	80.0	84.9	88.5
Net income or (loss) before income taxes:				
Rogers	***	***	***	***
Basic	***	***	***	***
Gilroy	***	***	***	***
Average	19.2	20.0	15.1	11.5

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

Table 15
Income-and-loss experience of U.S. producers on their operations producing seed garlic (domestic shipments only), crop years 1991-94

* * * * * * *

Table 16
Income-and-loss experience of U.S. producers on their operations producing seed garlic, by firms, crop years 1991-94

* * * * * * *

Table 17
Capital expenditures, value of assets, and return on assets of U.S. producers' operations producing fresh, processed, and seed garlic, crop years 1991-94[1]

Item	1991	1992	1993	1994
Fresh garlic:				
Capital expenditures (*1,000 dollars*)	***	***	***	***
Total assets (*1,000 dollars*)	***	***	***	***
Net return[2] (*percent*)	***	***	***	***
Processed garlic:				
Capital expenditures (*1,000 dollars*)	5,679	3,876	***	3,036
Total assets[3] (*1,000 dollars*)	***	95,808	***	***
Net return[2] (*percent*)	***	20.9	***	***
Seed garlic:				
Capital expenditures (*1,000 dollars*)	***	***	***	***
Total assets[3] (*1,000 dollars*)	***	***	***	***
Net return[2] (*percent*)	***	***	***	***

[1] *** did not provide capital expenditures or total assets.
[2] Defined as net income or loss divided by asset value. Net return is calculated using data of firms providing both income and asset information.
[3] Only *** supplied total assets data.

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

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of garlic from China on their firms' growth, investment, ability to raise capital, or existing development and production efforts. Their responses are shown in appendix H.

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[93]–

> (I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),
>
> (II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,
>
> (III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,
>
> (IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,
>
> (V) any substantial increase in inventories of the merchandise in the United States,
>
> (VI) the presence of underutilized capacity for producing the merchandise in the exporting country,
>
> (VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,
>
> (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,

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[93] 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."

(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.[94]

Information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury;" and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in the section entitled "Consideration of 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. Other threat indicators have not been alleged or are otherwise not applicable.

U.S. Importers' Inventories

Five of the 17 firms reporting imports of fresh and/or dehy garlic also reported end-of-period inventories of those imports (table 18).[95] End-of-period inventories of imports of raw garlic from China were nonexistent until crop year 1993, but increased strongly between crop year 1993 and crop year 1994. The majority of end-of-period inventories of imported garlic were from countries not subject to investigation. The trend in such inventories was an upward one, with a slight decline exhibited at the end of crop year 1994. As a ratio to preceding-period shipments, inventories were quite low throughout the period examined, and demonstrated no particular trend.

As seen in the section of this report entitled "U.S. Producers' Inventories," because of the way in which the data were collected, apparent inventory holdings by importers are very small, even though inventory may be held at various points during the crop year. In other words, carrying over of inventory from one crop year to another is rare in the garlic business. Importer questionnaire

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[94] 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."

[95] As no imports of seed garlic were reported, neither were end-of-period inventories of this product reported.

Table 18
Raw garlic: End-of-period inventories of U.S. importers, by products and by sources, crop years 1991-94

Item	1991	1992	1993	1994
	Quantity (*1,000 pounds*)			
Fresh garlic:				
China	0	0	0	***
Other sources	***	***	***	***
Total	***	***	***	***
Dehy garlic:				
China	0	0	***	***
Other sources	-	-	-	0
Total	0	0	***	***
Total:				
China	0	0	***	***
Other sources	***	***	***	***
Total	***	***	1,442	1,460
	Ratio to total shipments of imports (*percent*)			
Fresh garlic:				
China	0	0	0	0.4
Other sources	8.1	12.8	13.4	11.2
Average	5.0	7.8	6.7	3.6
Dehy garlic:				
China	-	-	15.3	-
Other sources	-	-	-	0
Average	-	-	15.3	-
Total:				
China	0	0	1.8	2.2
Other sources	8.1	12.8	13.4	8.5
Average	5.0	7.8	7.2	4.5

Note.--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.

responses indicate, however, that several firms have utilized storage facilities that would make ongoing maintenance of inventories more common.[96]

[96] See, e.g., questionnaire response of ***. This firm indicated, however, that ***.

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

As producers of garlic in China were not represented by counsel, staff was unable to obtain complete data on the operations of the garlic industry in China. The Commission did, however, request the U.S. Embassy in Beijing, the Embassy of China in Washington, DC, and the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) to provide information. The Commission received limited information from these sources; such information is presented in table 19.

According to the U.S. Embassy in Beijing, garlic in China is generally grown by farmers as a sideline crop, and when supply exceeds farm demand, as has been the case during the period examined, the surplus is generally sold to trading companies. The actual number of garlic growers in China is calculated to be in the millions.[97] Because of this level of market fragmentation, Chinese officials maintained that accurate statistics on Chinese garlic production are not available.[98]

Historically, the Chinese Government has limited the number of firms that could export garlic; in 1993, however, due primarily to rapid marketization in China and the transfer of regulatory authority from the central Government to the provinces, many small private firms entered the garlic exporting business.[99] In part as a response to the surge in exports, in early 1994 the Chinese Government announced new regulations regarding the export of garlic, along with 12 other agricultural commodities.[100] Under these regulations, and as a result of a bidding process, only 16 firms are currently authorized to export garlic.[101] The new regulations limit each of these firms to a fixed quota for which they pay a fee based on the quota allotment.[102] According to the Chinese Chamber of Commerce, the total quota is 100,000 metric tons for calendar year 1994 and 120,000 metric tons for calendar year 1995.[103]

Chinese production statistics make no distinctions between garlic grown for fresh, dehy, or seed use; accordingly, the proportion of exports of garlic from China consisting of fresh garlic, dehy garlic, and seed garlic is not known. Further, as seen below in the section of this report entitled "U.S. Imports," official U.S. import statistics do not distinguish among fresh, dehy, and seed garlic. The garlic harvest in China, however, is done by hand; therefore it is likely that the intended destination of the garlic is the fresh market.[104]

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[97] Accordingly, the industry is structured differently from the U.S. industry; the institution of a "grower-packer" apparently does not exist in China. Farmers tend to plant garlic on very small plots, interspersed with other crops. Transcript, p. 174. Petitioners noted at the hearing that China has the capability to clean, sort, and pack garlic in a manner similar to that employed by the U.S. industry. Transcript, p. 26. Cold-storage and controlled-atmosphere storage facilities, however, apparently do not exist in China. Transcript, p. 162.

[98] Zhao Linhua, Embassy of China, letter to Jonathan Seiger, USITC, Oct. 4, 1994.

[99] Transcript, p. 203.

[100] According to a MOFTEC official testifying at the hearing, the regulations, entitled the "Tendering Measure for Export Product Quota," were promulgated on Feb. 2, 1994. The U.S. Department of State indicated that the regulations were issued in an attempt to head off dumping charges from the United States. U.S. Department of State telegram, message reference No. 037951, Aug. 19, 1994, Beijing.

[101] 107 firms took place in the bidding process; transcript, p. 177.

[102] Quotas are global and are not allocated by country of destination. Petitioners alleged that, prior to Commerce's preliminary determination, these regulations were not having their intended effect, as imports into the United States during the period April-June 1994 greatly exceeded levels from the corresponding period of 1993, and because the Australian garlic industry has reported a surge in imports from China. Transcript, pp. 41-42.

[103] Transcript, p. 177; respondents' posthearing brief, p. 12.

[104] Transcript, p. 25.

Table 19
Garlic: China's capacity, production, end-of-period inventories, and shipments, 1991-93, Jan.-June 1993, and Jan.-June 1994

Item	1991	1992	1993	Jan.-June- 1993	Jan.-June- 1994
	Quantity (*1,000 metric tons*)				
Capacity[1]	(2)	(2)	(2)	(2)	(2)
Production[3]	4,970	5,200	(2)	(2)	(2)
End-of-period inventories	(2)	(2)	(2)	(2)	(2)
Shipments:					
Home market[4]	(2)	(2)	(2)	(2)	(2)
Exports to–					
The United States	1	1	25	(2)	3
All other markets[5]	107	126	228	(2)	26
Total exports	108	127	253	(2)	29
Total shipments	(2)	(2)	(2)	(2)	(2)
	Value (*1,000 dollars*)				
Shipments:					
Home market	(2)	(2)	(2)	(2)	(2)
Exports to–					
The United States	400	820	9,520	(2)	(2)
All other markets[5]	51,720	67,510	74,350	(2)	(2)
Total exports	52,120	68,330	83,870	(2)	11,862
Total shipments	(2)	(2)	(2)	(2)	(2)

[1] Between 1991 and 1992, acreage devoted to garlic increased from 296,000 hectares to 307,000 hectares.

[2] Not available.

[3] Data from the U.S. Department of State, Beijing; according to MOFTEC and Chinese Embassy officials, however, estimated annual production during the period examined ranged between 1.3 and 1.5 million metric tons (or 2.8 to 3.3 billion pounds).

[4] More than 90 percent of garlic production is sold in the domestic market.

[5] Primarily Southeast Asia; major markets include Hong Kong, Singapore, Japan, and Indonesia.

Sources: U.S. Department of State telegram, message reference No. 037951, Aug. 19, 1994, Beijing; response (undated) from China Chamber of Commerce of Foodstuffs Native Produce and Animal By-Products; letter from Zhao Linhua, Embassy of China, to Jonathan Seiger, USITC, Oct. 4, 1994; transcript, p. 174.

Garlic exported from China is not and has not been subject to any known antidumping proceedings in other countries. In 1993, however, Mexico banned imports of garlic from China on

phytosanitary grounds. Further, the European Union has imposed quotas on imports of fresh garlic from China.[105]

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

U.S. Imports

Imports subject to this investigation are provided for under statistical reporting numbers 0703.20.0000, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9500 of the HTS. As indicated above in the section of this report entitled "U.S. Tariff Treatment," fresh garlic is specifically provided for under statistical reporting number 0703.20.0000. The remaining HTS numbers are basket categories that provide for garlic along with many other vegetables. Data presented in this section, therefore, are limited to imports under HTS subheading 0703.20.00.[106]

Because of the low response rate from importers of garlic, data presented here are based on official U.S. import statistics for HTS subheading 0703.20.00.[107] Official data, however, do not break out garlic by end use or method of harvest; thus, separate data do not exist for fresh, dehy, or seed garlic. Import data on these forms of garlic, therefore, are based on questionnaire data and are presented in appendix I.[108]

From crop year 1991 to crop year 1992 imports of garlic from China declined by 42 percent, but they then increased in crop year 1993 to a level 55 percent higher than that of crop year 1991 (table 20). In crop year 1994, imports increased very sharply, by over fivefold, to approximately 64 million pounds. The increase in overall imports between crop years 1993 and 1994 was almost entirely accounted for by the increase in imports from China; imports from all other sources (including Argentina, Chile, and Mexico) increased only 3 percent from crop year 1993 to crop year 1994. Value-based data show similar trends.

Unit values of imports from China stayed relatively constant during crop years 1991 through 1993, but in crop year 1994 moved downward to $0.32 per pound. Except for imports from Taiwan, this unit value was the lowest among import sources in crop year 1994; unit values of imports from Argentina and Chile were consistently higher than those for other sources.[109] Unit values of imports from all sources fluctuated from crop year 1991 to crop year 1993, but, like the movement in unit values of imports from China, trended downward in crop year 1994.

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[105] Transcript, pp. 41-42.

[106] Although data presented here may be understated, the degree of understatement is very slight. The extent to which fresh garlic subject to investigation can be classified in the basket HTS categories is unknown, but is believed to be minuscule.

[107] Based on official import statistics, responding firms accounted for 40 percent, by quantity, and 50 percent, by value, of imports from China in crop year 1994. Data on imports from China presented in table 20 also include imports said to originate in Hong Kong. The record contains no evidence that garlic is actually produced in Hong Kong. Parties do not dispute the allegation in the petition that all imports of garlic originating in Hong Kong are actually products of China.

[108] Questionnaire data on imports of fresh garlic, by grade, are presented in appendix F.

As seen in appendix I, the vast majority of responding importers reported imports of fresh garlic; i.e., their imports were intended for the fresh market. In practice, however, much of the imports from China ended up serving the dehy market because of improper storage and shipping methods, among other reasons. Transcript, pp. 170-171.

[109] Unlike Hong Kong, no allegation of transshipment of Chinese garlic has been made with respect to Taiwan. As a result, data on imports from Taiwan are presented separately in the table.

Table 20
Garlic: U.S. imports, by sources, crop years 1991-94

Item	1991	1992	1993	1994
	Quantity (*1,000 pounds*)			
China[1]	6,055	3,540	9,395	63,532
Other sources:				
Mexico	20,615	22,721	25,059	26,565
Argentina	7,886	5,147	5,024	5,511
Chile	2,826	2,018	2,264	1,543
Taiwan	4,712	2,973	947	711
All other	1,239	1,615	233	346
Subtotal	37,277	34,474	33,527	34,677
Total	43,334	38,014	42,922	98,209
	Value (*1,000 dollars*)			
China[1]	2,474	1,446	3,719	20,014
Other sources:				
Mexico	9,222	12,499	12,203	12,065
Argentina	6,106	3,627	3,241	3,640
Chile	2,634	1,813	1,946	1,496
Taiwan	1,792	1,241	382	206
All other	1,025	1,047	142	290
Subtotal	20,778	20,227	17,915	17,697
Total	23,252	21,673	21,634	37,711
	Unit value (*per pound*)			
China[1]	$0.41	$0.41	$0.40	$0.32
Other sources:				
Mexico	.45	.55	.49	.45
Argentina	.77	.70	.65	.66
Chile	.93	.90	.86	.97
Taiwan	.38	.42	.40	.29
All other	.83	.65	.61	.84
Average	.56	.59	.53	.51
Average	.54	.57	.50	.38

[1] Includes imports from Hong Kong.

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

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

Imports of garlic into the United States show a distinct seasonal pattern. U.S. producers have historically supplied the market during the late summer and autumn months, approximately August through December. During the winter, the market is normally dominated by imports from South America, primarily Argentina and Chile. These imports begin to fall off in March or April, which is when the Mexican crop becomes available. Mexican garlic is prevalent throughout the spring and early summer. Garlic from China, on the other hand, tends to enter the U.S. market simultaneously with U.S. production. This seasonal pattern of shifting supplies is shown in table 21.

U.S. Market Penetration by Imports

As noted above in the section of this report entitled "Apparent U.S. Consumption," in view of the low level of coverage of U.S. imports of the subject merchandise from questionnaire responses, the Commission used official import statistics on imports of fresh garlic to represent imports of the raw garlic subject to this investigation for purposes of calculating market penetration. Further, as in that section, market penetration by imports is presented both in terms of penetration of the U.S. market for raw garlic and in terms of penetration of the smaller U.S. market for fresh garlic.

Raw Garlic

The penetration of the U.S. market for raw garlic by aggregate imports, in terms of quantity, declined very slightly overall, by only 1 percentage point, from crop year 1991 to crop year 1993, then increased sharply, by 10 percentage points, in crop year 1994 (table 22). The surge in crop year 1994 was entirely accounted for by an increase in the share of subject imports from China, which increased their share of the market from only 2.5 percent in crop year 1993 to nearly 14 percent in crop year 1994. Over the period examined, market shares of other import sources, by contrast, either declined or remained essentially the same (figure 15).

Fresh Garlic

When the market for fresh garlic is viewed separately, trends in relative market shares among suppliers are similar, but far more marked (table 23 and figure 16). For example, imports from China increased their share of the fresh market by 28 percentage points, in terms of volume, during the period examined, with the vast bulk of that increase coming between crop year 1993 and crop year 1994.

Value-based data show identical trends, but movements in relative market shares are more moderate, with China increasing its share of the market in crop year 1994 by 17 percentage points over its share in crop year 1993. Market shares of non-subject imports generally declined during the period examined.

Prices

Market Characteristics

The market for fresh garlic includes U.S. producers and importers which sell product predominantly to wholesalers, distributors, and food brokers. U.S. producers and importers may

Table 21
Raw garlic: U.S. imports, by sources and months, crop year 1994

(1,000 kilograms)

Month	Imports from-- China[1]	Argentina	Chile	Mexico
1993:				
June	117	0	8	3,156
July	1,183	0	0	1,515
August	7,022	0	0	70
September	5,409	0	0	36
October	3,651	0	0	73
November	3,716	0	0	25
December	3,376	18	0	7
1994:				
January	1,184	419	64	6
February	1,243	1,038	300	40
March	636	947	252	1,110
April	563	78	46	2,347
May	717	0	29	3,665

[1] Includes imports from Hong Kong.

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

also sell lesser quantities to food processors, dehydrators, and retail stores.[110] Demand for fresh garlic depends mainly on the level of demand in end-use markets (such as restaurant chains, grocery stores, club warehouses, and food-processing sectors) that either resell the product or utilize it for further processing. The majority of domestic producers and importers indicated increasing demand for garlic products during the period for which data were collected in this investigation, due in part to increased awareness of the health benefits associated with fresh garlic use.[111] Similarly, *** indicated increasing demand for dehy garlic during the period examined due to increased popularity of ethnic foods and new product releases by food preparation companies. On the other hand, seed garlic demand, which is linked to fresh and dehy garlic demand in the forthcoming season as anticipated by producers, declined during 1993 due to lower plantings.[112]

[110] Fresh garlic sold to dehydrators typically consists of harvested product which does not meet standards for fresh or peeled use due to small size or damage during handling (often termed "grade outs"). According to ***. Questionnaire responses indicate that six U.S. producers sold fresh garlic grown for the fresh market to dehydrators during January 1992-May 1994. Total quantities sold were 1.9, 6.1, and 3.2 million pounds, at average unit values of $0.12, $0.22, and $0.17 per pound during 1992, 1993, and January-May 1994, respectively.

[111] *** indicated that increases in industrial applications, the popularity of peeled product for the food service sector, abundant supplies, an increase in the Asian population in the United States, and national publicity of the Gilroy Garlic Festival have also contributed to increased demand for garlic.

[112] Representatives of El Camino and A&D Christopher indicated that due to the uncertainty of Chinese garlic imports for 1994, most U.S. producers reduced 1993 fall plantings. Field visits with El Camino and A&D Christopher, Aug. 10 and 11, 1994.

Table 22
Raw garlic: Apparent U.S. consumption and market penetration, crop years 1991-94

Item	1991	1992	1993	1994
	Quantity (*1,000 pounds*)			
Apparent consumption	345,996	354,024	379,250	467,355
	Value (*1,000 dollars*)			
Apparent consumption	98,483	104,598	125,441	148,659
	Share of the quantity of U.S. consumption (*percent*)			
Producers' U.S. shipments	87.5	89.3	88.7	79.0
U.S. imports from--				
China[1]	1.8	1.0	2.5	13.6
Argentina	2.3	1.5	1.3	1.2
Chile	.8	.6	.6	.3
Mexico	6.0	6.4	6.6	5.7
Taiwan	1.4	.8	.2	.2
Other sources	.4	.5	.1	.1
Total	12.5	10.7	11.3	21.0
	Share of the value of U.S. consumption (*percent*)			
Producers' U.S. shipments	76.4	79.3	82.8	74.6
U.S. imports from--				
China[1]	2.5	1.4	3.0	13.5
Argentina	6.2	3.5	2.6	2.4
Chile	2.7	1.7	1.6	1.0
Mexico	9.4	11.9	9.7	8.1
Taiwan	1.8	1.2	.3	.1
Other sources	1.0	1.0	.1	.2
Total	23.6	20.7	17.2	25.4

[1] Includes imports from Hong Kong.

Note.--Because of rounding, figures may not add to the totals shown; shares are computed from the unrounded figures.

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

Table 23
Fresh garlic: Apparent U.S. consumption and market penetration, crop years 1991-94

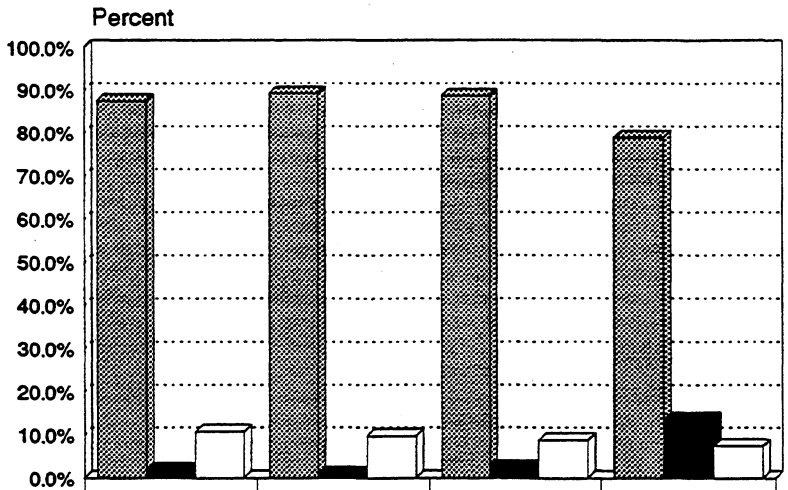
Item	1991	1992	1993	1994
	Quantity (*1,000 pounds*)			
Apparent consumption	85,620	96,151	117,442	180,311
	Value (*1,000 dollars*)			
Apparent consumption	55,790	61,439	74,825	90,677
	Share of the quantity of U.S. consumption (*percent*)			
Producers' U.S. shipments	49.4	60.5	63.5	45.5
U.S. imports from--				
China[1]	7.1	3.7	8.0	35.2
Argentina	9.2	5.4	4.3	3.1
Chile	3.3	2.1	1.9	.9
Mexico	24.1	23.6	21.3	14.7
Taiwan	5.5	3.1	.8	.4
Other sources	1.4	1.7	.2	.2
Total	50.6	39.5	36.5	54.5
	Share of the value of U.S. consumption (*percent*)			
Producers' U.S. shipments	58.3	64.7	71.1	58.4
U.S. imports from--				
China[1]	4.4	2.4	5.0	22.1
Argentina	10.9	5.9	4.3	4.0
Chile	4.7	3.0	2.6	1.6
Mexico	16.5	20.3	16.3	13.3
Taiwan	3.2	2.0	.5	.2
Other sources	1.8	1.7	.2	.3
Total	41.7	35.3	28.9	41.6

[1] Includes imports from Hong Kong.

Note.--Because of rounding, figures may not add to the totals shown; shares are computed from the unrounded figures.

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

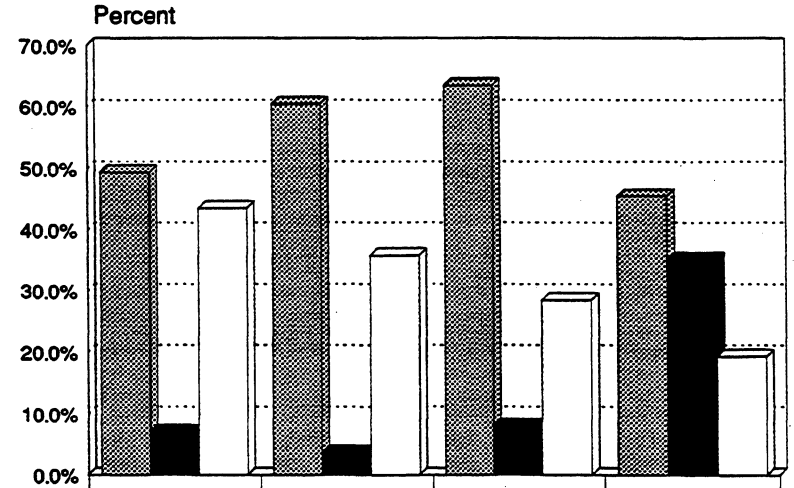
Figure 15
Raw garlic: Share of the quantity of U.S. consumption, by sources, crop years 1991-94



	1991	1992	1993	1994
U.S. producers	87.5%	89.3%	88.7%	79.0%
China	1.8%	1.0%	2.5%	13.6%
Other imports	10.7%	9.7%	8.8%	7.4%

Source: Table 22.

Figure 16
Fresh garlic: Share of the quantity of U.S. consumption, by sources, crop years 1991-94



	1991	1992	1993	1994
U.S. producers	49.4%	60.5%	63.5%	45.5%
China	7.1%	3.7%	8.0%	35.2%
Other imports	43.5%	35.8%	28.5%	19.3%

Source: Table 23.

Eleven domestic raw garlic producers (8 fresh garlic producers and 3 dehydrators) and 13 importers provided information relevant to their selling practices for raw garlic in the U.S. market.[113] Nearly half of the responding producers and two out of nine responding importers reported distributing price lists. The majority of these firms, however, indicated that price lists serve only as a guideline and that prices are negotiated based on prevailing market conditions.[114] Three producers and three importers reported providing discounts on their sales of fresh garlic based on volume or competitive pressures.[115] Prices for sales of domestic and Chinese fresh garlic are predominantly quoted on an f.o.b. basis from either a cold-storage or packing facility, with inland shipping charges paid by the purchaser. *** and *** also sell on a delivered basis. According to questionnaire responses, nearly all importers and producers indicated that transportation costs are an important factor in their customers' purchase decisions. Transportation costs as a percentage of total delivered cost for the subject product varied, ranging from 3 to 15 percent.[116] U.S. producers' lead times between order and delivery to a customer range from 1 to 3 days for West Coast shipments to 3 to 7 days for other domestic destinations. Lead times for importers of Chinese fresh garlic range between 1 and 7 days for shipments from U.S. inventory and up to 4 months for shipments of orders that cannot be filled by existing inventory in the United States.

U.S. producers' domestic sales of whole fresh-garlic bulbs are predominantly shipped in 30-pound cartons, while sales of peeled fresh garlic are frequently shipped in 5-pound plastic bags or jars.[117] Chinese fresh garlic imports are sold both in 22-pound and 30-pound cartons, with sales of the latter increasingly more common. Imports of peeled fresh Chinese garlic are most frequently sold in 5-pound plastic bags or jars.

U.S. producers typically plant fresh garlic in the fall (September-October) and harvest product in the second and third quarters (June-July) of the following year. At least one U.S. producer, however, has planted Chinese garlic seed which matures a month earlier than domestic seed, attempting to ship product to market a month earlier.[118] Generally, domestic product is brought to market during the 6 months following harvest, with some product sold out of storage facilities during the first and second quarter of the following year.[119]

Chinese fresh garlic, which is planted and harvested slightly earlier than U.S. product, also appears on the U.S. market during the latter 6 months of any given year. Consequently, the marketing periods for U.S.-grown and Chinese fresh garlic overlap, resulting in direct competition. As the market will not absorb all the domestic or imported product at the time of harvest, both U.S. producers and importers maintain a certain portion of their fresh-grade garlic in storage facilities.[120] Due to its semiperishable nature, fresh garlic may be kept in cold-storage facilities for only up to about 6 months.[121] U.S. producers and importers with access to controlled-atmosphere storage

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[113] ***.

[114] ***.

[115] ***.

[116] Most producers and importers indicated that the majority of their fresh garlic sales are transported 500 miles or greater.

[117] *** U.S. producers indicated some shipments of fresh garlic bulbs in bulk bin containers (generally fresh garlic grade-outs for dehydration) during the period examined. ***.

[118] Transcript of preliminary conference, pp. 85-86. ***.

[119] Petition, pp. 19-20. Transcript of preliminary conference, pp. 20-21.

[120] Petition, p. 16.

[121] Petition, p. 16; transcript of preliminary conference, pp. 160-166.

facilities may inventory fresh garlic for up to about 11 months.[122] Thus, U.S. producers and importers can extend the selling period of their fresh garlic through the use of cold and controlled-atmosphere storage facilities.[123] In some instances, fresh garlic may be stored from one harvest season to the next.[124] According to producer and importer questionnaire responses, storage costs as a percentage of the total delivered price of fresh garlic range from 1 to 22 percent.[125]

Fourteen purchasers responded to the Commission's request for product information and purchasing practices for domestic and imported raw garlic.[126] Purchasers were requested to address quality differences between the domestic and imported subject products, the ability to use substitute products in fresh, dehy, and seed garlic applications, and factors in their raw garlic sourcing decisions.

According to questionnaire responses, purchasers most frequently ranked price, quality, and availability in order of importance as the three major factors in their fresh garlic sourcing decisions. *** indicated that for seed garlic purchases quality and availability were most important, then price. In responses to questions comparing the quality of Chinese fresh garlic vis-a-vis the U.S. product, 11 out of 15 responding purchasers rated Chinese fresh garlic as "comparable" to the U.S. product, while the other 4 purchasers indicated that the Chinese product was of "inferior" quality.[127] Advantages of U.S.-produced raw garlic listed by purchasers in order of frequency included consistent quality, reliable supply, and shorter lead times.[128] Several purchasers listed price (vis-a-vis the Chinese product) as a disadvantage of the U.S. product. The most frequently listed advantage of Chinese product was price.[129] Common disadvantages were uncertain availability and quality concerns for Chinese garlic.[130] Finally, 11 out of 12 purchasers responded affirmatively to the question concerning the interchangeability of U.S.-produced and Chinese fresh garlic in its end uses.[131] Conversely, *** indicated that Chinese imports are not interchangeable with domestic dehy or seed garlic. Due to its flavor and solid characteristics, Chinese garlic must be blended with U.S. dehy garlic for dehydration purposes.[132]

The majority of purchasers indicated that few products may substitute for raw garlic in its intended applications. Eleven out of 14 firms reported that no substitutes exist for fresh, dehy, and seed garlic, while 2 firms provided information on substitute products for dehy garlic. *** indicated that flavor capsules and other processed products may be substituted for garlic in industrial and food

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[122] Controlled-atmosphere storage removes oxygen from the storage environment, extending the shelf life of fresh garlic. Field visit with A&D Christopher, Aug. 11, 1994.

[123] According to questionnaire responses, 6 producers and *** importers utilize cold-storage facilities for their fresh garlic. Controlled-atmosphere storage is employed by 4 producers and ***.

[124] ***.

[125] Controlled-atmosphere storage costs are approximately $0.01 per pound per month. Field visits with El Camino and A&D Christopher, Aug. 10-11, 1994.

[126] These firms did not necessarily respond to all questions.

[127] *** indicated that Chinese garlic was comparable to California late garlic, but superior to California early garlic.

[128] Other advantages listed included longer shelf life, technical support, and availability of off-grade product.

[129] Other reported advantages included easy peeling, good clove structure, and early maturing seed.

[130] Other disadvantages reported included unproven suppliers, mild flavor, poor dehy characteristics, short shelf life, and poor packaging.

[131] *** reported that lower prices for Chinese garlic help offset its somewhat inferior appearance.

[132] Only one purchaser provided a response for this particular question regarding seed or dehy garlic.

service applications.[133] *** stated that in processed garlic products, garlic puree could substitute for fresh garlic, and that during 1993, Chinese USDA grade No. 1 fresh garlic was substituted for dehy garlic due to favorable pricing. In addition *** reported that fresh or dehy garlic may in theory substitute for seed garlic. Serious crop risks, however, are involved and this practice occurs only when extreme garlic seed shortages exist.[134]

Questionnaire Price Data

The Commission requested U.S. producers and importers to report net U.S. f.o.b. selling prices for sales of fresh, dehy, and/or seed garlic to unrelated U.S. customers, as well as the total quantity shipped and the total net f.o.b. value shipped in each month to all unrelated U.S. customers. Monthly price data were requested for the largest single sale and for total sales of the products specified, from January 1992 through May 1994. The products for which pricing data were requested are as follows:

Product 1:	USDA grade No. 1 fresh garlic, white, whole bulb, 2-inch diameter, packed in 30-pound or 22-pound cartons, sold to wholesalers/distributors.
Product 2:	USDA grade No. 1 fresh garlic, white, whole bulb, 2-1/4-inch diameter, packed in 30-pound or 22-pound cartons, sold to wholesalers/distributors.
Product 3:	USDA grade No. 1 fresh garlic, white, whole bulb, 2-1/2-inch diameter, packed in 30-pound or 22-pound cartons, sold to wholesalers/distributors.
Product 4:	Peeled fresh garlic cloves, white, packed in 5-pound plastic bags or plastic jars, sold to wholesalers/distributors.
Product 5:	Dehy garlic meeting California or other applicable State inspection standards for dehydration garlic.
Product 6:	Seed garlic, cracked into cloves, packed in 50-pound sacks or bags, sold to raw garlic producers.

U.S. producers' and importers' prices

Nine domestic producers and eight importers provided pricing data for sales of the requested products in the U.S. market, although not necessarily for all products or all months over the period

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[133] Processed products include registered names such as "Redi-made" and "Garden Frost." "Redi-made" consists of crushed or chopped raw garlic suspended in an oil for wet applications; "Garden Frost" was designed for dry applications and is a soft frozen mixture of high fructose syrup and garlic. Staff interview with ***, Aug. 31, 1994.

[134] Fresh and dehy garlic may be planted in lieu of virus-free seed, but not without acute compromises in yield and quality. Tom Matsumoto, Ph.D., President of Agimages Laboratory, indicated that a virus disease will result in a 10-70 percent reduction in overall yield. In addition, virus-infected garlic bulbs are smaller than virus-free bulbs. Field visit with A&D Christopher, Aug. 9, 1994.

examined.[135] Reported pricing for fresh garlic products 1-4 accounted for approximately 40.3 percent of U.S. producers' domestic fresh garlic shipments and 23.5 percent of U.S. importers shipments of Chinese fresh garlic during crop year 1994.

In general, U.S. producers' weighted-average price trends for all products were similar in the 1993 and 1994 crop years (June-May), the 2 crop years for which full pricing cycles were available. Prices for U.S.-grown fresh garlic were mostly lower during the first 3-5 months following summer harvest as product comes to market and generally higher thereafter until the ensuing year's harvest (tables 24-27). Quantities sold by U.S. producers were generally highest during the 6-7 months subsequent to harvest and lowest preceding harvest.[136] Importers' prices for products 1-4 from China were limited; they were reported for 47 of the 116 possible price observations. Such imports undersold the comparable U.S. products, however, in 45 of the 47 price comparisons. In two instances the U.S. product was priced lower than the comparable Chinese product.

U.S.-grown fresh garlic.--Weighted-average prices for domestic 2-inch diameter bulbs (product 1) were highest approaching the beginning of the new crop years ($*** per pound in April 1992 and $*** per pound in February 1993), and generally declined until the third or fourth quarter. Quantities sold peaked during December 1992 and October 1993, at *** million pounds, respectively (figures 17-20). Prices for 2-1/4-inch diameter bulbs (product 2) were highest at $*** and $*** per pound during April 1992 and February 1993, respectively. Prices during January-May 1994 were generally lower than during the same months in 1992 and 1993. Domestic 2-1/2-inch diameter bulb (product 3) prices were highest during April 1992 ($*** per pound) and January-March 1993 ($*** per pound). During September 1993, product 3 prices were lowest at $*** per pound. Peeled fresh garlic cloves (product 4) followed similar price trends, peaking prior to harvest, at $*** per pound during March 1992 and *** per pound during January-February 1993. Prices in January-May 1994 were considerably lower than those in the comparable periods of 1992 and 1993.

Chinese fresh garlic.--Weighted-average prices for Chinese 2-inch diameter bulbs (product 1) were reported for 18 of the 29 months examined. Reported prices for August-October 1992 ranged between $*** and $*** per pound. During 1993 prices were highest during January ($*** per pound), then generally declined thereafter, reaching $*** per pound during November. Corresponding quantities were highest during August (***) and October (***) during 1993.[137] Prices for 2-1/4-inch diameter bulbs (product 2) were reported for July 1992 and August 1993-February 1994, ranging from $*** to $*** per pound. Corresponding quantities sold ranged from *** pounds during February 1994 to *** pounds during August 1993. Prices for 2-1/2-inch diameter bulbs (product 3) were reported for the last 6 months of 1992 and 1993. During 1992 prices *** per pound on declining quantities sold. During July-December 1993, prices ranged between $*** and

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[135] ***. No prices for product 5, dehy garlic, were reported. In their posthearing brief, however, ***. Product 6 (seed garlic) prices were reported by U.S. producers for October and November 1992 and 1993, ranging between $0.52 and $0.58 per pound. No prices for imports of Chinese seed garlic were reported.

Further, although one fresh garlic producer imported a small quantity of Chinese garlic for experimental seed purposes, the imports from China generally are not intended for use as seed. In fact, the USDA denied a request to quarantine virus-ridden Chinese garlic imports because the USDA regulations cover only bulbs grown for seed, and therefore did not cover the imported Chinese garlic. ***.

[136] "By October, the market is usually saturated with garlic from summer harvest, so price stagnates and movement is slow...Harvest promotions often kick in at this time to pull the product through the channel, and pricing starts then on the upswing." Transcript of preliminary conference, p. 152.

[137] ***.

Table 24
Fresh garlic: Weighted-average net f.o.b. prices and quantities for sales to wholesalers/distributors of product 1[1] reported by U.S. producers and importers, and margins of under/(over)selling, by months, Jan. 1992-May 1994

Period	U.S. product		Chinese product		
	Net f.o.b. price	Quantity	Net f.o.b. price	Quantity	Margin
	Per pound	*Pounds*	*Per pound*	*Pounds*	*Percent*
1992:					
January	$***	***	(2)	(2)	(3)
February	***	***	(2)	(2)	(3)
March	***	***	(2)	(2)	(3)
April	***	***	(2)	(2)	(3)
May	***	***	(2)	(2)	(3)
June	***	***	(2)	(2)	(3)
July	***	***	(2)	(2)	(3)
August	***	***	$***	***	11.4
September	***	***	***	***	29.5
October	***	***	***	***	21.7
November	***	***	(2)	(2)	(3)
December	***	***	(2)	(2)	(3)
1993:					
January	***	***	***	***	(7.2)
February	***	***	***	***	1.0
March	***	***	***	***	6.5
April	***	***	***	***	1.9
May	***	***	***	***	50.5
June	***	***	(2)	(2)	(3)
July	***	***	***	***	41.4
August	***	***	***	***	42.1
September	***	***	***	***	51.0
October	***	***	***	***	52.3
November	***	***	***	***	64.5
December	***	***	***	***	44.0
1994:					
January	***	***	***	***	49.7
February	***	***	***	***	57.4
March	***	***	***	***	70.0
April	***	***	(2)	(2)	(3)
May	***	***	***	***	13.2

[1] USDA grade No. 1, fresh garlic, white, (whole bulb), 2-inch diameter, packed in 30-pound or 22-pound cartons, sold to wholesalers/distributors.
[2] Data not reported.
[3] Margins not calculated.

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

Table 25
Fresh garlic: Weighted-average net f.o.b. prices and quantities for sales to wholesalers/distributors of product 2[1] reported by U.S. producers and importers, and margins of under/(over)selling, by months, Jan. 1992-May 1994

Period	U.S. product		Chinese product		
	Net f.o.b. price	Quantity	Net f.o.b. price	Quantity	Margin
	Per pound	*Pounds*	*Per pound*	*Pounds*	*Percent*
1992:					
January	$***	***	(2)	(2)	(3)
February	***	***	(2)	(2)	(3)
March	***	***	(2)	(2)	(3)
April	***	***	(2)	(2)	(3)
May	***	***	(2)	(2)	(3)
June	***	***	(2)	(2)	(3)
July	***	***	$***	***	5.5
August	***	***	(2)	(2)	(3)
September	***	***	(2)	(2)	(3)
October	***	***	(2)	(2)	(3)
November	***	***	(2)	(2)	(3)
December	***	***	(2)	(2)	(3)
1993:					
January	***	***	(2)	(2)	(3)
February	***	***	(2)	(2)	(3)
March	***	***	(2)	(2)	(3)
April	***	***	(2)	(2)	(3)
May	***	***	(2)	(2)	(3)
June	***	***	(2)	(2)	(3)
July	***	***	(2)	(2)	(3)
August	***	***	***	***	31.4
September	***	***	***	***	42.1
October	***	***	***	***	50.8
November	***	***	***	***	63.6
December	***	***	***	***	32.7
1994:					
January	***	***	***	***	35.8
February	***	***	***	***	45.6
March	***	***	(2)	(2)	(3)
April	***	***	(2)	(2)	(3)
May	***	***	(2)	(2)	(3)

[1] USDA grade No. 1, fresh garlic, white, (whole bulb), 2-1/4-inch diameter, packed in 30-pound or 22-pound cartons, sold to wholesalers/distributors.
[2] Data not reported.
[3] Margins not calculated.

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

Table 26
Fresh garlic: Weighted-average net f.o.b. prices and quantities for sales to wholesalers/distributors of product 3[1] reported by U.S. producers and importers, and margins of under/(over)selling, by months, Jan. 1992-May 1994

Period	U.S. product		Chinese product		
	Net f.o.b. price	Quantity	Net f.o.b. price	Quantity	Margin
	Per pound	*Pounds*	*Per pound*	*Pounds*	*Percent*
1992:					
January	$***	***	(2)	(2)	(3)
February	***	***	(2)	(2)	(3)
March	***	***	(2)	(2)	(3)
April	***	***	(2)	(2)	(3)
May	***	***	(2)	(2)	(3)
June	***	***	(2)	(2)	(3)
July	***	***	$***	***	15.8
August	***	***	***	***	32.5
September	***	***	***	***	32.6
October	***	***	***	***	42.1
November	***	***	***	***	(3.3)
December	***	***	***	***	20.8
1993:					
January	***	***	(2)	(2)	(3)
February	***	***	(2)	(2)	(3)
March	***	***	(2)	(2)	(3)
April	***	***	(2)	(2)	(3)
May	***	***	(2)	(2)	(3)
June	***	***	(2)	(2)	(3)
July	***	***	***	***	51.6
August	***	***	***	***	46.1
September	***	***	***	***	56.7
October	***	***	***	***	59.8
November	***	***	***	***	53.4
December	***	***	***	***	57.7
1994:					
January	***	***	(2)	(2)	(3)
February	***	***	(2)	(2)	(3)
March	***	***	(2)	(2)	(3)
April	***	***	(2)	(2)	(3)
May	***	***	(2)	(2)	(3)

[1] USDA grade No. 1, fresh garlic, white, (whole bulb), 2-1/2-inch diameter, packed in 30-pound or 22-pound cartons, sold to wholesalers/distributors.
[2] Data not reported.
[3] Margins not calculated.

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

Table 27
Fresh garlic: Weighted-average net f.o.b. prices and quantities for sales to wholesalers/distributors of product 4[1] reported by U.S. producers and importers, and margins of under/(over)selling, by months, Jan. 1992-May 1994

Period	U.S. product		Chinese product		
	Net f.o.b. price	Quantity	Net f.o.b. price	Quantity	Margin
	Per pound	*Pounds*	*Per pound*	*Pounds*	*Percent*
1992:					
January	$***	***	(2)	(2)	(3)
February	***	***	(2)	(2)	(3)
March	***	***	(2)	(2)	(3)
April	***	***	(2)	(2)	(3)
May	***	***	(2)	(2)	(3)
June	***	***	(2)	(2)	(3)
July	***	***	(2)	(2)	(3)
August	***	***	(2)	(2)	(3)
September	***	***	(2)	(2)	(3)
October	***	***	(2)	(2)	(3)
November	***	***	(2)	(2)	(3)
December	***	***	(2)	(2)	(3)
1993:					
January	***	***	(2)	(2)	(3)
February	***	***	(2)	(2)	(3)
March	***	***	(2)	(2)	(3)
April	***	***	(2)	(2)	(3)
May	***	***	(2)	(2)	(3)
June	***	***	(2)	(2)	(3)
July	***	***	(2)	(2)	(3)
August	***	***	(2)	(2)	(3)
September	***	***	$***	***	34.1
October	***	***	***	***	37.5
November	***	***	***	***	33.9
December	***	***	***	***	29.2
1994:					
January	***	***	***	***	46.0
February	***	***	***	***	39.7
March	***	***	***	***	34.9
April	***	***	***	***	31.0
May	***	***	***	***	31.3

[1] Peeled fresh garlic cloves, white, packed in 5-pound plastic bags or plastic jars, sold to wholesalers/distributors.
[2] Data not reported.
[3] Margins not calculated.

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

Figure 17
Weighted-average net f.o.b. prices for sales of products 1 and 2 to wholesalers/distributors reported by U.S. producers and importers, by months, Jan. 1992-May 1994

* * * * * * *

Figure 18
Weighted-average net f.o.b. prices for sales of products 3 and 4 to wholesalers/distributors reported by U.S. producers and importers, by months, Jan. 1992-May 1994

* * * * * * *

Figure 19
Quantities sold of products 1 and 2 to wholesalers/distributors reported by U.S. producers and importers, by months, Jan. 1992-May 1994

* * * * * * *

Figure 20
Quantities sold of products 3 and 4 to wholesalers/distributors reported by U.S. producers and importers, by months, Jan. 1992-May 1994

* * * * * * *

$*** per pound. Corresponding quantities sold peaked at *** pounds during August 1993. Chinese peeled fresh garlic clove (product 4) prices were reported for September 1993-May 1994. These prices ranged between $*** and $*** per pound during September-December 1993, then *** to $*** per pound during January 1994, thereafter *** to $*** per pound during March-May 1994.

Price comparisons were made between domestic and Chinese fresh garlic sold to wholesalers/distributors in 47 of the 116 possible instances for products 1-4. In 45 of these 47 instances the Chinese product was priced below the domestic product. In 17 instances margins of underselling for 2-inch diameter bulbs ranged from 1.0 percent to 70.0 percent. In one instance Chinese imports were priced higher than the U.S. product, by 7.2 percent. In each of the eight possible price comparisons for 2-1/4-inch diameter bulbs, the Chinese product was priced below the domestic product, with margins ranging from 5.5 to 63.6 percent. Margins of underselling for 2-1/2-inch diameter bulbs ranged between 15.8 and 59.8 percent in 11 instances. In one instance Chinese imports were priced higher than the U.S. product by 3.3 percent. In nine price comparisons for peeled fresh garlic cloves the Chinese product was priced below the domestic product by margins ranging between 29.2 and 46.0 percent.

Purchasers' prices

Purchase prices for domestically produced and imported raw garlic from China were based on weighted-average net f.o.b. prices reported by purchasers in questionnaire responses. Seven firms purchasing domestic and/or Chinese-produced raw garlic provided usable price data for January

1992-May 1994, but not necessarily for each product or for each quarter of the period.[138] In general, U.S. purchasers' weighted-average price trends for products 1-4 mirrored producers' and importers' reported prices during the 1993 and 1994 crop years (June-May), the two crop years for which full pricing cycles were available. Purchase prices for U.S.-grown and Chinese imported fresh garlic (products 1-4) were reported for 92 and 32, respectively, of the 116 months examined. Price comparisons between U.S.-produced and Chinese fresh garlic imports were limited, however, Chinese imports undersold the comparable U.S. products in 20 of the 21 price comparisons. Weighted-average f.o.b. purchase prices for products 1-4 are shown in tables 28-31.

U.S.-grown fresh garlic.--Purchase prices for domestic 2-inch diameter bulbs (product 1) were reported for 22 of the 29 months examined. Weighted-average prices were highest approaching the beginning of the new crop years ($*** per pound in April 1992 and $*** per pound in May 1993), and generally were lower during the third or fourth quarter. Domestic purchase prices for 2-1/4-inch diameter bulbs (product 2) peaked during December 1992 at $*** per pound; thereafter prices trended downward before increasing during the fourth quarter of 1993. Domestic 2-1/2-inch diameter bulb (product 3) purchase prices were highest during January 1993 at $*** per pound, *** thereafter through the remainder of the period examined. Peeled fresh garlic clove (product 4) purchase prices generally peaked prior to and during harvest at $*** per pound during March-June 1992 and $*** per pound during February-May 1993. Prices in January-May 1994 were considerably lower than those in the comparable periods of 1992 and 1993.

Chinese fresh garlic.--Purchase prices for Chinese 2-inch fresh garlic bulbs were reported for October 1992 and July-September 1993. These prices ranged from $*** to $*** per pound on widely fluctuating quantities sold (***). Chinese 2-1/4-inch diameter fresh garlic purchase prices were reported in 12 instances, ranging between $*** and $*** per pound. Prices were highest preceding harvest (January-April 1993) and declined thereafter. No prices were reported for January-May 1994. Purchase prices were reported for 8 of the 29 months examined for Chinese 2-1/2-inch garlic bulbs, and ranged between $*** per pound during January 1993 and $*** per pound during November 1993. The reported Chinese peeled garlic purchase price was $*** per pound for the period November 1992-June 1993, the only months for which prices were reported.[139] Quantities purchased ranged between *** and *** pounds.

Price comparisons were made between purchase prices for domestic and Chinese fresh garlic in 21 of the 116 possible instances for products 1-4. In 20 of these 21 instances the Chinese product was priced below the domestic product. In one instance, peeled garlic (product 4) Chinese imports were priced higher than the U.S. product, by 2.5 percent. In the 3 comparisons for 2-inch diameter bulbs, margins of underselling were 24.5, 46.2, and 60.0 percent. In each of the seven possible price comparisons for 2-1/4-inch diameter bulbs, the Chinese product was priced below the domestic product, with margins ranging from 15.1 to 76.3 percent. Margins of underselling for 2-1/2-inch diameter bulbs ranged between 41.1 and 65.7 percent in 4 instances. In 6 of the 7 price comparisons for peeled fresh garlic cloves the Chinese product was priced below the domestic

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[138] *** reported purchase prices for product 5, dehy garlic, from domestic producers. These prices ranged from $*** per pound during March-May 1994 to $*** per pound during March and June 1992. Product 6 (seed garlic) purchase prices from domestic producers were reported for 4 of the 29 months examined. These prices ranged between $0.52 and $0.54 per pound during October-December 1992 and November 1993. No purchase prices for Chinese dehy or seed garlic were reported.

[139] *** was the only purchaser reporting prices for Chinese peeled garlic (product 4).

Table 28
Fresh garlic: Weighted-average net f.o.b. purchase prices, U.S. point of shipment, and quantities of product 1[1] reported by purchasers from domestic producers and importers, and margins of under/(over)selling, by months, Jan. 1992-May 1994

Period	U.S. product		Chinese product		
	Net f.o.b. price	Quantity	Net f.o.b. price	Quantity	Margin
	Per pound	*Pounds*	*Per pound*	*Pounds*	*Percent*
1992:					
January	(2)	(2)	(2)	(2)	(3)
February	$***	***	(2)	(2)	(3)
March	***	***	(2)	(2)	(3)
April	***	***	(2)	(2)	(3)
May	***	***	(2)	(2)	(3)
June	***	***	(2)	(2)	(3)
July	***	***	(2)	(2)	(3)
August	(2)	(2)	(2)	(2)	(3)
September	***	***	(2)	(2)	(3)
October	***	***	$***	***	24.5
November	***	***	(2)	(2)	(3)
December	***	***	(2)	(2)	(3)
1993:					
January	(2)	(2)	(2)	(2)	(3)
February	***	***	(2)	(2)	(3)
March	***	***	(2)	(2)	(3)
April	(2)	(2)	(2)	(2)	(3)
May	***	***	(2)	(2)	(3)
June	***	***	(2)	(2)	(3)
July	(2)	(2)	***	***	(3)
August	***	***	***	***	46.2
September	***	***	***	***	60.0
October	***	***	(2)	(2)	(3)
November	***	***	(2)	(2)	(3)
December	(2)	(2)	(2)	(2)	(3)
1994:					
January	***	***	(2)	(2)	(3)
February	***	***	(2)	(2)	(3)
March	***	***	(2)	(2)	(3)
April	***	***	(2)	(2)	(3)
May	(2)	(2)	(2)	(2)	(3)

[1] USDA grade No. 1 fresh garlic, white, whole bulb, 2-inch diameter, packed in 30-pound or 22-pound cartons, sold to wholesalers/distributors.
[2] Data not reported.
[3] Margins not calculated.

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

Table 29
Fresh garlic: Weighted-average net f.o.b. purchase prices, U.S. point of shipment, and quantities of product 2[1] reported by purchasers from domestic producers and importers, and margins of under/(over)selling, by months, Jan. 1992-May 1994

Period	U.S. product		Chinese product		
	Net f.o.b. price	Quantity	Net f.o.b. price	Quantity	Margin
	Per pound	*Pounds*	*Per pound*	*Pounds*	*Percent*
1992:					
January	$***	***	(2)	(2)	(3)
February	***	***	(2)	(2)	(3)
March	***	***	(2)	(2)	(3)
April	(2)	(2)	(2)	(2)	(3)
May	***	***	(2)	(2)	(3)
June	(2)	(2)	(2)	(2)	(3)
July	(2)	(2)	$***	***	(3)
August	(2)	(2)	***	***	(3)
September	***	***	***	***	49.2
October	***	***	***	***	39.3
November	***	***	(2)	(2)	(3)
December	***	***	(2)	(2)	(3)
1993:					
January	***	***	***	***	26.2
February	***	***	***	***	15.1
March	(2)	(2)	***	***	(3)
April	***	***	***	***	34.1
May	(2)	(2)	(2)	(2)	(3)
June	***	***	(2)	(2)	(3)
July	(2)	(2)	***	***	(3)
August	(2)	(2)	***	***	(3)
September	***	***	***	***	65.3
October	***	***	***	***	76.3
November	***	***	(2)	(2)	(3)
December	***	***	(2)	(2)	(3)
1994:					
January	***	***	(2)	(2)	(3)
February	***	***	(2)	(2)	(3)
March	***	***	(2)	(2)	(3)
April	***	***	(2)	(2)	(3)
May	(2)	(2)	(2)	(2)	(3)

[1] USDA grade No. 1 fresh garlic, white, whole bulb, 2-1/4-inch diameter, packed in 30-pound or 22-pound cartons, sold to wholesalers/distributors.
[2] Data not reported.
[3] Margins not calculated.

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

Table 30
Fresh garlic: Weighted-average net f.o.b. purchase prices, U.S. point of shipment, and quantities of product 3[1] reported by purchasers from domestic producers and importers, and margins of under/(over)selling, by months, Jan. 1992-May 1994

Period	U.S. product		Chinese product		
	Net f.o.b. price	Quantity	Net f.o.b. price	Quantity	Margin
	Per pound	*Pounds*	*Per pound*	*Pounds*	*Percent*
1992:					
January	$***	***	(2)	(2)	(3)
February	***	***	(2)	(2)	(3)
March	(2)	(2)	(2)	(2)	(3)
April	***	***	(2)	(2)	(3)
May	***	***	(2)	(2)	(3)
June	***	***	(2)	(2)	(3)
July	***	***	(2)	(2)	(3)
August	(2)	(2)	$***	***	(3)
September	(2)	(2)	***	***	(2)
October	***	***	(2)	(2)	(2)
November	***	***	(2)	(2)	(3)
December	***	***	(2)	(2)	(3)
1993:					
January	***	***	***	***	41.1
February	(2)	(2)	(2)	(2)	(2)
March	(2)	(2)	(2)	(2)	(3)
April	(2)	(2)	(2)	(2)	(2)
May	***	***	(2)	(2)	(3)
June	***	***	(2)	(2)	(3)
July	***	***	(2)	(2)	(3)
August	***	***	***	***	65.7
September	***	***	***	***	61.9
October	***	***	***	***	61.2
November	(2)	(2)	***	***	(3)
December	***	***	(2)	(2)	(3)
1994:					
January	***	***	(2)	(2)	(3)
February	(2)	(2)	***	***	(3)
March	***	***	(2)	(2)	(3)
April	***	***	(2)	(2)	(3)
May	***	***	(2)	(2)	(3)

[1] USDA grade No. 1 fresh garlic, white, whole bulb, 2-1/2-inch diameter, packed in 30-pound or 22-pound cartons, sold to wholesalers/distributors.
[2] Data not reported.
[3] Margins not calculated.

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

Table 31
Fresh garlic: Weighted-average net f.o.b. purchase prices, U.S. point of shipment, and quantities of product 4[1] reported by purchasers from domestic producers and importers, and margins of under/(over)selling, by months, Jan. 1992-May 1994

Period	U.S. product		Chinese product		
	Net f.o.b. price	Quantity	Net f.o.b. price	Quantity	Margin
	Per pound	*Pounds*	*Per pound*	*Pounds*	*Percent*
1992:					
January	$***	***	(2)	(2)	(3)
February	***	***	(2)	(2)	(3)
March	***	***	(2)	(2)	(3)
April	***	***	(2)	(2)	(3)
May	***	***	(2)	(2)	(3)
June	***	***	(2)	(2)	(3)
July	***	***	(2)	(2)	(3)
August	***	***	(2)	(2)	(3)
September	***	***	(2)	(2)	(3)
October	***	***	(2)	(2)	(3)
November	***	***	$***	***	0.8
December	***	***	***	***	1.1
1993:					
January	(2)	(2)	***	***	(3)
February	***	***	***	***	.8
March	***	***	***	***	.8
April	***	***	***	***	.8
May	***	***	***	***	.8
June	***	***	***	***	(2.5)
July	***	***	(2)	(2)	(3)
August	***	***	(2)	(2)	(3)
September	***	***	(2)	(2)	(3)
October	***	***	(2)	(2)	(3)
November	***	***	(2)	(2)	(3)
December	***	***	(2)	(2)	(3)
1994:					
January	***	***	(2)	(2)	(3)
February	***	***	(2)	(2)	(3)
March	***	***	(2)	(2)	(3)
April	***	***	(2)	(2)	(3)
May	***	***	(2)	(2)	(3)

[1] Peeled fresh garlic cloves, white, packed in 5-pound plastic bags or plastic jars, sold to wholesalers/distributors.
[2] Data not reported.
[3] Margins not calculated.

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

product by margins ranging between 0.8 and 1.1 percent. Chinese imports were priced higher than the U.S. product by 2.5 percent in one instance.

Lost Sales and Lost Revenues

Of the seven domestic petitioning producers, six indicated lost sales and five reported lost revenues due to fresh garlic imported from China in this final investigation.[140] ***. The following are reports of the conversations between Commission staff and those purchasers who could be reached and were willing to discuss price competition between U.S. and Chinese fresh garlic during the preliminary and final investigations.

*** could not confirm or deny any of the specific sales cited in these allegations. *** stated that during the past 2 years *** has sourced both domestic and Chinese garlic, with both products being of comparable quality. In addition to its competitive price, *** indicated purchasing Chinese fresh garlic to establish another possible long-term supply relationship other than those with U.S. growers and packers. *** attempts to diversify its sources, both domestic and foreign, to reduce dependency on any given source and insure supply stability during the various marketing seasons of domestic and imported fresh garlic.

*** could not confirm the specific sale cited in the allegation. *** confirmed purchasing both domestic and Chinese garlic during August 1993, but indicated that the alleged price seemed high. *** further stated that the price and quality of Chinese garlic is typically lower than domestic garlic. Given accepted levels of quality, price remains the main factor in *** purchases of Chinese garlic. The lower priced Chinese garlic has enabled *** to expand its customer base, supplying firms that previously did not purchase domestic garlic.

*** due to lower priced Chinese imports. *** confirmed purchasing the domestic product at the alleged price and quantity. ***, who typically prefers to source domestic product, stated that during August-September 1993 Chinese garlic of comparable quality was abundantly available at $0.32 per pound.[141] *** indicated that during the latter part of 1993, several customers began buying Chinese garlic from competitors due to its attractive price and during this period *** purchased Chinese garlic in order to maintain these customers.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Chinese yuan depreciated by 9.9 percent in relation to the U.S. dollar during the period January-March 1991 through October-December 1993, then depreciated nearly 30 percent between October-December 1993 and April-June 1994 (figure 21). Producer price index information for China is unavailable, thus real exchange rates cannot be calculated.

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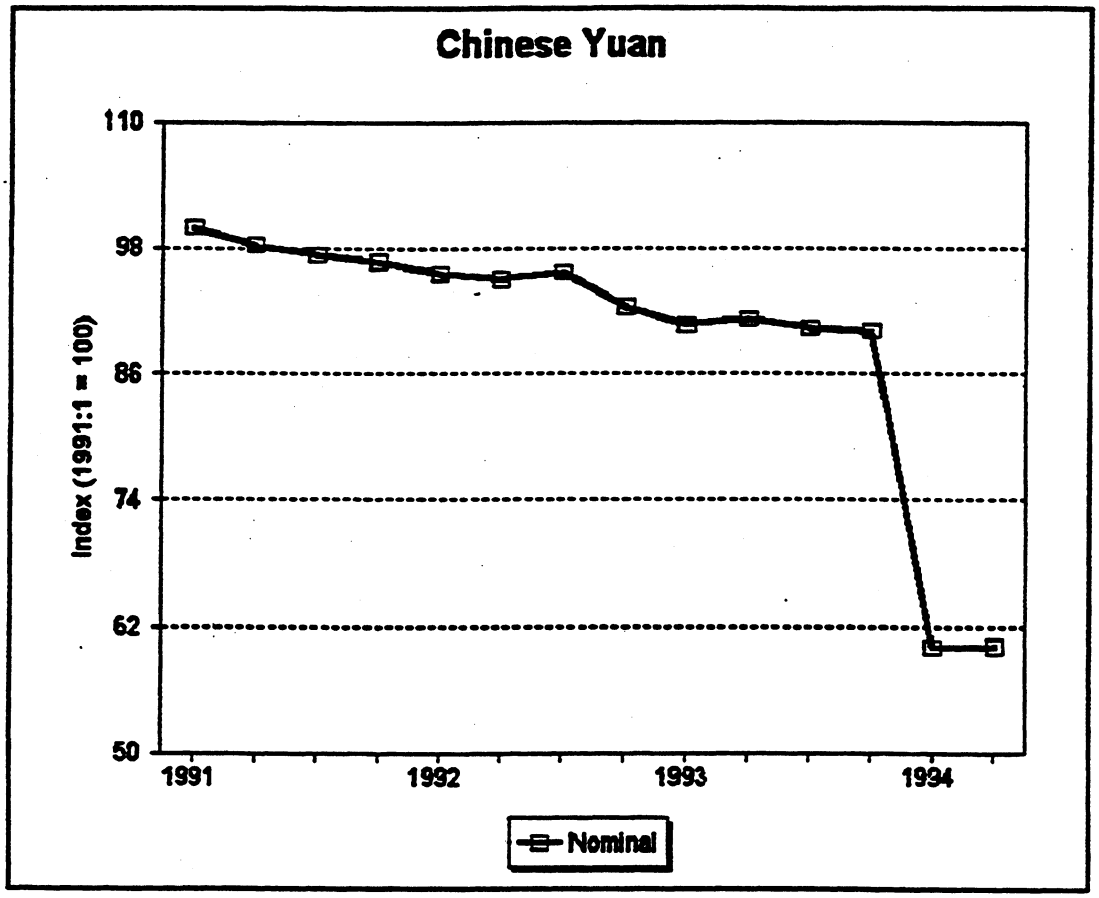
[140] ***.

[141] ***.

Figure 21
Exchange rates: Indexes of nominal exchange rates between the U.S. dollar and Chinese yuan, by quarters, Jan.-Mar. 1991 through Apr.-June 1994



Source: International Monetary Fund, International Financial Statistics, September 1994.

APPENDIX A

FEDERAL REGISTER NOTICES

International Trade Administration

[A-570-831]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Fresh Garlic From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.
EFFECTIVE DATE: July 11, 1994.
FOR FURTHER INFORMATION CONTACT: John Beck, 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) 482-3464.

Preliminary Determination

We preliminarily determine that fresh garlic from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

Case History

Since the notice of initiation on February 22, 1994 (59 FR 9470, February 28, 1994), the following events have occurred.

On March 17, 1994, the U.S. International Trade Commission (ITC) issued an affirmative preliminary determination.

Departmental Efforts to Obtain Information

During March and April 1994, the Department requested information relating to producers/exporters of the subject merchandise in the PRC, as follows:

- On March 3, 1994, we sent an abbreviated section A questionnaire to China's Ministry of Foreign Trade and Economic Cooperation (MOFTEC);
- On March 4, 1994, we sent a cable to the American Embassy in Beijing;
- On March 11, 1994, we sent a cable to the American Embassy in Tokyo, and to the U.S. consulate in Hong Kong; and
- On April 7, 1994, we sent an abbreviated section A questionnaire to the China Chamber of Commerce of Imports & Exports of Foodstuffs, Native Produce, and Animal By-Products (China Chamber)

Having received no response to our initial inquiries, follow-up requests for information were made as follows:

- On April 7, 1994, to MOFTEC; and
- On April 15, 1994, to the American Embassies in Beijing and Tokyo, and to the U.S. consulate in Hong Kong.

Respondents and Status of Questionnaires

On May 11 and 12, 1994, the Department received information from MOFTEC and the American Embassy in Beijing, respectively, containing the names and addresses of 40 producers/exporters of the subject merchandise in the PRC. Based on an analysis of ships' manifest data (PIERS), the Department estimated that the named respondents accounted for approximately 40 percent of exports of the subject merchandise to the United States during the period of investigation. Consequently, on May 18, 1994, the Department sent 40 antidumping questionnaires to the named firms, with additional copies sent to MOFTEC and the China Chamber.

Following an entry of appearance by counsel for a previously unnamed producer/exporter, the Department sent a questionnaire to this additional firm on May 31, 1994. Finally, at the request of a second previously unnamed producer/exporter, the Department sent a questionnaire to this additional firm on June 21, 1994.

Other Events

On June 2, 1994, the Department issued a decision memorandum which stated that we would not postpone our preliminary determination.

Based on reasonably supported allegations submitted by petitioner on June 10, 1994, the Department initiated an investigation on June 14, 1994, of whether critical circumstances exist with respect to imports of fresh garlic from the PRC. On June 14 and 21, 1994, the Department requested monthly shipment data for exports to the United States from questionnaire recipients.

Scope of Investigation

The products covered by this investigation are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved,

or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing and level of decay.

The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings 0703.20.0000, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9500 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

The scope description provided above differs from the scope description used by the Department in its notice of initiation of this investigation (59 FR 9470, February 28, 1994). Changes to the scope include (a) the addition of more concise language (and additional HTS subheadings) related to the packing of the subject merchandise, and (b) additional language to exclude further processed products. The revisions are a result of comments received from the Customs Service on March 17 and June 30, 1994, and from counsel for petitioner on June 29 and 30, 1994.

Period of Investigation

The period of investigation (POI) is August 1, 1993, to January 31, 1994.

Best Information Available

We have determined, in accordance with section 776(c) of the Act, that the use of best information available (BIA) is appropriate for sales of the subject merchandise in this investigation. In deciding whether to use BIA, section 776(c) provides that the Department may take into account whether the respondent was able to produce information requested in a timely manner and in the form required. In this case, exporters of fresh garlic from the PRC did not respond to our requests for information.

As outlined in the "Case History" section of this notice, the Department made several attempts to obtain information from a number of sources. We have not received any responses to our questionnaire with which to perform our antidumping analysis. Consequently, we based our preliminary determination in this investigation on BIA.

In determining what to use as BIA, the Department follows a two-tiered methodology, whereby the Department normally assigns lower margins to those respondents who cooperate in an investigation, and margins based on more adverse assumptions for those respondents who do not cooperate in an investigation. Since the potential respondents in this case have not cooperated, we assigned a BIA margin based on the most adverse assumptions.

In this case, BIA is the highest margin contained in the petition (see *Initiation of Antidumping Duty Investigation: Fresh Garlic from the People's Republic of China*, 59 FR 9470, February 28, 1994), and is listed below for all manufacturers, producers and exporters of fresh garlic in the PRC.

Critical Circumstances

Petitioner alleges that "critical circumstances" exist with respect to imports of fresh garlic from the PRC. Section 733(e)(1) of the Act provides that there is a reasonable basis to believe or suspect that critical circumstances exist if:

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

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

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

Regarding criterion (A) above, we normally consider margins of 25 percent or more as sufficient to impute knowledge of dumping. Since the preliminary estimated dumping margin for all exporters of fresh garlic in the PRC is in excess of 25 percent, we can impute knowledge of dumping under section 733(e)(1)(A)(ii) of the Act.

Regarding criterion (B) above, pursuant to 19 CFR 353.16(f), we generally consider the following factors in determining whether imports have been massive over a short period of time: (1) the volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by the imports. If imports during the period immediately following the petition increase by 15 percent over imports during a comparable period immediately preceding the filing of a petition, we consider them massive. Respondents have failed to respond to the Department's questionnaire, as well as to our request for monthly export data. As a result, the Department has assumed, as BIA, that there have been massive imports over a relatively short period of time.

Accordingly, because the dumping margin is sufficient to impute knowledge of dumping, and because we have determined that imports of fresh garlic have been massive, we preliminarily determine that critical circumstances do exist in this investigation.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to suspend liquidation of all entries of fresh garlic from the PRC, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date 90 days before the date of publication of this notice in the Federal Register. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated margin amount by which the foreign market value of the subject merchandise exceeds the United States price as shown below. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percent
All Manufacturers/Producers/Exporters	376.67

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of this determination.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration by no later than August 26, 1994, and rebuttal briefs by no later that September 2, 1994. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to give interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on September 7, 1994, at 10:00 a.m. at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone, the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, within ten days of the publication of this notice in

the Federal Register. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

This notice is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)) and 19 CFR 353.15(a)(4).

Dated: July 6, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–16741 Filed 7–8–94; 8:45 am]

BILLING CODE 3510–DS–P

[Investigation No. 731–TA–683 (Final)]

Fresh Garlic 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–683 (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 fresh garlic, provided for in statistical reporting numbers 0703.20.0000, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9500 of the Harmonized Tariff Schedule of the United States.[1]

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: July 11, 1994.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger (202–205–3183), Office of Investigations, U.S. International Trade Commission, 500 E Street S.W., 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. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of fresh garlic 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. section 1673b). The investigation was requested in a petition filed on January 31, 1994, by the Fresh Garlic Producers Association, consisting of the A&D Christopher Ranch, Gilroy, CA; Belridge Packing Co., Wasco, CA; Colusa Produce Corp., Colusa, CA; Denice & Filice Packing Co., Hollister, CA; El Camino Packing, Gilroy, CA; The Garlic Company, Shafter, CA; and Vessey and Company, Inc., El Centro, CA.

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 September 15, 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 September 28, 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 September 16, 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 September 21, 1994, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 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 section 207.22 of the Commission's rules; the deadline for filing is September 22, 1994. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.24 of the Commission's rules. The deadline for filing posthearing briefs is October 6, 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 October 6, 1994. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 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.

By order of the Commission.

Issued: July 25, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–18894 Filed 8–2–94; 8:45 am]

BILLING CODE 7020–02–P

[1] For purposes of this investigation, "fresh garlic" is defined as all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing, used principally as a food product and for seasoning. Differences between grades are based on color, size, sheathing, and level of decay.

[Investigation No. 731-TA-683 (Final)]

Fresh Garlic From the People's Republic of China

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: September 7, 1994.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger (202-205-3183), 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. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202-205-1895 (N,8,1).

SUPPLEMENTARY INFORMATION: The Commission is revising its schedule in the subject investigation as follows: Requests to appear at the hearing must be filed with the Secretary to the Commission not later than September 16, 1994; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 20, 1994; the prehearing staff report will be placed in the nonpublic record on September 14, 1994; the deadline for filing prehearing briefs is September 21, 1994; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 27, 1994; and the deadline for filing posthearing briefs is October 5, 1994.

For further information concerning this investigation see the Commission's notice of investigation (59 FR 39574, August 8, 1994) and 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).

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

By order of the Commission.

Issued: September 8, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94-22737 Filed 9-13-94; 8:45 am]

BILLING CODE 7020-02-P

[A-570-831]

Notice of Final Determination of Sales at Less Than Fair Value: Fresh Garlic From the People's Republic of China

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

EFFECTIVE DATE: September 26, 1994.

FOR FURTHER INFORMATION CONTACT: Jennifer Stagner, 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) 482-1673.

FINAL DETERMINATION: We determine that fresh garlic from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of our affirmative preliminary determination on July 6, 1994 (59 FR 35310, July 11,

1994), no new information has been added to the case record. No interested party has filed case or rebuttal briefs or has requested a hearing.

On July 5, 1994, Global Trading Inc., an interested party in this investigation, alleged that there are methodological errors in the petition data regarding constructed value and U.S. price.

Scope of Investigation

The products covered by this investigation are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing and level of decay.

The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings 0703.20.0000, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9500 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is August 1, 1993, to January 31, 1994.

Best Information Available

The Department made the following efforts to obtain information from PRC exporters in this investigation: In March 1994, we sent an abbreviated section A questionnaire to the PRC Ministry of Foreign Trade and Economic Cooperation (MOFTEC) and cables to the U.S. Embassies in Beijing and Tokyo and the U.S. consulate in Hong Kong. In April 1994, we sent an abbreviated section A questionnaire to the China Chamber of Commerce of Imports & Exports of Foodstuffs, Native Produce, and Animal By-products (China Chamber); since no response was received, we made follow-up requests to MOFTEC, the U.S. Embassies in Beijing and Tokyo, and the U.S. consulate in Hong Kong.

On May 11 and 12, 1994, the Department received information from MOFTEC and the American Embassy in Beijing, respectively, containing the names and addresses of 40 producers/exporters of the subject merchandise in the PRC. On May 18, 1994, the Department sent 40 antidumping questionnaires to the named firms and to MOFTEC and the China Chamber. On May 31, 1994 and June 21, 1994, we sent questionnaires to two additional firms at their request.

The Department received partial questionnaire responses from only nineteen companies. Of the nineteen companies, five firms stated that they did not export the subject merchandise to the United States. Four firms submitted limited information on the PRC garlic industry. Two firms submitted limited information on their U.S. sales. Eleven firms submitted critical circumstance data, and one firm stated that it could not provide the requested information. No firm submitted factors of production information or complete U.S. sales data, and no verification was conducted. Given the lack of complete, usable questionnaire responses, we determine, in accordance with section 776(c) of the Act, that the use of best information available (BIA) is appropriate for sales of the subject merchandise in this investigation.

In determining what to use as BIA, the Department follows a two-tiered methodology. Under this methodology, the Department normally assigns lower margins to those respondents who cooperated in an investigation and margins based on more adverse assumptions for those respondents who did not cooperate. (See Final Determination of Sales at Less Than Fair Value: Antifriction Bearings, Other than Tapered Roller Bearings, and Parts Thereof from the Federal Republic of Germany (54 FR 18992, May 3, 1994).)

In considering the application of BIA in this case, we have taken into account that, in cases involving the PRC, the Department assigns a single rate to all PRC exporters unless a company establishes that it is entitled to a separate rate. (See Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China (59 FR 22585, May 2, 1994)). In this case, no company has demonstrated that it should receive a separate rate. Consequently, all of the companies must receive a single rate. Given that this single rate includes non-respondent companies, we have followed our standard practice and applied an adverse BIA rate, which is the highest margin alleged in the petition (*i.e.*, 376.67%). (See Initiation of Antidumping Duty Investigation: Fresh Garlic from the People's Republic of China (59 FR 9470, February 28, 1994).) This margin applies to all manufacturers, producers and exporters of fresh garlic in the PRC.

Global Trading, Inc. (Global Trading), a U.S. importer of the subject merchandise, challenged the Department's reliance on petitioners' data. In particular, Global Trading questioned petitioners' average yield per acre figure in the constructed value calculation, based on its own research in China. Global Trading also challenged petitioners' calculation of U.S. price as being "far from the actual" price.

The Department's practice with respect to challenges to petition data was outlined in the Administrative Review of Sales at Less Than Fair Value: Steel Wire Rope from Mexico (SWR from Mexico) (58 FR 7533, February 8, 1993), which established that the need for the Department to address petition deficiencies is limited. In that review, the Department stated that the "rights [of a non-respondent company] are strictly limited to those comments that it can support without submitting any information on its costs or prices for the record," and the company "is restricted to identifying clerical and methodological errors in the petition on the basis of public information." The Department found that to allow a company to selectively submit information when it did not submit an adequate questionnaire response would permit the company to manipulate the outcome of the proceeding. The Department determined that such actions would defeat the purpose of the BIA rule, which is to provide respondents with an incentive to cooperate fully in antidumping proceedings.

In applying the standard from SWR from Mexico to Global Trading's challenge in this case, we have determined that (1) for the average yield per acre, the information submitted by Global Trading was not public information and (2) for U.S. price, Global Trading submitted data regarding its own purchases of the subject merchandise from four PRC exporters. Thus, we have found that neither of Global Trading's specific challenges meets the standard established in SWR from Mexico and, therefore, we have not adjusted the data from the petition based on Global Trading's allegations. We note that the petitioners used standard methodologies, which have been examined by the Department.

Critical Circumstances

In our preliminary determination, we found that "critical circumstances" exist with respect to imports of fresh garlic from the PRC. Pursuant to section 733(e)(1) of the Act, we based our preliminary determination on a finding of (1) knowledge of dumping because the estimated dumping margin for all exporters of fresh garlic in the PRC was

in excess of 25 percent, and (2) massive imports over a relatively short period of time because respondents failed to respond to the Department's questionnaire. As a result, we assumed, as BIA, that imports have been massive.

For the final determination, we have continued to use BIA as the basis for our determination of critical circumstances. The BIA margin exceeds the 25 percent threshold for imputing knowledge of dumping to the importers of the subject merchandise.

In addition, we have adversely assumed, as BIA, a massive increase in imports because of the non-response of exporters.

Accordingly, because the dumping margin is sufficient to impute knowledge of dumping, and because we have determined that imports of fresh garlic have been massive, we determine that critical circumstances do exist with respect to fresh garlic from the PRC.

Continuation of Suspension of Liquidation

In accordance with section 735(d)(1) and 735(c)(4)(A) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of fresh garlic from the PRC, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after April 12, 1994, which is 90 days before the date of publication of the preliminary determination in the Federal Register. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated margin amount by which the foreign market value of the subject merchandise exceeds the United States price as shown below. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Margin percent
All Manufacturers/producers/exporters	376.67

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of this determination. The ITC will determine, within 45 days, whether these imports are causing material injury, or threat thereof, to the industry in the U.S. producing the subject merchandise. If the ITC determines that material injury, or threat thereof, does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

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

Dated: September 19, 1994.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94-23767 Filed 9-23-94; 8:45 am]

BILLING CODE 3510-DS-P

APPENDIX B

CALENDAR OF THE PUBLIC HEARING

CALENDAR OF HEARING

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

Subject:	FRESH GARLIC FROM THE PEOPLE'S REPUBLIC OF CHINA
Inv. No.:	731-TA-683 (Final)
Date and Time:	September 27, 1994 - 9:30 a.m.

Sessions were held in connection with the investigation in the Main Hearing Room (Room 101), 500 E Street, S.W., Washington, D.C.

In support of imposition of antidumping duties:

Collier, Shannon, Rill & Scott
Washington, DC
on behalf of

Fresh Garlic Producers Association

Donald C. Christopher, Managing Partner, A&D Christopher Ranch
James Provost, East Coast Marketing Director, A&D Christopher Ranch
Michael Thomas, Garlic Manager, Belridge Packing Company
Albert B. Denice, President, Denice & Filice Packing Co.
Mark Bauman, Controller, Denice & Filice Packing Co.
Ralph Santos, Jr., Owner of El Camino Packing
John Layous, Partner, The Garlic Company
Jon Vessey, President, Vessey and Company, Inc.

Paul C. Rosenthal)
Michael J. Coursey)--OF COUNSEL
Kathleen W. Cannon)

Mark Love, Vice President, Economic Consulting Services, Inc.

In support of imposition of antidumping duties--Continued

Bogle and Gates
Washington, DC
Keck, Mahin and Cate
San Francisco, CA
on behalf of

American Dehydrated Onion and Garlic Association (ADOGA)

Camilo C. Soto, Jr., Director of Operations for Rogers Foods, Turlock, CA

Robert G. Hayes)--OF COUNSEL (Bogle & Gates)
Dennis McQuaid)--OF COUNSEL (Keck, Mahin and Cate)

In opposition to imposition of antidumping duties:

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

United Garlic Co.
Pepper House International
Roy and Brandon Global Venture Corp.
Total Protection International Trading

Betty Alexander, President, Agresources International
Richard DeSmet, President, United Garlic Co., Ltd.
Zia Fattahi, President, Global Trading
Jimmy Tani, President, Pepper House International, Inc.
David Yue, Assistant to Mr. Tani, Pepper House International, Inc.
Henry Chou, President, Total Protection International Group
George Hsieh, President, R&B Global Venture
David Blumberg, President, Merex Corporation
Hexiang Sha, Division Chief of Import and Export, China Chamber of Commerce
Yihang Sha, Assistant to Mr. Hexiang Sha, China Chamber of Commerce
Guohua Zhou, General Manager, China National Export Bases Development Corporation
Linhua Zhao, First Secretary of Commerce, Embassy of China
Yue Guan, Assistant Director of the Department of Treaties and Laws, Ministry of Foreign Trade and Economic Cooperation

William Perry)
John B. Gantt)--OF COUNSEL
Alexandra Addison)

Ms. Ying Yu, Foreign Trade Specialist

APPENDIX C

SUMMARY DATA

Table C-1
Raw garlic: Summary data concerning the U.S. market, crop years 1991-94

(Quantity=*1,000 pounds*; value=*1,000 dollars*; unit values are *per pound*; period changes=*percent, except where noted*)

Item	Reported data				Period changes			
	1991	1992	1993	1994	1991-94	1991-92	1992-93	1993-94
U.S. consumption quantity:								
Amount	345,996	354,023	379,249	467,354	+35.1	+2.3	+7.1	+23.2
Producers' share[1]	87.5	89.3	88.7	79.0	-8.5	+1.8	-0.6	-9.7
Importers' share:[1]								
China[2]	1.8	1.0	2.5	13.6	+11.8	-0.8	+1.5	+11.1
Argentina	2.3	1.5	1.3	1.2	-1.1	-0.8	-0.1	-0.1
Chile	.8	.6	.6	.3	-0.5	-0.2	(3)	-0.3
Mexico	6.0	6.4	6.6	5.7	-0.3	+0.5	+0.2	-0.9
Taiwan	1.4	.8	.2	.2	-1.2	-0.5	-0.6	-0.1
Other sources	.4	.5	.1	.1	-0.3	+0.1	-0.4	(3)
Total	12.5	10.7	11.3	21.0	+8.5	-1.8	+0.6	+9.7
U.S. consumption value:								
Amount	98,483	104,598	125,441	148,659	+50.9	+6.2	+19.9	+18.5
Producers' share[1]	76.4	79.3	82.8	74.6	-1.8	+2.9	+3.5	-8.1
Importers' share:[1]								
China[2]	2.5	1.4	3.0	13.5	+11.0	-1.1	+1.6	+10.5
Argentina	6.2	3.5	2.6	2.4	-3.8	-2.7	-0.9	-0.1
Chile	2.7	1.7	1.6	1.0	-1.7	-0.9	-0.2	-0.5
Mexico	9.4	11.9	9.7	8.1	-1.2	+2.6	-2.2	-1.6
Taiwan	1.8	1.2	.3	.1	-1.7	-0.6	-0.9	-0.2
Other sources	1.0	1.0	.1	.2	-0.8	(4)	-0.9	+0.1
Total	23.6	20.7	17.2	25.4	+1.8	-2.9	-3.5	+8.1
U.S. importers' imports from–								
China:[2]								
Imports quantity	6,055	3,540	9,395	63,531	+949.2	-41.5	+165.4	+576.2
Imports value	2,474	1,446	3,719	20,014	+709.0	-41.6	+157.2	+438.2
Unit value	$0.41	$0.41	$0.40	$0.32	-22.9	(5)	-3.1	-20.4
Ending inventory quantity[6]	-	-	***	***	-	-	-	+146.0
Argentina:								
Imports quantity	7,886	5,147	5,024	5,511	-30.1	-34.7	-2.4	+9.7
Imports value	6,106	3,627	3,241	3,640	-40.4	-40.6	-10.6	+12.3
Unit value	$0.77	$0.70	$0.65	$0.66	-14.7	-9.0	-8.5	+2.4
Ending inventory quantity	-	-	-	-	-	-	-	-
Chile:								
Imports quantity	2,826	2,018	2,264	1,543	-45.4	-28.6	+12.2	-31.8
Imports value	2,634	1,813	1,946	1,496	-43.2	-31.2	+7.3	-23.1
Unit value	$0.93	$0.90	$0.86	$0.97	+4.0	-3.6	-4.3	+12.8
Ending inventory quantity	-	-	-	-	-	-	-	-
Mexico:								
Imports quantity	20,616	22,721	25,059	26,565	+28.9	+10.2	+10.3	+6.0
Imports value	9,222	12,499	12,203	12,065	+30.8	+35.5	-2.4	-1.1
Unit value	$0.45	$0.55	$0.49	$0.45	+1.5	+23.0	-11.5	-6.7
Ending inventory quantity	-	-	-	-	-	-	-	-
Taiwan:								
Imports quantity	4,712	2,973	947	711	-84.9	-36.9	-68.1	-24.9
Imports value	1,792	1,241	382	206	-88.5	-30.7	-69.2	-46.1
Unit value	$0.38	$0.42	$0.40	$0.29	-24.0	+9.8	-3.4	-28.3
Ending inventory quantity	-	-	-	-	-	-	-	-
Other sources:								
Imports quantity	1,239	1,615	233	346	-72.1	+30.3	-85.6	+48.5
Imports value	1,025	1,047	142	290	-71.7	+2.1	-86.4	+104.2
Unit value	$0.83	$0.65	$0.61	$0.84	+1.3	-21.6	-5.9	+37.3
All sources:								
Imports quantity	43,334	38,014	42,922	98,209	+126.6	-12.3	+12.9	+128.8
Imports value	23,252	21,673	21,634	37,711	+62.2	-6.8	-0.2	+74.3
Unit value	$0.54	$0.57	$0.50	$0.38	-28.4	+6.3	-11.6	-23.8

Table continued on next page.

Table C-1--Continued
Raw garlic: Summary data concerning the U.S. market, crop years 1991-94

(Quantity=*1,000 pounds*; value=*1,000 dollars*; unit values are *per pound*; period changes=*percent, except where noted*)

Item	Reported data				Period changes			
	1991	1992	1993	1994	1991-94	1991-92	1992-93	1993-94
U.S. producers'--								
Ending capacity quantity	442,748	449,272	486,190	498,190	+12.5	+1.5	+8.2	+2.5
Production quantity	313,837	332,782	360,383	397,246	+26.6	+6.0	+8.3	+10.2
Capacity utilization[1]	70.9	73.9	73.1	78.5	+7.6	+3.0	-0.8	+5.4
U.S. shipments:								
Quantity	302,662	316,010	336,328	369,146	+22.0	+4.4	+6.4	+9.8
Value	75,231	82,925	103,807	110,948	+47.5	+10.2	+25.2	+6.9
Unit value	$0.25	$0.26	$0.31	$0.30	+20.9	+5.6	+17.6	-2.6
Export shipments:								
Quantity	***	***	***	***	+219.9	+70.1	+32.7	+41.8
Exports/shipments[1]	***	***	***	***	+2.0	+0.8	+0.5	+0.7
Value	***	***	***	***	+129.8	+32.4	+37.8	+25.9
Unit value	$0.85	$0.66	$0.69	$0.61	-28.2	-22.1	+3.9	-11.2
Ending inventory quantity	0	0	***	***	(7)	(7)	(7)	+689.1
Inventory/shipments[1]	0	0	***	***	+0.3	0	(3)	+0.3
Production workers	973	1,136	1,490	1,571	+61.5	+16.8	+31.2	+5.4
Hours worked (*1,000s*)	1,454	1,741	1,979	2,089	+43.7	+19.7	+13.7	+5.6
Total comp. (*$1,000*)	12,732	16,182	17,551	18,669	+46.6	+27.1	+8.5	+6.4
Hourly total compensation	$8.76	$9.29	$8.87	$8.94	+2.1	+6.1	-4.6	+0.8
Productivity (*lbs./hour*)	236.1	190.7	179.5	187.2	-20.7	-19.3	-5.9	+4.3
Unit labor costs (*per 1,000 pounds*)	$39.42	$48.74	$49.40	$47.73	+21.1	+23.6	+1.4	-3.4
Net sales--								
Quantity	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)
Value	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)
Unit sales value	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)
All expenses	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)
Net income (loss)	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)
Capital expenditures	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)
Total assets	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)
Unit expenses	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)
Unit net income (loss)	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)
Net income(loss)/sales[1]	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)

[1] "Reported data" are in percent and "period changes" are in percentage points.
[2] Includes imports from Hong Kong.
[3] An increase of less than 0.05 percentage points.
[4] A decrease of less than 0.05 percentage points.
[5] A decrease of less than 0.05 percent.
[6] Data are for China only.
[7] Not applicable.
[8] Positive figure, but less than significant digits displayed.
[9] Income-and-loss data from producers of dehy garlic are for the downstream processed product. Hence, financial data for fresh, dehy, and seed garlic cannot be consolidated.

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 from the unrounded figures, 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 and from official statistics of the U.S. Department of Commerce.

Table C-2
Fresh garlic and dehy garlic: Summary data concerning the U.S. market, crop years 1991-94

(Quantity=*1,000 pounds*; value=*1,000 dollars*; unit values are *per pound*; period changes=*percent, except where noted*)

Item	Reported data				Period changes			
	1991	1992	1993	1994	1991-94	1991-92	1992-93	1993-94
U.S. consumption quantity:								
Amount	295,878	309,364	324,775	411,108	+38.9	+4.6	+5.0	+26.6
Producers' share[1]	85.4	87.7	86.8	76.1	-9.2	+2.4	-0.9	-10.7
Importers' share:[1]								
China[2]	2.0	1.1	2.9	15.5	+13.4	-0.9	+1.7	+12.6
Argentina	2.7	1.7	1.5	1.3	-1.3	-1.0	-0.1	-0.2
Chile	1.0	.7	.7	.4	-0.6	-0.3	(3)	-0.3
Mexico	7.0	7.3	7.7	6.5	-0.5	+0.4	+0.4	-1.3
Taiwan	1.6	1.0	.3	.2	-1.4	-0.6	-0.7	-0.1
Other sources	.4	.5	.1	.1	-0.3	+0.1	-0.5	(3)
Total	14.6	12.3	13.2	23.9	+9.2	-2.4	+0.9	+10.7
U.S. consumption value:								
Amount	85,674	93,638	108,981	130,156	+51.9	+9.3	+16.4	+19.4
Producers' share[1]	72.9	76.9	80.1	71.0	-1.8	+4.0	+3.3	-9.1
Importers' share:[1]								
China[2]	2.9	1.5	3.4	15.4	+12.5	-1.3	+1.9	+12.0
Argentina	7.1	3.9	3.0	2.8	-4.3	-3.3	-0.9	-0.2
Chile	3.1	1.9	1.8	1.1	-1.9	-1.1	-0.2	-0.6
Mexico	10.8	13.3	11.2	9.3	-1.5	+2.6	-2.2	-1.9
Taiwan	2.1	1.3	.4	.2	-1.9	-0.8	-1.0	-0.2
Other sources	1.2	1.1	.1	.2	-1.0	-0.1	-1.0	+0.1
Total	27.1	23.1	19.9	29.0	+1.8	-4.0	-3.3	+9.1
U.S. importers' imports from—								
China:[2]								
Imports quantity	6,055	3,540	9,395	63,531	+949.2	-41.5	+165.4	+576.2
Imports value	2,474	1,446	3,719	20,014	+709.0	-41.6	+157.2	+438.2
Unit value	$0.41	$0.41	$0.40	$0.32	-22.9	(4)	-3.1	-20.4
Ending inventory quantity[5]	-	-	***	***	-	-	-	+146.0
Argentina:								
Imports quantity	7,886	5,147	5,024	5,511	-30.1	-34.7	-2.4	+9.7
Imports value	6,106	3,627	3,241	3,640	-40.4	-40.6	-10.6	+12.3
Unit value	$0.77	$0.70	$0.65	$0.66	-14.7	-9.0	-8.5	+2.4
Ending inventory quantity	-	-	-	-	-	-	-	-
Chile:								
Imports quantity	2,826	2,018	2,264	1,543	-45.4	-28.6	+12.2	-31.8
Imports value	2,634	1,813	1,946	1,496	-43.2	-31.2	+7.3	-23.1
Unit value	$0.93	$0.90	$0.86	$0.97	+4.0	-3.6	-4.3	+12.8
Ending inventory quantity	-	-	-	-	-	-	-	-
Mexico:								
Imports quantity	20,616	22,721	25,059	26,565	+28.9	+10.2	+10.3	+6.0
Imports value	9,222	12,499	12,203	12,065	+30.8	+35.5	-2.4	-1.1
Unit value	$0.45	$0.55	$0.49	$0.45	+1.5	+23.0	-11.5	-6.7
Ending inventory quantity	-	-	-	-	-	-	-	-
Taiwan:								
Imports quantity	4,712	2,973	947	711	-84.9	-36.9	-68.1	-24.9
Imports value	1,792	1,241	382	206	-88.5	-30.7	-69.2	-46.1
Unit value	$0.38	$0.42	$0.40	$0.29	-24.0	+9.8	-3.4	-28.3
Ending inventory quantity	-	-	-	-	-	-	-	-
Other sources:								
Imports quantity	1,239	1,615	233	346	-72.1	+30.3	-85.6	+48.5
Imports value	1,025	1,047	142	290	-71.7	+2.1	-86.4	+104.2
Unit value	$0.83	$0.65	$0.61	$0.84	+1.3	-21.6	-5.9	+37.3
All sources:								
Imports quantity	43,334	38,014	42,922	98,209	+126.6	-12.3	+12.9	+128.8
Imports value	23,252	21,673	21,634	37,711	+62.2	-6.8	-0.2	+74.3
Unit value	$0.54	$0.57	$0.50	$0.38	-28.4	+6.3	-11.6	-23.8

Table continued on next page.

Table C-2
Fresh garlic and dehy garlic: Summary data concerning the U.S. market, crop years 1991-94

(Quantity=*1,000 pounds*; value=*1,000 dollars*; unit values are *per pound*; period changes=*percent, except where noted*)

Item	Reported data				Period changes			
	1991	1992	1993	1994	1991-94	1991-92	1992-93	1993-94
U.S. producers'–								
Ending capacity quantity	375,832	382,356	419,274	430,274	+14.5	+1.7	+9.7	+2.6
Production quantity	259,360	283,301	300,750	331,105	+27.7	+9.2	+6.2	+10.1
Capacity utilization[1]	69.0	73.9	70.5	75.5	+6.5	+4.9	-3.4	+5.0
U.S. shipments:								
Quantity	252,544	271,351	281,854	312,900	+23.9	+7.4	+3.9	+11.0
Value	62,422	71,965	87,347	92,445	+48.1	+15.3	+21.4	+5.8
Unit value	$0.25	$0.27	$0.31	$0.30	+19.5	+7.3	+16.9	-4.7
Export shipments:								
Quantity	3,482	5,885	7,883	12,042	+245.8	+69.0	+34.0	+52.8
Exports/shipments[1]	1.4	2.1	2.7	3.7	+2.3	+0.8	+0.6	+1.0
Value	***	***	***	7,588	***	+40.6	+35.3	***
Unit value	$***	$***	$***	$0.63	***	-16.8	+1.0	***
Ending inventory quantity	0	0	***	***	(6)	(6)	(6)	+689.1
Inventory/shipments[1]	0	0	(7)	***	+0.4	0	(3)	+0.3
Production workers	840	977	1,331	1,392	+65.7	+16.3	+36.2	+4.6
Hours worked (*1,000s*)	1,345	1,620	1,862	1,962	+45.9	+20.4	+14.9	+5.4
Total compensation (*$1,000*)	11,218	14,444	16,024	16,962	+51.2	+28.8	+10.9	+5.9
Hourly total compensation	$8.34	$8.92	$8.61	$8.65	+3.7	+6.9	-3.5	+0.5
Productivity (*lbs./hour*)	212.6	174.4	158.8	165.7	-22.1	-18.0	-9.0	+4.3
Unit labor costs (*per 1,000 pounds*)	$41.86	$51.13	$54.20	$52.19	+24.7	+22.1	+6.0	-3.7
Net sales–								
Quantity	(8)	(8)	(8)	(8)	(8)	(8)	(8)	(8)
Value	(8)	(8)	(8)	(8)	(8)	(8)	(8)	(8)
Unit sales value	(8)	(8)	(8)	(8)	(8)	(8)	(8)	(8)
All expenses	(8)	(8)	(8)	(8)	(8)	(8)	(8)	(8)
Net income (loss)	(8)	(8)	(8)	(8)	(8)	(8)	(8)	(8)
Capital expenditures	(8)	(8)	(8)	(8)	(8)	(8)	(8)	(8)
Total assets	(8)	(8)	(8)	(8)	(8)	(8)	(8)	(8)
Unit expenses	(8)	(8)	(8)	(8)	(8)	(8)	(8)	(8)
Unit net income (loss)	(8)	(8)	(8)	(8)	(8)	(8)	(8)	(8)
Net income(loss)/sales[1]	(8)	(8)	(8)	(8)	(8)	(8)	(8)	(8)

[1] "Reported data" are in percent and "period changes" are in percentage points.
[2] Includes imports from Hong Kong.
[3] An increase of less than 0.05 percentage points.
[4] A decrease of less than 0.05 percent.
[5] Data are for China only.
[6] Not applicable.
[7] Positive figure, but less than significant digits presented.
[8] Income-and-loss data from producers of dehy garlic are for the downstream processed product. Hence, financial data for fresh, dehy, and seed garlic cannot be consolidated.

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 from the unrounded figures, 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 and from official statistics of the U.S. Department of Commerce.

Table C-3
Fresh garlic: Summary data concerning the U.S. market, crop years 1991-94

(Quantity=*1,000 pounds*; value=*1,000 dollars*; unit values are *per pound*; period changes=*percent, except where noted*)

Item	Reported data				Period changes			
	1991	1992	1993	1994	1991-94	1991-92	1992-93	1993-94
U.S. consumption quantity:								
Amount	85,620	96,150	117,441	180,310	+110.6	+12.3	+22.1	+53.5
Producers' share[1]	49.4	60.5	63.5	45.5	-3.9	+11.1	+3.0	-17.9
Importers' share:[1]								
China[2]	7.1	3.7	8.0	35.2	+28.2	-3.4	+4.3	+27.2
Argentina	9.2	5.4	4.3	3.1	-6.2	-3.9	-1.1	-1.2
Chile	3.3	2.1	1.9	.9	-2.4	-1.2	-0.2	-1.1
Mexico	24.1	23.6	21.3	14.7	-9.3	-0.4	-2.3	-6.6
Taiwan	5.5	3.1	.8	.4	-5.1	-2.4	-2.3	-0.4
Other sources	1.4	1.7	.2	.2	-1.3	+0.2	-1.5	(3)
Total	50.6	39.5	36.5	54.5	+3.9	-11.1	-3.0	+17.9
U.S. consumption value:								
Amount	55,790	61,439	74,825	90,677	+62.5	+10.1	+21.8	+21.2
Producers' share[1]	58.3	64.7	71.1	58.4	+0.1	+6.4	+6.4	-12.7
Importers' share:[1]								
China[2]	4.4	2.4	5.0	22.1	+17.6	-2.1	+2.6	+17.1
Argentina	10.9	5.9	4.3	4.0	-6.9	-5.0	-1.6	-0.3
Chile	4.7	3.0	2.6	1.6	-3.1	-1.8	-0.4	-1.0
Mexico	16.5	20.3	16.3	13.3	-3.2	+3.8	-4.0	-3.0
Taiwan	3.2	2.0	.5	.2	-3.0	-1.2	-1.5	-0.3
Other sources	1.8	1.7	.2	.3	-1.5	-0.1	-1.5	+0.1
Total	41.7	35.3	28.9	41.6	-0.1	-6.4	-6.4	+12.7
U.S. importers' imports from—								
China:[2]								
Imports quantity	6,055	3,540	9,395	63,532	+949.2	-41.5	+165.4	+576.2
Imports value	2,474	1,446	3,719	20,014	+709.0	-41.6	+157.2	+438.2
Unit value	$0.41	$0.41	$0.40	$0.32	-22.9	(4)	-3.1	-20.4
Ending inventory quantity[5]	-	-	-	***	-	-	-	-
Argentina:								
Imports quantity	7,886	5,147	5,024	5,511	-30.1	-34.7	-2.4	+9.7
Imports value	6,106	3,627	3,241	3,640	-40.4	-40.6	-10.6	+12.3
Unit value	$0.77	$0.70	$0.65	$0.66	-14.7	-9.0	-8.5	+2.4
Ending inventory quantity	-	-	-	-	-	-	-	-
Chile:								
Imports quantity	2,826	2,018	2,264	1,543	-45.4	-28.6	+12.2	-31.8
Imports value	2,634	1,813	1,946	1,496	-43.2	-31.2	+7.3	-23.1
Unit value	$0.93	$0.90	$0.86	$0.97	+4.0	-3.6	-4.3	+12.8
Ending inventory quantity	-	-	-	-	-	-	-	-
Mexico:								
Imports quantity	20,616	22,721	25,059	26,565	+28.9	+10.2	+10.3	+6.0
Imports value	9,222	12,499	12,203	12,065	+30.8	+35.5	-2.4	-1.1
Unit value	$0.45	$0.55	$0.49	$0.45	+1.5	+23.0	-11.5	-6.7
Ending inventory quantity	-	-	-	-	-	-	-	-
Taiwan:								
Imports quantity	4,712	2,973	947	711	-84.9	-36.9	-68.1	-24.9
Imports value	1,792	1,241	382	206	-88.5	-30.7	-69.2	-46.1
Unit value	$0.38	$0.42	$0.40	$0.29	-24.0	+9.8	-3.4	-28.3
Ending inventory quantity	-	-	-	-	-	-	-	-
Other sources:								
Imports quantity	1,239	1,615	233	346	-72.1	+30.3	-85.6	+48.5
Imports value	1,025	1,047	142	290	-71.7	+2.1	-86.4	+104.2
Unit value	$0.83	$0.65	$0.61	$0.84	+1.3	-21.6	-5.9	+37.3
All sources:								
Imports quantity	43,334	38,014	42,922	98,209	+126.6	-12.3	+12.9	+128.8
Imports value	23,252	21,673	21,634	37,711	+62.2	-6.8	-0.2	+74.3
Unit value	$0.54	$0.57	$0.50	$0.38	-28.4	+6.3	-11.6	-23.8

Table continued on next page.

Table C-3--Continued
Fresh garlic: Summary data concerning the U.S. market, crop years 1991-94

(Quantity=*1,000 pounds*; value=*1,000 dollars*; unit values are *per pound*; period changes=*percent, except where noted*)

Item	Reported data				Period changes			
	1991	1992	1993	1994	1991-94	1991-92	1992-93	1993-94
U.S. producers'--								
Ending capacity quantity	97,932	104,456	141,274	141,274	+44.3	+6.7	+35.2	0
Production quantity	49,102	70,087	93,416	100,307	+104.3	+42.7	+33.3	+7.4
Capacity utilization[1]	50.1	66.3	62.5	66.7	+16.5	+16.2	-3.8	+4.2
U.S. shipments:								
Quantity	42,286	58,137	74,520	82,102	+94.2	+37.5	+28.2	+10.2
Value	32,538	39,766	53,191	52,966	+62.8	+22.2	+33.8	-0.4
Unit value	$0.77	$0.68	$0.71	$0.65	-16.2	-11.1	+4.4	-9.6
Export shipments:								
Quantity	3,482	5,885	7,883	12,042	+245.8	+69.0	+34.0	+52.8
Exports/shipments[1]	7.6	9.2	9.6	12.8	+5.2	+1.6	+0.4	+3.2
Value	3,078	4,329	***	7,588	+146.5	+40.6	***	***
Unit value	$0.88	$0.74	$***	$0.63	-28.7	-16.8	***	***
Ending inventory quantity	0	0	***	***	(6)	(6)	(6)	+689.1
Inventory/shipments[1]	0	0	***	***	+0.8	0	+0.1	+0.7
Production workers	599	710	1,021	1,087	+81.5	+18.5	+43.8	+6.5
Hours worked (*1,000s*)	1,007	1,247	1,475	1,584	+57.3	+23.8	+18.3	+7.4
Total compensation (*$1,000*)	7,175	9,633	11,165	12,024	+67.6	+34.3	+15.9	+7.7
Hourly total compensation	$7.13	$7.72	$7.57	$7.59	+6.5	+8.4	-2.0	+0.3
Productivity (*lbs./hour*)	55.7	55.6	59.9	59.5	+6.8	-0.2	+7.7	-0.6
Unit labor costs (*per 1,000 pounds*)	$138.79	$139.03	$126.45	$127.63	-8.0	+0.2	-9.0	+0.9
Net sales--								
Quantity	45,768	64,022	82,402	94,144	+105.7	+39.9	+28.7	+14.2
Value	35,615	44,093	59,046	60,554	+70.0	+23.8	+33.9	+2.6
Unit sales value	$0.78	$0.69	$0.72	$0.64	-17.3	-11.5	+4.0	-10.2
All expenses	32,095	42,236	57,803	61,909	+92.9	+31.6	+36.9	+7.1
Net income (loss)	3,520	1,857	1,243	(1,355)	-138.5	-47.2	-33.1	-209.0
Capital expenditures	***	***	***	***	+16.5	+21.8	-19.1	+18.3
Total assets	***	***	***	***	+47.1	+39.6	+23.3	-14.5
Unit expenses	$0.70	$0.66	$0.70	$0.66	-6.0	-5.7	+6.3	-6.3
Unit net income (loss)	$0.08	$0.03	$0.02	($0.01)	-118.3	-63.0	-48.0	-195.4
Net income(loss)/sales[1]	9.9	4.2	2.1	(2.2)	-12.1	-5.7	-2.1	-4.3

[1] "Reported data" are in percent and "period changes" are in percentage points.
[2] Includes imports from Hong Kong.
[3] A decrease of less than 0.05 percentage points.
[4] A decrease of less than 0.05 percent.
[5] Data are for China only.
[6] Not applicable.

Note.--Period changes are derived from the unrounded data. Period changes involving negative period data are positive if the amount of the negativity decreases and negative if the amount of the negativity increases. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated from the unrounded figures, 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 and from official statistics of the U.S. Department of Commerce.

Table C-4
Dehy garlic: Summary data concerning the U.S. market, crop years 1991-94

(Quantity=*1,000 pounds*; value=*1,000 dollars*; unit values are *per pound*; period changes=*percent, except where noted*)

Item	Reported data				Period changes			
	1991	1992	1993	1994	1991-94	1991-92	1992-93	1993-94
U.S. producers'–								
Ending capacity quantity	277,900	277,900	278,000	289,000	+4.0	0	(1)	+4.0
Production quantity	210,258	213,214	207,334	230,798	+9.8	+1.4	-2.8	+11.3
Capacity utilization[2]	75.7	76.7	74.6	79.9	+4.2	+1.1	-2.1	+5.3
U.S. shipments:								
Quantity	210,258	213,214	207,334	230,798	+9.8	+1.4	-2.8	+11.3
Value	29,884	32,199	34,156	39,479	+32.1	+7.7	+6.1	+15.6
Unit value	$0.14	$0.15	$0.16	$0.17	+20.4	+6.3	+9.1	+3.8
Export shipments:								
Quantity	0	0	0	0	0	0	0	0
Exports/shipments[2]	0	0	0	0	0	0	0	0
Value	0	0	0	0	0	0	0	0
Unit value	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Ending inventory quantity	0	0	0	0	0	0	0	0
Inventory/shipments[2]	0	0	0	0	0	0	0	0
Production workers	241	267	310	305	+26.6	+10.8	+16.1	-1.6
Hours worked (*1,000s*)	338	373	387	378	+11.8	+10.4	+3.8	-2.3
Total compensation (*$1,000*)	4,043	4,811	4,859	4,938	+22.1	+19.0	+1.0	+1.6
Hourly total compensation	$11.96	$12.90	$12.56	$13.06	+9.2	+7.8	-2.7	+4.0
Productivity (*lbs./hour*)	622.1	571.6	535.7	610.6	-1.8	-8.1	-6.3	+14.0
Unit labor costs (*per 1,000 pounds*)	$19.23	$22.56	$23.44	$21.40	+11.3	+17.3	+3.9	-8.7
Net sales–								
Quantity	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Value	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Unit sales value	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
All expenses	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Net income (loss)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Capital expenditures	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Total assets	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Unit expenses	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Unit net income (loss)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Net income(loss)/sales[2]	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)

[1] An increase of less than 0.05 percent.
[2] "Reported data" are in percent and "period changes" are in percentage points.
[3] Not applicable.
[4] Because income-and-loss data from dehy producers are for the downstream product, processed garlic, data for dehy garlic are not available.

Note.–Period changes are derived from the unrounded data. 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-5
Seed garlic: Summary data concerning the U.S. market, crop years 1991-94

(Quantity=*1,000 pounds*; value=*1,000 dollars*; unit values are *per pound*; period changes=*percent, except where noted*)

Item	Reported data				Period changes			
	1991	1992	1993	1994	1991-94	1991-92	1992-93	1993-94
U.S. producers'–								
Ending capacity quantity	66,916	66,916	66,916	67,916	+1.5	0	0	+1.5
Production quantity	54,477	49,481	59,633	66,142	+21.4	-9.2	+20.5	+10.9
Capacity utilization[1]	81.4	73.9	89.1	97.4	+16.0	-7.5	+15.2	+8.3
U.S. shipments:								
Quantity	50,118	44,659	54,474	56,246	+12.2	-10.9	+22.0	+3.3
Value	12,809	10,960	16,460	18,503	+44.5	-14.4	+50.2	+12.4
Unit value	$0.26	$0.25	$0.30	$0.33	+28.7	-4.0	+23.1	+8.9
Export shipments:								
Quantity	***	***	***	***	+34.2	+77.8	+24.1	-39.2
Exports/shipments[1]	***	***	***	***	+0.2	+0.9	(2)	-0.8
Value	***	***	***	***	-43.1	-52.5	+117.0	-44.8
Unit value	$***	$***	$***	$***	-57.6	-73.3	+74.9	-9.2
Ending inventory quantity	0	0	0	0	0	0	0	0
Inventory/shipments[1]	0	0	0	0	0	0	0	0
Production workers	133	159	159	179	+34.6	+19.5	0	+12.6
Hours worked (*1,000s*)	109	121	117	127	+16.5	+11.0	-3.3	+8.5
Total compensation (*$1,000*)	1,514	1,738	1,527	1,707	+12.7	+14.8	-12.1	+11.8
Hourly total compensation	$13.89	$14.36	$13.05	$13.44	-3.2	+3.4	-9.1	+3.0
Productivity (*lbs./hour*)	499.8	408.9	509.7	520.8	+4.2	-18.2	+24.6	+2.2
Unit labor costs (*per 1,000 pounds*)	$27.79	$35.12	$25.61	$25.81	-7.1	+26.4	-27.1	+0.8
Net sales–								
Quantity	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***
Unit sales value	$***	$***	$***	$***	***	***	***	***
All expenses	***	***	***	***	***	***	***	***
Net income (loss)	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***
Total assets	***	***	***	***	***	***	***	***
Unit expenses	$***	$***	$***	$***	***	***	***	***
Unit net income (loss)	$***	$***	$***	$***	***	***	***	***
Net income(loss)/sales[1]	***	***	***	***	***	***	***	***

[1] "Reported data" are in percent and "period changes" are in percentage points.
[2] An increase of less than 0.05 percentage points.
[3] Not available.
[4] Not applicable.

Note.–Period changes are derived from the unrounded data. 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-6
USDA Grade No. 1 fresh garlic: Summary data concerning the U.S. market, crop years 1991-94

(Quantity=*1,000 pounds*; value=*1,000 dollars*; unit values are *per pound*; period changes=*percent, except where noted*)

Item	Reported data				Period changes			
	1991	1992	1993	1994	1991-94	1991-92	1992-93	1993-94
U.S. producers'–								
Ending capacity quantity	81,468	86,288	115,518	115,518	+41.8	+5.9	+33.9	0
Production quantity	41,449	52,607	73,584	73,459	+77.2	+26.9	+39.9	-0.2
Capacity utilization[1]	50.9	59.5	52.7	51.9	+1.0	+8.6	-6.8	-0.8
U.S. shipments:								
Quantity	36,876	45,147	58,531	55,949	+51.7	+22.4	+29.6	-4.4
Value	31,821	30,929	40,603	37,908	+19.1	-2.8	+31.3	-6.6
Unit value	$0.86	$0.69	$0.69	$0.68	-21.5	-20.6	+1.3	-2.3
Export shipments:								
Quantity	***	***	7,576	11,502	***	+64.5	***	+51.8
Exports/shipments[1]	***	***	11.5	17.1	***	+2.3	***	+5.6
Value	***	***	5,528	7,196	***	+29.9	***	+30.2
Unit value	$0.96	$0.76	$0.73	$0.63	-35.0	-21.0	-4.0	-14.3
Ending inventory quantity	0	0	***	***	(2)	(2)	(2)	(3)
Inventory/shipments[1]	0	0	***	***	+1.0	0	+0.1	+0.9
Production workers	183	253	328	350	+91.3	+38.3	+29.6	+6.7
Hours worked (*1,000s*)	349	457	548	561	+60.7	+30.9	+19.9	+2.4
Total compensation (*$1,000*)	2,500	3,272	3,754	4,172	+66.9	+30.9	+14.7	+11.1
Hourly total compensation	$7.16	$7.16	$6.85	$7.44	+3.8	-0.1	-4.3	+8.6
Productivity (*lbs./hour*)	85.2	68.4	77.0	77.7	-8.9	-19.7	+12.5	+0.8
Unit labor costs (*per 1,000 pounds*)	$85.77	$104.61	$88.93	$95.75	+11.6	+22.0	-15.0	+7.7

[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. 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-7
Commercial grade fresh garlic: Summary data concerning the U.S. market, crop years 1991-94

(Quantity=*1,000 pounds*; value=*1,000 dollars*; unit values are *per pound*; period changes=*percent, except where noted*)

Item	Reported data				Period changes			
	1991	1992	1993	1994	1991-94	1991-92	1992-93	1993-94
U.S. producers'–								
Ending capacity quantity	21,612	22,632	24,152	24,152	+11.8	+4.7	+6.7	0
Production quantity	5,270	9,315	7,701	11,740	+122.8	+76.8	-17.3	+52.4
Capacity utilization[1]	24.4	41.2	31.9	43.1	+18.7	+16.8	-9.3	+11.2
U.S. shipments:								
Quantity	4,592	7,863	6,843	10,937	+138.2	+71.2	-13.0	+59.8
Value	1,595	2,035	1,473	2,538	+59.1	+27.6	-27.6	+72.3
Unit value	$0.35	$0.26	$0.22	$0.23	-33.2	-25.5	-16.8	+7.8
Export shipments:								
Quantity	***	***	***	***	-42.1	+57.6	-91.4	+325.3
Exports/shipments[1]	***	***	***	***	-8.2	-0.8	-9.3	+1.8
Value	***	***	***	***	-56.0	+34.5	-93.5	+400.0
Unit value	$0.49	$0.42	$0.32	$0.37	-24.0	-14.6	-24.3	+17.6
Ending inventory quantity	0	0	0	0	(2)	(2)	(2)	(2)
Inventory/shipments[1]	0	0	0	0	(2)	(2)	(2)	(2)
Production workers	***	***	***	***	+107.1	+38.6	+2.8	+45.3
Hours worked (*1,000s*)	***	***	***	***	+84.8	+30.9	+7.9	+30.9
Total compensation (*$1,000*)	***	***	***	***	+65.4	+31.7	+3.4	+21.5
Hourly total compensation	$***	$***	$***	$***	-10.5	+0.6	-4.2	-7.2
Productivity (*lbs./hour*)	***	***	***	***	-28.6	+71.6	-45.7	-23.3
Unit labor costs (*per 1,000 pounds*)	$***	$***	$***	$***	+59.9	-39.2	+92.1	+37.0

[1] "Reported data" are in percent and "period changes" are in percentage points.
[2] Not applicable.

Note.–Period changes are derived from the unrounded data. 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-8
Fresh garlic other than USDA Grade No. 1 and commercial grade: Summary data concerning the U.S. market, crop years 1991-94

(Quantity=*1,000 pounds*; value=*1,000 dollars*; unit values are *per pound*; period changes=*percent, except where noted*)

Item	Reported data				Period changes			
	1991	1992	1993	1994	1991-94	1991-92	1992-93	1993-94
U.S. producers'–								
Ending capacity quantity	***	***	***	***	+88.9	+33.3	+41.7	0
Production quantity	***	***	***	***	(1)	+613.7	+72.3	+6.6
Capacity utilization[2]	***	***	***	***	-8.2	-33.3	+8.9	+16.2
U.S. shipments:								
Quantity	***	***	***	9,259	(1)	+526.8	+56.0	***
Value	***	***	***	***	(1)	(1)	+55.7	+11.7
Unit value	$***	$***	$***	$***	+429.8	+450.1	-0.2	-3.5
Export shipments:								
Quantity	***	***	***	***	(3)	(3)	-6.1	-1.6
Exports/shipments[2]	***	***	***	***	+1.9	+3.7	-1.4	-0.3
Value	***	***	***	***	(3)	(3)	-8.8	-9.7
Unit value	$***	$***	$***	$***	(3)	(3)	-2.9	-8.2
Ending inventory quantity	***	***	***	***	0	0	0	0
Inventory/shipments[2]	***	***	***	***	0	0	0	0
Production workers	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Hours worked (*1,000s*)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Total compensation (*$1,000*)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Hourly total compensation	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Productivity (*lbs./hour*)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Unit labor costs	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)

[1] An increase of 1,000 percent or more.
[2] "Reported data" are in percent and "period changes" are in percentage points.
[3] Not applicable.
[4] Not available.

Note.–Period changes are derived from the unrounded data. 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.

APPENDIX D

PARTICIPATION OF U.S. PRODUCERS IN "BUY-A-FIELD" PROGRAMS

FIRM PARTICIPATION IN "BUY-A-FIELD" PROGRAMS

* * * * * * *

APPENDIX E

U.S. PRODUCERS' VIEWS ON STATUS OF "CROP TENDERS"

VIEWS ON WHETHER CROP TENDERS ARE PART OF INDUSTRY

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APPENDIX F

SALIENT DATA ON FRESH GARLIC, BY GRADES

Table F-1
Fresh garlic: U.S. capacity, production, and capacity utilization, by products, crop years 1991-94

Item	1991	1992	1993	1994
	End-of-period capacity (*1,000 pounds*)			
USDA Grade No. 1	81,468	86,288	115,518	115,518
Commercial grade	21,612	22,632	24,152	24,152
Other fresh garlic	***	***	***	***
Total[1]	97,932	104,456	141,274	141,274
	Production (*1,000 pounds*)			
USDA Grade No. 1	41,449	52,607	73,584	73,459
Commercial grade	5,270	9,315	7,701	11,740
Other fresh garlic	***	***	***	***
Total[1]	49,102	70,087	93,416	100,307
	Capacity utilization (*percent*)			
USDA Grade No. 1	50.9	59.5	52.7	51.9
Commercial grade	24.4	41.2	31.9	43.1
Other fresh garlic	***	***	***	***
Average	50.1	66.3	62.5	66.7

[1] Totals may not add either because not all firms could allocate capacity and/or production among various grades or because capacity was reported as USDA Grade No. 1 regardless of the eventual grade classification of the garlic.

Note.--Capacity utilization is calculated using data of firms providing both capacity and production information.

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

Table F-2
Fresh garlic: Shipments by U.S. producers, by products and by types, crop years 1991-94

Item	1991	1992	1993	1994
	Quantity (*1,000 pounds*)			
USDA Grade No. 1:				
Company transfers	0	0	0	0
Domestic shipments	36,876	45,147	58,531	55,949
Subtotal	36,876	45,147	58,531	55,949
Exports	***	***	7,576	11,502
Total	***	***	66,107	67,451
Commercial grade:				
Company transfers	0	0	0	0
Domestic shipments	4,592	7,863	6,843	10,937
Subtotal	4,592	7,863	6,843	10,937
Exports	***	***	***	***
Total	***	***	***	***
Other fresh garlic:				
Company transfers	0	0	0	0
Domestic shipments	***	***	***	9,259
Subtotal	***	***	***	9,259
Exports	0	***	***	***
Total	***	***	***	***
Fresh garlic:[1]				
Company transfers	0	0	0	0
Domestic shipments	42,286	58,137	74,520	82,102
Subtotal	42,286	58,137	74,520	82,102
Exports	3,482	5,885	7,883	12,042
Total	45,768	64,022	82,403	94,144
	Value (*1,000 dollars*)			
USDA Grade No. 1:				
Company transfers	0	0	0	0
Domestic shipments	31,821	30,929	40,603	37,908
Subtotal	31,821	30,929	40,603	37,908
Exports	***	***	5,528	7,196
Total	***	***	46,131	45,104
Commercial grade:				
Company transfers	0	0	0	0
Domestic shipments	1,595	2,035	1,473	2,538
Subtotal	1,595	2,035	1,473	2,538
Exports	***	***	***	***
Total	***	***	***	***
Other fresh garlic:				
Company transfers	0	0	0	0
Domestic shipments	***	***	***	***
Subtotal	***	***	***	***
Exports	0	***	***	***
Total	***	***	***	***

Table continued on next page.

Table F-2--Continued
Fresh garlic: Shipments by U.S. producers, by products and by types, crop years 1991-94

Item	1991	1992	1993	1994
	Value (*1,000 dollars*)			
Fresh garlic:[1]				
Company transfers	0	0	0	0
Domestic shipments	32,538	39,766	53,191	52,966
Subtotal	32,538	39,766	53,191	52,966
Exports	3,078	4,329	***	7,588
Total	35,616	44,095	***	60,554
	Unit value (*per pound*)			
USDA Grade No. 1:				
Company transfers	(2)	(2)	(2)	(2)
Domestic shipments	$0.86	$0.69	$0.69	$0.68
Average	.86	.69	.69	.68
Exports	.96	.76	.73	.63
Average	.87	.69	.70	.67
Commercial grade:				
Company transfers	(2)	(2)	(2)	(2)
Domestic shipments	.35	.26	.22	.23
Average	.35	.26	.22	.23
Exports	.49	.42	.32	.37
Average	.36	.28	.22	.24
Other fresh garlic:				
Company transfers	(2)	(2)	(2)	(2)
Domestic shipments	.23	1.26	1.26	1.22
Average	.23	1.26	1.26	1.22
Exports	(2)	1.61	1.57	***
Average	.23	1.28	1.27	***
Fresh garlic:				
Company transfers	(2)	(2)	(2)	(2)
Domestic shipments	.77	.68	.71	.65
Average	.77	.68	.71	.65
Exports	.88	.74	***	.63
Average	.78	.69	.72	.64

[1] Totals may not add because not all fresh garlic producers could separate shipment data by grade.
[2] Not applicable.

Note.--Unit values are calculated using data of firms supplying both quantity and value information.

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

Table F-3
Fresh garlic: End-of-period inventories of U.S. producers, by products, crop years 1991-94

* * * * * * *

Table F-4
Average number of U.S. production and related workers producing fresh garlic, hours worked,[1] wages and total compensation paid to such employees, and hourly wages, productivity, and unit labor costs,[2] by products, crop years 1991-94[3]

Item	1991	1992	1993	1994
	Number of production and related workers (PRWs)			
USDA Grade No. 1	183	253	328	350
Commercial grade	***	***	***	***
Other fresh garlic	-	-	-	-
Total[4]	599	710	1,021	1,087
	Hours worked by PRWs (*1,000 hours*)			
USDA Grade No. 1	349	457	548	561
Commercial grade	***	***	***	***
Other fresh garlic	-	-	-	-
Total[4]	1,007	1,247	1,475	1,584
	Wages paid to PRWs (*1,000 dollars*)			
USDA Grade No. 1	2,451	3,240	3,622	3,813
Commercial grade	***	***	***	***
Other fresh garlic	-	-	-	-
Total[4]	6,380	8,519	10,008	10,463
	Total compensation paid to PRWs (*1,000 dollars*)			
USDA Grade No. 1	2,500	3,272	3,754	4,172
Commercial grade	***	***	***	***
Other fresh garlic	-	-	-	-
Total[4]	7,175	9,633	11,165	12,024
	Hourly wages paid to PRWs			
USDA Grade No. 1	$7.02	$7.09	$6.61	$6.80
Commercial grade	***	***	***	***
Other fresh garlic	-	-	-	-
Average	6.34	6.83	6.79	6.61
	Hourly total compensation paid to PRWs			
USDA Grade No. 1	$7.16	$7.16	$6.85	$7.44
Commercial grade	***	***	***	***
Other fresh garlic	-	-	-	-
Average	7.13	7.72	7.57	7.59

Table continued on next page.

Table F-4--Continued
Average number of U.S. production and related workers producing fresh garlic, hours worked,[1] wages and total compensation paid to such employees, and hourly wages, productivity, and unit labor costs,[2] by products, crop years 1991-94[3]

Item	1991	1992	1993	1994
	Productivity (*pounds per hour*)			
USDA Grade No. 1	85.2	68.4	77.0	77.7
Commercial grade	***	***	***	***
Other fresh garlic	-	-	-	-
Average	55.7	55.6	59.9	59.5
	Unit labor costs (*per 1,000 pounds*)			
USDA grade No. 1	$85.77	$104.61	$88.93	$95.75
Commercial grade	***	***	***	***
Other fresh garlic	-	-	-	-
Average	138.79	139.03	126.45	127.63

[1] Includes hours worked plus hours of paid leave time.
[2] On the basis of total compensation paid.
[3] Firms providing employment data accounted for 60 percent of reported total U.S. shipments (based on quantity) of fresh garlic in crop year 1994.
[4] Totals may not add because not all firms could separate employment data by grade.

Note.--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 F-5
Fresh garlic: U.S. imports, by products and by sources, crop years 1991-94

Item	1991	1992	1993	1994
	Quantity (*1,000 pounds*)			
USDA Grade No. 1:				
China	***	***	6,323	18,894
Other sources	***	***	7,787	7,383
Total	12,950	12,360	14,110	26,277
Commercial grade:				
China	0	0	0	0
Other sources	***	***	***	***
Total	***	***	***	***
Other fresh garlic:				
China	0	0	0	0
Other sources	0	***	***	***
Total	0	***	***	***
Fresh garlic:[1]				
China	5,547	5,912	***	***
Other sources	8,637	9,611	***	***
Total	14,184	15,523	***	***
	Value (*1,000 dollars*)			
USDA Grade No. 1:				
China	***	***	2,179	6,729
Other sources	***	***	5,049	5,068
Total	9,458	8,387	7,228	11,797
Commercial grade:				
China	0	0	0	0
Other sources	***	***	***	***
Total	***	***	***	***
Other fresh garlic:				
China	0	0	0	0
Other sources	0	***	***	***
Total	0	***	***	***
Fresh garlic:[1]				
China	2,020	2,281	***	***
Other sources	7,879	7,156	***	***
Total	9,899	9,437	***	***
	Unit value (*per pound*)			
USDA Grade No. 1:				
China	$0.37	$0.42	$0.34	$0.36
Other sources	.95	.84	.65	.69
Average	.73	.68	.51	.45
Commercial grade:				
China	***	(2)	(2)	(2)
Other sources	***	.40	.39	.40
Average	***	.40	.39	.40
Other fresh garlic:				
China	(2)	(2)	(2)	(2)
Other sources	(2)	***	***	***
Average	(2)	***	***	***
Fresh garlic:				
China	.36	.39	.32	.40
Other sources	.91	.74	.58	.63
Average	.70	.61	.45	.46

[1] Totals may not add because not all firms could separate imports of fresh garlic by grade.
[2] Not applicable.

Note.--Unit values are calculated using data of firms supplying both quantity and value information.

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

Table F-6
Fresh garlic: End-of-period inventories of U.S. importers, by products and by sources, crop years 1991-94

Item	1991	1992	1993	1994
	Quantity (*1,000 pounds*)			
USDA Grade No. 1:				
China	0	0	0	0
Other sources	***	***	***	***
Total	***	***	***	***
Commercial grade:				
China	-	-	-	-
Other sources	***	***	***	***
Total	***	***	***	***
Other fresh garlic:				
China	-	-	-	-
Other sources	0	0	0	0
Total	0	0	0	0
Fresh garlic:				
China	***	***	***	***
Other sources	***	***	***	***
Total	***	***	***	***
	Ratio to total shipments of imports (*percent*)			
USDA Grade No. 1:				
China	0	0	0	0
Other sources	8.1	12.5	13.5	10.5
Average	5.1	7.7	7.4	3.0
Commercial grade:				
China	-	-	-	-
Other sources	***	***	***	***
Average	***	***	***	***
Other fresh garlic:				
China	-	-	-	-
Other sources	-	0	0	0
Average	-	0	0	0
Fresh garlic:				
China	0	0	0	.4
Other sources	8.1	12.0	13.4	11.2
Average	5.0	7.8	6.7	3.6

Note.--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.

APPENDIX G

PUBLIC DATA ON GARLIC PRODUCTION

The following tabulation presents a comparison of Commission questionnaire data on garlic production with USDA (National Agricultural Statistics Service (NASS)) and California County Agricultural Commissioner (CCAC) data (in thousands of pounds):

Item	1991	1992	1993	1994
Fresh garlic:				
Questionnaire data	49,102	70,087	93,416	100,307
CCAC data	82,470	98,602	80,738	118,874
USDA data (NASS)	(1)	(1)	(1)	(1)
Dehy garlic:				
Questionnaire data	221,258	224,214	218,334	241,798
CCAC data	258,726	278,020	326,276	323,340
USDA data (NASS)	(1)	(1)	(1)	(1)
Raw garlic:[2]				
Questionnaire data	324,837	343,782	371,383	408,246
CCAC data	341,196	376,622	407,014	442,214
USDA data (NASS)	341,300	376,600	379,500	357,000
Raw garlic:[3]				
Questionnaire data	270,360	294,301	311,750	342,105
CCAC data	341,196	376,622	407,014	442,214
USDA data (NASS)	341,300	376,600	379,500	357,000

[1] Not available.
[2] Includes production of seed garlic.
[3] Does not include production of seed garlic.

APPENDIX H

EFFECTS OF IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

EFFECTS OF IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

The Commission requested growers to describe and explain the actual and anticipated negative effects, if any, of imports of fresh garlic from China on their growth, investment, ability to raise capital, the scale of capital investments, or production efforts.

* * * * * * *

APPENDIX I

DATA ON U.S. IMPORTS OF GARLIC BASED ON RESPONSES TO COMMISSION QUESTIONNAIRES

Table I-1
Raw garlic: U.S. imports, by products and by sources, crop years 1991-94[1]

Item	1991	1992	1993	1994
	Quantity (*1,000 pounds*)			
Fresh garlic:				
China	5,547	5,912	***	***
Other sources	8,637	9,611	***	***
Total	14,184	15,523	***	***
Dehy garlic:				
China	0	0	***	***
Other sources	0	0	***	***
Total	0	0	***	***
Raw garlic:				
China	5,547	5,912	11,869	25,364
Other sources	8,637	9,611	9,660	11,704
Total	14,184	15,523	21,529	37,068
	Value (*1,000 dollars*)			
Fresh garlic:				
China	2,020	2,281	***	***
Other sources	7,879	7,156	***	***
Total	9,899	9,437	***	***
Dehy garlic:				
China	0	0	***	***
Other sources	0	0	***	***
Total	0	0	***	***
Raw garlic:				
China	2,020	2,281	3,643	10,015
Other sources	7,879	7,156	5,646	6,326
Total	9,899	9,437	9,289	16,341
	Unit value (*per pound*)			
Fresh garlic:				
China	$0.36	$0.39	$0.32	$0.40
Other sources	.91	.74	.58	.63
Average	.70	.61	.45	.46
Dehy garlic:				
China	(2)	(2)	***	***
Other sources	(2)	(2)	***	***
Average	(2)	(2)	***	***
Raw garlic:				
China	.36	.39	.31	.39
Other sources	.91	.74	.58	.54
Average	.70	.61	.43	.44

[1] No imports of seed garlic were reported.
[2] Not applicable.

Note.--Unit values are calculated using data of firms supplying both quantity and value information.

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