Polyvinyl Alcohol from China, Japan, Korea, and Taiwan

Investigations Nos. 731-TA-726-729 (Preliminary)

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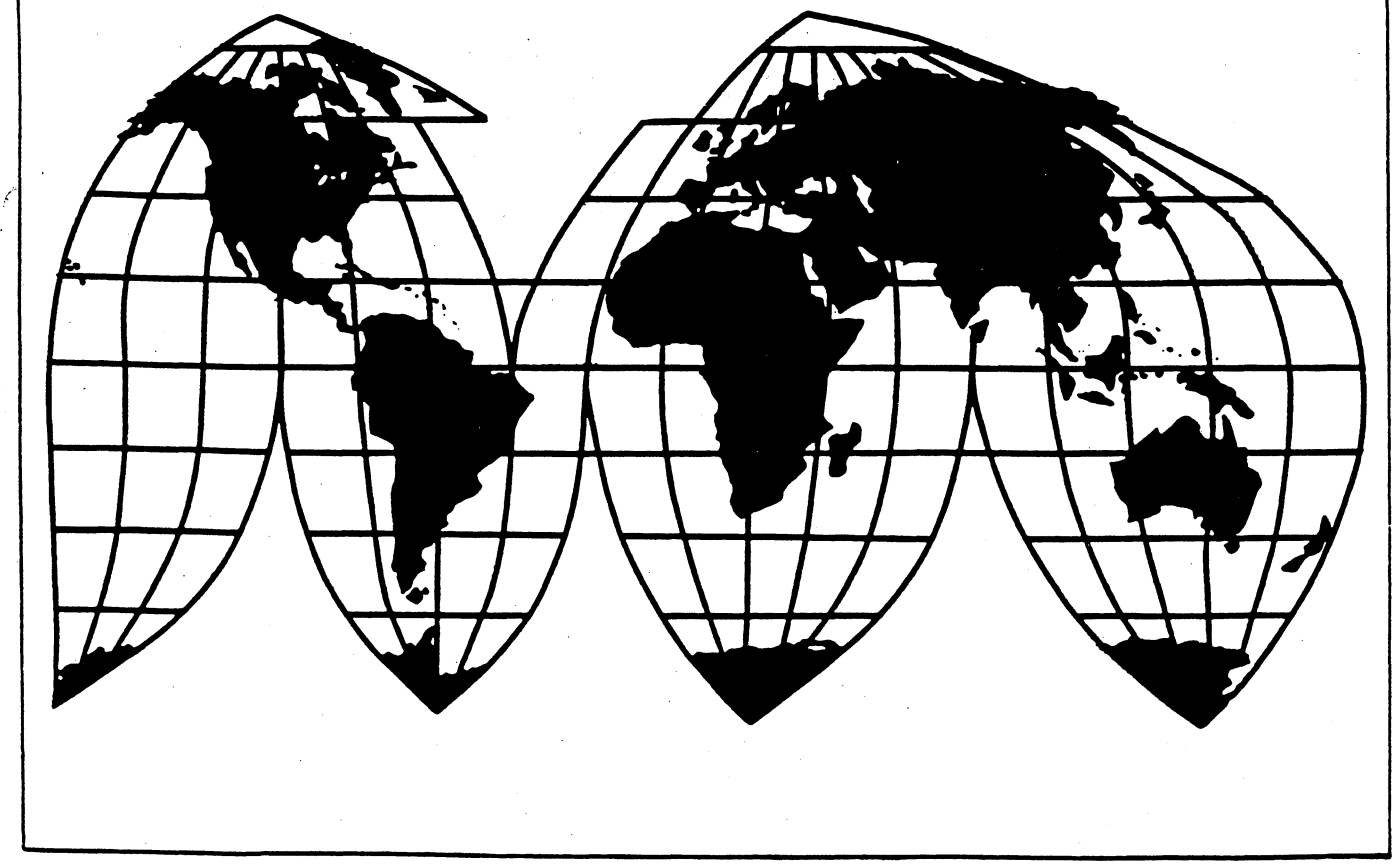
U.S. International Trade Commission



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

PART I

DETERMINATIONS AND VIEWS OF THE COMMISSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-726-729 (Preliminary)

POLYVINYL ALCOHOL FROM CHINA, JAPAN, KOREA, AND TAIWAN

Determinations

On the basis of the record[1] developed in the subject investigations, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China, Japan, and Taiwan of polyvinyl alcohol,[2] provided for in subheading 3905.20.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV). Investigation No. 731-TA-728 (Preliminary) concerning Korea is terminated on the basis of the unanimous determination that imports from Korea are negligible.

Background

On March 9, 1995, a petition was filed with the Commission and the Department of Commerce by Air Products and Chemicals, Inc., Allentown, PA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of polyvinyl alcohol from China, Japan, Korea, and Taiwan. Accordingly, effective March 9, 1995, the Commission instituted antidumping investigations Nos. 731-TA-726 through 729 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of March 17, 1995 (60 F.R. 14448). The conference was held in Washington, DC, on March 30, 1995, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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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] The product covered by these investigations is polyvinyl alcohol. Polyvinyl alcohol is a dry, white to cream-colored, water-soluble synthetic polymer, usually prepared by hydrolysis of polyvinyl acetate. This product includes polyvinyl alcohols hydrolyzed in excess of 85 percent, whether or not mixed or diluted with defoamer or boric acid.

VIEWS OF THE COMMISSION

Based on the record in these preliminary investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of polyvinyl alcohol from the People's Republic of China ("China"), Japan and Taiwan that are allegedly sold in the United States at less than fair value ("LTFV").[1] [2] We further determine that there is no reasonable indication that imports of polyvinyl alcohol from Korea are not negligible, and the investigation with respect to such imports is terminated.

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard in preliminary antidumping duty investigations requires the Commission to determine, based upon the best information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury by reason of the allegedly LTFV imports.[3] [4] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of material injury; and(2) no likelihood exists that any contrary evidence will arise in a final investigation."[5]

II. DOMESTIC LIKE PRODUCT AND DOMESTIC INDUSTRY

A. In General

In determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the subject imports, the

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[1] Whether there is a reasonable indication that the establishment of an industry in the United States is materially retarded is not an issue in these investigations.

[2] These are the first investigations subject to the Uruguay Round Agreements Act ("URAA") amendments to the Tariff Act of 1930 ("the Act"). P.L. 103-465, approved Dec. 8, 1994, 108 Stat. 4809, amending section 701 et seq. of the Trade Act of 1930, 19 U.S.C. § 1671 et seq.

[3] 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994 (Fed. Cir. 1986); Calabrian Corp. v. USITC, 794 F. Supp. 377, 381 (Ct. Int'l Trade 1992).

[4] Chairman Watson makes the following observations regarding preliminary investigations without implying mala fides of any party to this particular investigation. Yet, since this is the first antidumping petition to come before the Commission under the URAA, and since it does not present a particularly strong case in his view, he deems it appropriate to voice some concerns about the effect of the American Lamb standard on preliminary determinations.

Although Chairman Watson is mindful that there is no burden of pleading on petitioners in a Title VII investigation, he is concerned in some cases by the practical effect of the lower legal standard petitioners must meet for affirmative preliminary determinations. Petitioners, who of all parties to an investigation have the best opportunity to marshal data and legal arguments in their favor, sometimes have little incentive to do more than simply allege facts and present data sufficient to show only that there is a "reasonable indication of material injury" due to subject imports. Accordingly, once they satisfy the American Lamb standard, petitioners need not provide the Commission or respondents with more complete or comprehensive data within their control, if they have it. A sparse and selective record may oblige the Commission to make an affirmative pro forma preliminary determination due to the low applicable legal standard, even if the Commission could reasonably have made a negative determination on the merits based on information in a more complete record.

[5] American Lamb Co. v. United States, 785 F.2d at 1001; see also Torrington Co. v. United States, 790 F. Supp. 1161, 1165 (Ct. Int'l Trade 1992), aff'd, 991 F.2d 809 (Fed. Cir. 1993).

Commission first defines the "domestic like product" and the "industry."[6] Section 771(4)(A) of the Act defines the relevant industry as the "producers as a whole of a domestic like product, or those producers whose collective output of the domestic like product constitutes a major proportion of the total domestic production of that product."[7] In turn, the Act defines "domestic like product" as: "[a] product that is like, or in the absence of like, most similar in characteristics and uses with the article subject to investigation."[8]

Our decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and we apply the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[9] No single factor is dispositive, and the Commission may consider other factors it deems relevant based upon the facts of a particular investigation. The Commission looks for "clear dividing lines among possible like products" and disregards minor variations.[10]

The imported product subject to investigation has been defined by the Department of Commerce ("Commerce") in its initiation notice as polyvinyl alcohol ("PVA").[11] PVA[12] is a water soluble, synthetic polymer, usually prepared by hydrolysis of polyvinyl acetate, and is available in powdered or granular form.[13] A wide variety of grades is available, of varying molecular weight and degree of hydrolysis. PVA is also available in formulations made to particular customer specifications.[14] PVA is used in the textile and paper industries in sizing formulations; as a binder in adhesive formulations and soil binding compounds; as an emulsion or polymerization aid in colloidal

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[6] The URAA changes the terminology in the domestic industry provision by referring to "producers" instead of "domestic producers" and by changing the term "like product" to "domestic like product". 19 U.S.C. § 1677(4)(A).

[7] 19 U.S.C. § 1677(4)(A).

[8] 19 U.S.C. § 1677(10).

[9] See Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities, production processes and production employees; (5) customer or producer perceptions; and, where appropriate, (6) price. Calabrian Corp. v. United States, 794 F. Supp. 377, 382 n.4 (Ct. Int'l Trade 1992); Torrington, 747 F. Supp. at 749. No single factor is dispositive, and the Commission may consider other factors relevant to a particular investigation. E.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[10] Torrington, 747 F. Supp. at 748-49.

[11] Notice of initiation of investigation of LTFV imports from China, Japan, Korea and Taiwan, 60 Fed. Reg. 17053 (April 4, 1995). Although Commerce's published definition of the merchandise subject to investigation suggests a broader scope than the class of merchandise that petitioner requested be investigated, Commerce has advised the Commission that the scope of the investigations is intended to be limited as petitioner requested to polyvinyl alcohol hydrolyzed in excess of 85 percent. Facsimile from John Brinkman, Import Administration, to Woodley Timberlake, April 17, 1995.

[12] All references to PVA herein should be construed to mean only PVA hydrolyzed in excess of 85 percent.

[13] Confidential Report ("CR") at I-4, Public Report ("PR") at II-3.

[14] CR at I-4, PR at II-3.

suspensions; and as an intermediate in the production of polyvinyl butyral ("PVB"), which is used as an adhesive film in automobile safety glass.[15]

B. Analysis of Domestic Like Product Issues

These investigations present only one domestic like product issue: whether the differences that distinguish grades or specifications of PVA are sufficient to warrant the finding of multiple domestic like products.[16] The petitioner, Air Products and Chemicals, Inc. ("Air Products"), argues that while there are differences among grades of polyvinyl alcohol in terms of relative interchangeability and some physical characteristics, those differences are outweighed by other common characteristics, producer perceptions, common manufacturing facilities and common channels of distribution.[17]

The foreign producers and U.S. importers generally do not contest the petitioner's definition of the domestic like product and do not assert that the Commission should find multiple domestic like products.[18] However, two parties did argue for a finding of multiple domestic like products. Monsanto Company ("Monsanto"), a domestic manufacturer which produces polyvinyl alcohol as an intermediate product in its manufacture of polyvinyl butyral ("PVB"), claims that the PVA that it uses in this process is a distinct domestic like product.[19] Isolyser Company, Inc. ("Isolyser"), a U.S. purchaser which uses PVA in the manufacture of biodegradable health care products, contends that there should be two domestic like products consisting of PVA hydrolyzed in excess of 95 percent (fully hydrolyzed) and that below 95 percent (partially hydrolyzed).[20]

For the reasons discussed below, we find one domestic like product consisting of all PVA in excess of 85 percent hydrolyzed. All PVA generally shares certain physical characteristics and

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[15] CR at I-5; PR at II-4. Based on responses to the Commission's questionnaires, the percentage of U.S. producers' shipments in 1994 by end-use applications were as follows: PVB, *** percent; textiles, *** percent; paper, *** percent; adhesives, *** percent; and all other end-uses, *** percent. CR at I-10, PR at II-6.

[16] There is no issue whether the PVA hydrolyzed at 85 percent or less is part of the same like product as PVA hydrolyzed at more than 85 percent, because there is no domestic production of PVA hydrolyzed at 85 percent or less.

[17] Petitioner's Postconference Brief ("Petitioner's brief") at 6-8. Moreover, the petitioner contends that there are no clear dividing lines between different grades that would permit the finding of distinct domestic like products. Id.

[18] See, e.g. Postconference briefs filed by Oriental Chemical Industries, Ltd. ("OCI") at 8 n.5 ("OCI's brief"); Beta Chemicals, Inc. and Sichuan Vinylon Works (involving imports from China) at 1. CR at I-6, PR at II-5.

[19] Monsanto states that the PVA used to manufacture PVB must meet far stricter specifications than generic PVA suitable for uses other than PVB. Monsanto Postconference brief ("Monsanto brief") at 3. Although Monsanto asserts that a different channel of distribution is used, this claim is not consistent with other record information indicating that almost all PVA is sold directly to end-users. CR at I-8, PR at II-6. Monsanto claims that additional processing equipment is required to produce PVA for it, although the production facilities and general processing are the same. Monsanto brief at 5.

[20] Isolyser Postconference brief at 1. Isolyser bases its argument that fully hydrolyzed PVA is a distinct domestic like product primarily on the fact that fully hydrolyzed PVA is less soluble than partially hydrolyzed PVA and is generally only soluble in boiling water. Isolyser Postconference brief at 4. The Commission, however, has previously found that differences in solubility alone are not necessarily a basis for the finding of a distinct domestic like product. See Manganese Sulfate from the People's Republic of China, Inv. No. 731-TA-725 (Preliminary), USITC Pub. 2848 (Jan. 1995) at I-6-I-7.

chemical composition.[21] Many grades of PVA are available, of varying molecular weight and degree of hydrolysis.[22]

All PVA grades are not interchangeable with other grades. Nevertheless, more than one grade is sold to specific end-use markets such as textile, adhesive, and paper manufacturers.[23] Moreover, certain grades are sold for more than one end-use. The record indicates that fully hydrolyzed PVA can be used in many of the same, although not all, end-uses in which partially hydrolyzed PVA can be used.[24] For example, E.I. Du Pont de Nemours Company's ("Du Pont") PVA is fully hydrolyzed and is used in some of the same end-uses, such as textiles and paper, as partially hydrolyzed PVA.[25]

The vast majority of PVA sold in the United States is sold in the same channels of distribution, directly to end-users.[26] Additionally, two domestic producers of PVA (Du Pont and Monsanto) captively consume PVA in their manufacture of PVB[27] and, to a more limited extent, Du Pont and Air Products use PVA that they manufacture to produce other downstream products. The same production facilities, processes, and employees are used to manufacture the various PVA grades.[28] With respect to price, standard grades of PVA are largely sold within a relatively narrow price range, although PVA prices to different end-use markets for the same grade may vary.[29]

We find one domestic like product in these investigations, encompassing all PVA, because all grades share certain common physical and chemical characteristics, many grades are used in the same general end-uses (e.g. textiles, adhesives, paper) and some grades may be used in more than a single end-use. Moreover, all grades are manufactured using the same production facilities, processes, and production employees and are distributed primarily to end-users.[30]

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[21] CR at I-4, PR at II-3. For example, all PVA is a hard solid suitable for grinding. Petitioner's brief at 7.

[22] CR at I-4, PR at II-3.

[23] See e.g., Tables F-6 and F-7, CR at F-8, F-9, PR at F-3.

[24] The absence of complete interchangeability among the end-uses of different grades of PVA does not require the finding of separate domestic like products. See Nippon Steel Corp. v. United States, Slip op. 95-57 (CIT April 3, 1995) at 16-17.

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

[26] CR at I-8, PR at II-6.

[27] Monsanto consumes 100 percent of its production of PVA in the production of PVB, whereas Du Pont consumes approximately *** percent of its PVA production to manufacture PVB. CR at I-16-I-17, PR at II-11-II-12.

[28] CR at I-5, PR at II-4.

[29] CR at I-80 n.60, PR at II-32 n.60. Pricing of PVA grades appears to depend to some extent on the relative level of hydrolysis of the product and other characteristics. CR at I-80, PR at II-30.

[30] Our finding is consistent with the Commission's general practice of declining to find separate domestic like products based solely on the existence of different grades of a chemical product. See, e.g., Glycine from the People's Republic of China, Inv. No. 731-TA-718 (Final), USITC Pub. 2863 (March 1995) at I-6; Silicon Carbide from the People's Republic of China, Inv. No. 731-TA-651 (Final), USITC Pub. 2779 at I-9 (June 1994); Saccharin from China and Korea, Inv. Nos. 731-TA-675-676 (Preliminary), USITC Pub. 2716 at I-6-I-7 & n.20 (Jan. 1994). Finding two or more like products, as suggested by Monsanto and Isolyser, would invite fragmenting our like product definition among a variety of differing grades. The Court of International Trade has sustained Commission determinations in which the Commission has stated its reluctance to fragment like product definitions where a continuum of products exists. See Kern-Liebers v. United States, Slip op. 95-9 at 9 (CIT Jan. 27, 1995).

C. Domestic Industry

In making its determination, the Commission is directed to consider the effect of the imports on the domestic industry, defined as "the producers as a whole of a domestic like product..." 19 U.S.C. § 1677(4)(A). In doing so, the Commission includes all domestic production, including tolling operations and captively consumed product, within the domestic industry.[31] Two issues arise in these preliminary investigations with respect to the definition of the domestic industry: (1) whether any of the producers of the domestic like product are related within the meaning of the statute and if so, whether circumstances exist that warrant their exclusion from the domestic industry and (2) whether, as argued by petitioners, Monsanto should be excluded from the domestic industry because it produces PVA only as an input for its PVB production.

We find that it is not appropriate to exclude any of the domestic producers as related parties. Only three firms -- Air Products, Du Pont, and Monsanto -- produce PVA in the United States.[32] The related parties provision, 19 U.S.C. § 1677(4)(B), as amended by the URAA, authorizes the exclusion of certain producers from the domestic industry.[33] If the Commission determines that a domestic producer meets the definition of a related party, the Commission may exclude such a producer from the domestic industry if "appropriate circumstances" exist.[34] Exclusion of a related party is within the Commission's discretion based upon the facts presented in each case.[35]

*** are direct importers and, thus, are related parties within the statutory definition.[36]

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[31] See United States Steel Group, et al. v. United States, Slip Op. 94-201 at 16 (Ct. Int'l Trade December 30, 1994). As discussed further below, the URAA amendments provide that, under certain circumstances involving captive production, the Commission should focus primarily on the merchant market in determining market share and the factors affecting financial performance set forth in 19 U.S.C. § 1677(7)(C)(iii).

[32] CR at I-15, PR at II-11.

[33] 19 U.S.C. § 1677(4)(B) contains the definition of related parties.

[34] 19 U.S.C. § 1677(4)(B). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include:

(1) the percentage of domestic production attributable to the importing producer;

(2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market, and

(3) the position of the related producer vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry.

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interest of the related producer lies in domestic production or importation. See, e.g., Sebacic Acid from the People's Republic of China, Inv. No. 731-TA-653 (Final), USITC Pub. 2793 at I-7-8 (July 1994).

[35] See Torrington Co. v. United States, 790 F. Supp. at 1168.

[36] CR at I-18, I-27, PR at II-12, II-16. There is no indication in the record that *** is a related party, either through ownership to the U.S. importers from whom it purchased subject merchandise from (continued...)

Appropriate circumstances are not present, however, to warrant their exclusion from the domestic industry. *** are significant producers of PVA. Moreover, *** did not import commercial quantities of subject merchandise during the POI, and stated in its questionnaire response ******.[37] *** imports of subject merchandise from *** during the POI,[38] and never represented more than *** percent of its U.S. shipments (including internal transfers) of PVA.[39] Thus, on the basis of the record in these preliminary investigations, it does not appear that *** related producer derives a benefit from its relationship so as to insulate it from the impact of subject imports. We therefore do not exclude any producer as a related party.

We also decline to exclude Monsanto simply because it produces PVA as an input for its PVB production. Petitioner argues that Monsanto should be excluded from the domestic industry on the grounds that Monsanto did not produce PVA; that Monsanto's production of PVB is a continuous process without an intermediate product.[40] Monsanto has made clear, however, that PVA is manufactured as an intermediate product in its manufacture of PVB.[41] We find that the fact that Monsanto produces PVA only as an input for its PVB production does not disqualify it, or any portion of its PVA production, from the domestic industry.[42]

Accordingly, we reject the petitioner's request that Monsanto be excluded from the definition of the domestic industry. We therefore determine that the domestic industry consists of all three producers of PVA in excess of 85 percent hydrolyzed.

III. CONDITION OF THE DOMESTIC INDUSTRY

In assessing whether there is a reasonable indication that the domestic industry is materially injured or threatened with material injury by reason of allegedly LTFV imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[43] 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."[44]

We note certain conditions of competition pertinent to our analysis of the domestic polyvinyl alcohol industry. First, approximately *** percent of domestic production of polyvinyl alcohol is internally transferred for the production of downstream articles. For purposes of these preliminary investigations, we have determined that the criteria for applicability of the captive production

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[36](...continued)
Taiwan and Japan, or through its purchases of subject imports. We note that even were *** determined to be a related party within the meaning of 19 U.S.C. § 1677(4)(B), the *** in any significant degree.

[37] CR at I-18, PR at II-12.

[38] Table 5, CR at I-28, PR at II-16. Virtually all direct imports reflected in table 5 were purchases by *** as *** purchases were not ***.

[39] CR at I-36, PR at II-18.

[40] Transcript of March 30, 1995 Conference (Conference Transcript) at 77 (Lebow).

[41] Monsanto brief at 1.

[42] See United States Steel Group, supra, note 31. The applicability of the captive production provision, 19 U.S.C. § 1677(7)(C)(iv), is discussed in section III, infra, of these views.

[43] 19 U.S.C. § 1677(7)(C)(iii).

[44] 19 U.S.C. § 1677(7)(C)(iii).

provision are satisfied[45] and, accordingly, in analyzing the market share and financial performance of the domestic industry, we have focused primarily on the merchant market, but also have considered those factors with respect to the entire U.S. market for polyvinyl alcohol.[46]

We find that the domestic polyvinyl alcohol industry internally consumes significant production of the domestic like product in the production of one or more downstream articles, and sells even more significant production of the domestic like product in the merchant market.[47] Consequently, the Commission must consider whether the remaining requirements of the captive production provision are met. The first factor, whether the domestic like product that is internally transferred also enters the merchant market, appears to be satisfied in this case as none of the PVA that is internally transferred for the production of downstream articles is sold into the merchant market for PVA.[48] [49] The second factor, whether the domestic like product is the predominant input into the downstream article, also appears to be satisfied as PVA accounts for *** percent of the

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[45] 19 U.S.C. § 1677(7)(C)(iv) sets forth the factors to be considered by the Commission in determining whether the captive production provision is applicable. If the threshold criteria are present, i.e., domestic producers internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market, then the Commission shall determine whether:

> (I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product,
>
> (II) the domestic like product is the predominant material input in the production of that downstream article, and
>
> (III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article . . .

19 U.S.C. § 1671(7)(C)(iv).

[46] The Statement of Administrative Action, H.R. Doc. 316, Vol. 1, 103rd Cong., 2nd Sess. (1994) ("SAA") states that this provision "does not require the Commission to focus exclusively on the merchant market in analyzing the market share and financial performance of the domestic industry" even when the statutory provision applies. SAA at 852.

[47] Approximately *** percent of domestic production of PVA is transferred for production of PVB. CR at I-9; PR at II-6. Approximately *** percent of domestic production is sold to the merchant market. These percentages appear to be significant in this case.

[48] All three domestic producers of PVA, in varying degrees, consume the PVA that they manufacture.

[49] Commissioner Bragg notes that there are alternative possible interpretations of this first factor other than that applied by the Commission in these preliminary determinations. In essence, the Commission has read this provision to apply because no single U.S. producer sold PVA in the merchant market for the same end-uses in which the same producer internally consumed it. Commissioner Bragg notes, however, that at least one producer sold PVA in the merchant market for the same end-use (PVB production) in which PVA was captively consumed by the U.S. industry as a whole. Commissioner Bragg invites interested parties' comments in any final investigations as to the appropriate interpretation of this factor.

material costs of PVB.[50] Production of other downstream products consumes only a small portion of total U.S. polyvinyl alcohol production.[51] Viewing the domestic industry as a whole, polyvinyl alcohol constitutes the predominant input in the industry's downstream production of PVB, which accounts for nearly all downstream production.

The third statutory factor requires that "production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article." This factor also appears to be satisfied in these investigations. Subsection (iv)(III) of the captive production provision only requires that the production of the domestic like product sold in the merchant market is not "generally" used in the production of that downstream product. This subsection appears to be satisfied in these investigations because only *** million pounds of the *** million pounds sold in the merchant market, or *** percent, are used in producing the downstream article PVB.[52] Accordingly, we have analyzed the market share and financial performance of the domestic industry primarily on the basis of its merchant market sales.[53]

Apparent U.S. consumption of polyvinyl alcohol in the merchant market decreased from 1992 to 1993 before increasing in 1994.[54] Apparent domestic consumption for the market as a whole followed the same trend.[55] The value of apparent U.S. consumption for the merchant market

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[50] Petitioner's brief at 9; Du Pont's Producers' Questionnaire Response at 11; Monsanto's Producers' Questionnaire Response at 11. The relative volume of the inputs, or other alternative measurements, may also be an appropriate benchmark for determining whether the domestic like product transferred for downstream production is the predominant input, depending on the circumstances of a particular case. In the instant investigations, the same result is reached regardless of whether relative cost or relative volume is used.

[51] There is only limited data pertaining to the relative importance of PVA as an input in those other downstream products. In the case of Air Products' downstream production, *** input. See Air Products' Producers' Questionnaire Response at 11.

[52] Chairman Watson concurs that in this investigation, the production of the domestic like product sold in the merchant market is "not generally used" in the production of the downstream article. In making his finding, he considered not only the percentage of the domestic like product sold in the merchant market for downstream production, but also whether such sales were continuous or sporadic. In this regard, he notes that although the percentage of the domestic like product sold to other U.S. producers for production of the downstream articles was generally low over the POI, such sales occurred continuously over the POI. On balance, however, he finds that such sales of the domestic like product in the merchant market were not generally used in the production of the downstream article. In future investigations, as in this case, Chairman Watson intends not to rely solely on a quantitative definition of "not generally used."

[53] In any final investigations, we invite additional comments from the parties regarding the applicability of the captive production provision in the circumstances presented here.

[54] Table 2, CR at I-14, PR at II-9. Apparent domestic consumption in the merchant market declined from *** to *** million pounds between 1992 and 1993 and then increased to *** million pounds in 1994. Id.

[55] Consumption decreased from *** to *** million pounds between 1992 and 1993, before increasing to *** million pounds in 1994. Table 1, CR at I-12, PR at II-7.

followed the same pattern,[56] as did the value of apparent U.S. consumption for the polyvinyl alcohol market as a whole.[57]

The U.S. industry's domestic shipments to the merchant market, however, increased consistently throughout the period of investigation, as did total domestic industry shipments.[58] The total value of the U.S. industry's domestic shipments to the merchant market fluctuated, declining in 1993 and then increasing in 1994.[59] The total value of all U.S. industry shipments followed the same trend as U.S. industry domestic shipments to the merchant market, with volume increasing throughout the period of investigation, while total value fluctuated.[60]

The domestic industry's share of the merchant market also increased from 1992 to 1993, and then increased again in 1994.[61] Although the domestic industry's share of total apparent consumption also increased during each year of the period of investigation, the industry's share of merchant market shipments was lower.[62]

U.S. producers' polyvinyl alcohol production capacity fluctuated downward from 1992 to 1994.[63] Production volume rose from 1992 to 1993, and then declined in 1994.[64] As a consequence

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[56] Table 2, CR at I-14, PR at II-9. The value of apparent domestic consumption in the merchant market decreased from *** million in 1992 to *** million in 1993, before increasing to *** million in 1994.

[57] Table 1, CR at I-12, PR at II-7. The value of consumption declined from *** to *** million between 1992 and 1993 and then increased in 1994 to *** million.

[58] Table 2, CR at I-12, PR at II-9. Domestic shipments to the merchant market increased from *** to *** million pounds between 1992 and 1993 before increasing to *** million pounds in 1994. Similarly, total domestic shipments increased from *** to *** million pounds between 1992 and 1993 prior to increasing to *** million pounds in 1994. Table 1, CR at I-12, PR at II-7.

[59] Table 2, CR at I-14, PR at II-7. The value of merchant market shipments declined from *** to *** million between 1992 and 1993 before increasing to *** million in 1994. The unit value of domestic industry shipments to the merchant market declined from *** per pound in 1992 to *** per pound in 1993, before further declining to *** in 1994.

[60] Table 1, CR at I-12, PR at II-7. The rate of increase in the volume of U.S. industry domestic shipments to the open-market between 1992 and 1994 was slightly lower at *** percent than the rate of increase of total industry domestic shipments at *** percent. Company transfers, all of which were for captive use, rose from *** million pounds in 1992 to *** million pounds in 1994. Domestic merchant market shipments increased from *** million pounds in 1992 to *** million pounds in 1994. CR at I-25, PR at II-15.

[61] Table 23, CR at I-77, PR at II-32. The domestic industry's share of merchant market shipments increased from *** to *** percent between 1992 and 1993 before further increasing to *** percent in 1994.

[62] Table 22, CR at I-75, PR at II-32. The domestic industry's share of total apparent consumption increased from *** percent in 1992 to *** percent in 1993 and then increased again to *** percent in 1994. Although Air Products argued that purchases of the subject merchandise by domestic producers should be excluded from the volume of subject imports for purposes of determining the level of import penetration and calculating market shares, the petitioner has failed to show how the requested exclusion would be permissible under the relevant statutory provisions.

[63] Table 3, CR at I-22, PR at II-14. Production capacity decreased from *** to *** million pounds between 1992 and 1993 and then increased to *** million pounds in 1994. Domestic industry capacity increased significantly in 1991, however, when Air Products commenced operations at its new Pasadena, Texas plant. That facility has a nominal production rating equal to *** million pounds annually. Id.

[64] Id. Production rose from 1992 to 1993, increasing from *** pounds in 1992 to *** pounds in 1993, and then dropped to *** pounds in 1994.

of these fluctuations, capacity utilization rose from 1992 to 1993, but then declined in 1994.[65] Domestic producer inventories increased from 1992 to 1993, before declining in 1994.[66]

Both the number of production and related workers and the hours worked declined throughout the period of investigation.[67] Total compensation, however, increased between 1992 and 1994.[68] While productivity (measured in pounds produced per hour) improved between 1992 and 1994, unit labor costs also increased unevenly.[69]

Increases in domestic industry sales volume in the merchant market resulted in higher net sales revenue in both 1993 and 1994.[70] The operating income of the domestic industry on its sales to the merchant market improved marginally from 1992 to 1993, despite a decline in unit sales value in the merchant market.[71] Relative stability in the cost of goods sold and a small decline in SG&A expenses from 1992 to 1993 helped offset the lower sales prices in the merchant market.[72] By 1994, however, the declines in per unit values were no longer offset by increased sales volumes. Thus, significant increases in the cost of goods and a smaller increase in SG&A expenses contributed to substantial declines in both operating income and gross profits in 1994 on merchant market sales.[73] [74]

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[65] Id. Capacity utilization rose from *** percent in 1992 to *** percent in 1993, but then declined to *** percent in 1994.

[66] Table 6, CR at I-31, PR at II-16. Domestic producer inventories increased from *** million pounds in 1992 to *** million pounds in 1993, before declining to *** pounds in 1994. Domestic inventories as a percentage of shipments reached the lowest level during the period of investigation in 1994. A substantial portion of inventories prior to 1994 represented unsold off-specification merchandise manufactured by Air Products. CR at I-31, PR at II-16.

[67] Production and related workers declined from *** in 1992 to *** in 1994 as the hours worked declined from *** to *** million hours between 1992 and 1994. Table 7, CR at I-32, PR at II-16-17.

[68] Id.

[69] Id. Total compensation increased from *** million in 1992 to *** million in 1994. While productivity (measured in pounds per hour) improved between 1992 and 1994 by *** percent, unit labor costs also increased from *** to *** per pound.

[70] Net domestic industry sales value in the merchant market increased from *** million in 1992 to *** million in 1993 and increased again in 1994 to *** million. Table 8, CR at I-35, PR at II-18 . Domestic industry total net sales value followed a similar trend. Table 10, CR at I-40, PR at II-19.

[71] Table 8, CR at I-35, PR at II-18. Operating income increased from *** to *** million between 1992 and 1993 as per unit sales value fell from *** to *** during the same period. Gross profits, however, declined. Id. In comparison, both the operating income and gross profits of the domestic industry improved slightly between 1992 and 1993 when based on their combined merchant market and internal transfer sales. Table 10, CR at I-40, PR at II-19.

[72] Table 8, CR at I-35, PR at II-18. Between 1992 and 1993 cost of goods sold rose from *** to *** percent of net sales in the merchant market and SG&A declined from *** to *** percent of net sales value. Id. In contrast, both the cost of goods sold and SG&A expenses declined slightly between 1992 and 1993 in the case of combined merchant market and captive production sales by the domestic industry. Table 10, CR at I-40, PR at II-19.

[73] Table 8, CR at I-35, PR at II-18. Cost of goods sold as a percentage of sales revenue increased between 1993 and 1994 from *** to *** percent and SG&A expenses increased from *** to *** percent. Gross profits declined from *** million to *** million and operating income in 1993 of *** million turned into a loss of *** million in 1994. Trends based on combined domestic industry sales to both the merchant and captive markets were better, but showed similar declines in both gross profits and operating income. Table 10, CR at I-40, PR at II-19. Gross profits on combined sales fell from *** to *** million between 1993 and 1994 as operating income declined from *** to *** million.

The unit sales value of domestic industry merchant market sales fell from *** in 1992 to *** per pound in 1994.[75] As the cost of goods sold increased from *** per pound in 1993 to *** in 1994, gross profits fell and the industry experienced its first operating loss on merchant market sales during the period of investigation.[76] By 1994, as per unit sales revenue declined, the cost of goods sold as a percentage of merchant market sales increased to *** percent from *** percent in 1992.[77]

Capital expenditures by the domestic industry declined from 1992 to 1994.[78] Research and development spending by the domestic industry also declined from 1992 to 1993 and then increased in 1994, but did not reach 1992 levels.[79] [80]

IV. NEGLIGIBLE IMPORTS

The URAA amends the statutory provisions pertaining to preliminary antidumping duty determinations[81] to require that investigations terminate by operation of law without an injury determination if the subject imports are negligible. In these investigations, negligibility is an issue only with respect to subject imports from Korea.

The provision defining "negligibility" provides that imports from a subject country that are less than 3 percent of the volume of all such merchandise imported into the United States shall be deemed negligible.[82] Whether the 3 percent threshold has been reached is to be evaluated based on the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition.

The statute allows the Commission to make "reasonable estimates on the basis of available statistics" of import levels for purposes of making negligibility determinations.[83] The SAA indicates

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[74](...continued)
[74] We note that the financial data reported by the domestic producers were based on different fiscal years. While Du Pont reported a fiscal year coinciding with the calendar year, Air Products' fiscal year ends on September 30. The *** by the domestic producers -- ***-- may reflect, ***. For example, *** of 1994, whereas the financial data of *** would not.

[75] Table 8, CR at I-35, PR at II-18.

[76] Our analysis of industry financial performance is limited to the data submitted by the petitioner and Du Pont, which we estimate account for approximately *** percent of domestic production and sales during the period of investigation. Monsanto did not provide data on its financial performance.

[77] Table 8, CR at I-35, PR at II-18. The trends as reflected in combined merchant market and captive sales by the domestic industry are very similar, if only somewhat less pronounced: the revenue decline was only slightly less severe and the increase in cost of goods sold was slightly smaller. Table 10, CR at I-40, PR at II-19.

[78] Table 13, CR at I-43, PR at II-20. Capital expenditures declined from *** to *** dollars between 1992 and 1994.

[79] Table 14, CR at I-44, PR at II-20. Research and development expenditures were *** percent lower in 1994 than in 1992.

[80] As a result of declining sales revenue and price levels, as well as a serious deterioration in operating income and profitability, Commissioner Rohr and Commissioner Newquist determine that there is a reasonable indication that the domestic industry is currently experiencing material injury.

[81] 19 U.S.C. § 1673b(a).

[82] 19 U.S.C. § 1677(24).

[83] See SAA at 856 ("the Commission may not have access to either complete questionnaire data or official import statistics corresponding exactly to the Commission's like product(s) designations, particularly in preliminary investigations.").

that the standard for negligibility determinations in preliminary investigations shall be the same as the standard upheld in American Lamb, and that the Commission is to determine whether there is a "reasonable indication" that imports are not negligible.[84] The SAA offers, by way of example, two circumstances which would allow the Commission to continue a preliminary present injury investigation where subject imports from a particular country are below the three percent quantitative threshold:

> (1) the Commission is uncertain regarding appropriate like product designations and corresponding import volumes are not negligible with respect to one of the arguably appropriate designations; or
>
> (2) imports are extremely close to the relevant quantitative thresholds and there is a reasonable indication that data obtained in a final investigation will establish that imports exceed the quantitative thresholds.[85]

The record shows that imports from Korea of PVA corresponding to the like product found by the Commission in these investigations[86] never exceeded *** percent of total imports for the 12 month period immediately preceding the filing of the petition.[87] This import share is significantly below the 3 percent statutory threshold for negligibility. Thus, we find that imports from Korea meet the numerical criterion for negligibility. Further, we find that the imports are not "extremely close to the relevant quantitative thresholds". We also find that a continuation of the Commission's material injury investigation with respect to Korean imports is not warranted on the basis that domestic like product definitions are uncertain. As discussed above, we define the domestic like product as PVA, over 85 percent hydrolyzed.[88] Finally, we do not find that any other circumstances exist that would warrant a continuation of the investigation with respect to Korean imports. Accordingly, we find that the imports from Korea are negligible for purposes of our preliminary material injury determination.

For analysis of threat of material injury, the Commission is directed not to treat as negligible imports from a country if "there is a potential that imports from such a country . . . will imminently account for more than 3 percent" of total imports.[89] Petitioners argue that imports from

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[84] Accordingly, under that standard, the Commission examines whether the record as a whole contains clear and convincing evidence that imports are negligible and whether no likelihood exists that contrary evidence will arise in a final investigation. American Lamb Co.v. United States, 705 F.2d 994, 1001 (Fed. Cir. 1986). Our finding with respect to imports from Korea is based on this standard.

[85] SAA at 857.

[86] The Commission's negligibility decisions are to be made with respect to imports "corresponding to a domestic like product." Thus, if the Commission finds two or more domestic like products, it assesses the negligibility of imports corresponding to each domestic like product.

[87] Table 21, CR at I-69, PR at II-27.

[88] While new evidence or argument in any final investigation could conceivably result in a change in our domestic like product definition, we are not "uncertain" about our domestic like product definition on the record of these preliminary investigations.

[89] 19 U.S.C.§ 1677(24)(iv). The SAA states that for purposes of determining negligibility in its threat analysis "the Commission will examine "actual" as well as "potential" import volumes in its threat analysis, and that "[i]mport volumes at the conclusion of the 12-month period examined for purposes of considering negligibility may be below the negligibility threshold, but increasing at a rate that (continued...)

Korea will exceed the negligibility threshold in 1995.[90] We find that there is no potential that Korean imports will imminently exceed the 3 percent threshold.[91] Imports from Korea could potentially exceed the negligibility threshold during the period the Commission examines in conducting its final threat analysis only if the Korean imports were to ***. There is no evidence, however, to suggest that Korean imports will continue to increase at ***. The Korean producer projects shipments of *** in 1995 and *** in 1996. Thus, imports from Korea would *** the 3 percent threshold with such quantities. Even if imports from Korea were to increase from 1994 to 1995 by the same absolute volume that such imports increased from 1993 to 1994, the Korean import share would remain negligible. The record evidence indicates that the Korean producer is focusing its sales efforts on meeting *** markets, not the United States.[92] Moreover, although there is evidence that OCI plans to expand its PVA production capacity, its *** .[93] Thus, there is no direct evidence on the record that shows that OCI will use any new capacity to increase shipments to the United States.[94]

Accordingly, we find that there is clear and convincing evidence that the imports from Korea are negligible, and that there is no likelihood that contrary evidence will be collected in any final investigation. Therefore, the investigation with respect to Korea is terminated.

V. CUMULATION

Section 771(7)(G)(i) provides the general rule for cumulation for determining material injury.[95] This provision requires the Commission to cumulate imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the United States market. Because imports from Korea are found to be negligible, the investigation as to them is terminated and those imports may not be cumulated.[96]

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[89](...continued)
indicates they are likely to imminently exceed that threshold during the period the Commission examines in conducting its threat analysis." SAA at 856.

[90] Petitioners' brief at 42-43.

[91] The SAA also does not define "imminent" relative to any specific time period. Presumably, however, Congress intended that the Commission assume that "imminent" in the context of threat of non-negligibility should mean the same thing as "imminent" in the context of threat of material injury. Accord Cemex, S.A. v United States 790 F.Supp 290 (Ct. Int'l Trade 1992), aff'd., 989 F.2d 1202 (Fed. Cir. 1993)(principles of statutory construction normally require parallel construction when same phrase appears more than once in a statute).

[92] See generally, OCI Foreign Producer Questionnaire at Attachment One. OCI's *** .

[93] OCI's brief at 11.

[94] The Court of International Trade has held that the mere existence of new capacity does not imply increased exports to the United States. American Spring Wire Corp. v. United States, 590 F. Supp. 1274, 1280 (Ct. Int'l Trade 1984), citing Matsushita Electric Indus. Co. v. United States, 569 F. Supp. 853, 857 (Ct. Int'l Trade 1983).

[95] The URAA relocates the provisions concerning cumulation to new Sections 771(7)(G) and 771(7)(H), 19 U.S.C. §§ 1677(7)(G) and (H). New Section 771(7)(G) concerns cumulation for determining material injury; new Section 771(7)(H) concerns cumulation for determining threat of material injury.

[96] 19 U.S.C. § 1677(7)(G)(ii)(II).

In assessing whether imports compete with each other and with the domestic like product,[97] the Commission generally has considered four factors, including:

> (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
>
> (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product;
>
> (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and
>
> (4) whether the imports are simultaneously present in the market.[98]

While no single factor is determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the imports compete with each other and with the domestic like product.[99] Only a "reasonable overlap" of competition is required.[100] Thus, even if a certain volume of subject imports from a country are of a type or specification not produced by the domestic industry, imports from that country will be cumulated if the remaining imports "collectively do compete with the domestic like product (and with other imports)."[101]

In these investigations, only the first of these four factors is disputed by the parties. As to the remaining three factors, the record indicates that subject imports from all three remaining countries were simultaneously present in the U.S. market[102], sold in the same geographic markets[103], and sold through the same channels of trade as each other and the domestic like product.[104]

Petitioner argues that there is substantial substitutability among subject imports at least with respect to a significant portion of the product sold in the United States.[105] [106] Petitioner also claims

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[97] The SAA expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition." SAA at 848 (citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade), aff'd 859 F.2d 915 (Fed. Cir. 1988)).

[98] See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade 1988), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

[99] See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

[100] See Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required."); United States Steel Group v. United States, Slip Op. 94-201 (Ct. Int'l Trade Dec. 30, 1994).

[101] See Torrington Co. v. United States, 790 F. Supp. 1161 (Ct. Int'l Trade 1992).

[102] CR at I-71-I-73, PR at II-30-31.

[103] Petitioner's brief at 34 and exhibit 9.

[104] CR at I-8, PR at II-6; Figure 1, CR at I-10, PR at II-6.

[105] Petitioner's brief at 34-35. For example, the petitioner asserts that subject imports from the PRC are sold increasingly in the standard grades that compete with subject imports from Japan and Taiwan, and are not confined to a narrow range of lower quality grades. Id. at 35-39.

that the subject imports from Japan are not concentrated in a few specialized grades, but instead are comprised largely of standard grades that are sold into the same end-use markets supplied by the other foreign producers of the subject imports.[107]

In general, the respondents have argued only that it is not appropriate to cumulate subject imports from China with other subject imports.[108] Although the Japanese producers argue that their exports to the United States are concentrated in specialty grades, they admit that they have not substantiated their claim that their products are sufficiently distinct to warrant not cumulating subject merchandise from Japan with subject imports from Taiwan.[109] The Taiwanese and Chinese representatives argued only that the imports from China are so inferior to all other subject imports that it is inappropriate to cumulate imports from China with other subject imports.[110]

While the Japanese producers do sell some specialty grades which may not compete with either other imports or the domestic like product,[111] a substantial portion of their product sold in the United States is sold in standard grades that compete directly with imports from China and Taiwan, as well as with the domestic like product.[112] The fact that Japanese and domestic PVA are sold into the same end-use markets also indicates that there is substantial competition between Japanese and domestic products.[113] *** . *** [114]

*** . The fact that ***. Similarly, a major importer of subject imports from Taiwan testified that such imports were viewed as a second source for U.S. purchasers not wishing to be dependent on a single supplier, again suggesting a certain degree of fungibility between the Taiwanese PVA and the domestic like product.[115]

Although a portion of the subject imports from China may not compete directly with subject imports from the other countries (because much of the Chinese product is apparently of lower quality and, consequently, is sold in a narrower range of grades to end-users with less demanding requirements), imports from China also are being sold in the standard grades that represent the

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[106](...continued)

[106] Commissioner Newquist notes that once a like product determination is made, that determination establishes some inherent level of fungibility within that like product. Only in exceptional circumstances could he anticipate finding products to be "like," and then turn around and find that, for purposes of cumulation, there is no reasonable overlap of competition based upon some roving standard of fungibility.

[107] Petitioner's brief, Exhibit 5, at 6 n.11.

[108] Wego Chemical & Mineral Corporation's ("Wego") Postconference brief at 2 , 4 ("Wego's brief"); Joint Producers' brief at 34.

[109] Joint Producers' brief at 34 n.51.

[110] Wego's brief at 4.

[111] Conference Transcript at 149-15O (Walders, Palmeter).

[112] See April 4, 1995 letter on behalf of Nippon Synthetic Chemical Industry Co., Ltd. stating that only 36.99 percent of its U.S. exports are "special" or "modified" grades. Nippon Goshei accounted for *** percent of Japan's exports of PVA to the United States. CR at I-55, PR at II-23. Wego's brief reports that Japanese and Taiwanese PVA products compete with one another. Wego's brief at 4.

[113] Figure 1, CR at I-10, PR at II-6. National Starch offered somewhat inconsistent information regarding substitutability. On the one hand, National Starch, a purchaser of both imported and domestic PVA, stated that there is limited substitutability between high quality grades sold by different manufacturers, but the company also noted that such grades can be substituted with adjustments. National Starch's Postconference brief ("National Starch's brief") at 12.

[114] CR at I-82, PR at II-33.

[115] Conference Transcript at 81-82 (Laub).

greatest area of competition among all of the countries involved in these investigations. The record shows that subject imports from China are being sold into the same end-use markets, such as textiles, adhesives, and paper, in which domestic producers sell the domestic like product and the producers in Japan and Taiwan sell the subject merchandise.[116] Based on the record in these preliminary investigations, we find a reasonable overlap of competition among subject imports from Japan, China, and Taiwan and the domestic like product, and therefore cumulate such imports for purposes of determining whether there is a reasonable indication of material injury by reason of the subject imports. For purposes of any final investigations, however, the Commission will seek additional information on the fungibility of the various grades of PVA, and the extent to which the importers supply niche products which are not produced by domestic producers (or other importers).[117]

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

In preliminary antidumping duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.[118] In making this determination, 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.[119] [120] As discussed above, in these investigations, we have determined that the captive production provision set forth in 19 U.S.C. § 1677(7)(C)(iv) is applicable, and, therefore, have focused primarily on the merchant market in analyzing the market share and financial performance of the domestic industry.

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[116] Appendix F (products 1, 2, 5); Petitioner's brief at 19. Moreover, the lower quality PVA from the PRC also competes directly with off-specification PVA from Air Products and apparently, when blended, with some prime grade PVA sold by the domestic industry and imported from the other countries included in these investigations. Conference Transcript at 171-172 (Bridges). For example, at least one witness testified that PVA from the PRC is dry-mixed with PVA from other countries to meet customer requirements. Conference Transcript at 98-99 (Ryan). National Starch also stated that off-spec PVA can be substituted for first quality grades in certain applications. National Starch's brief at 7.

[117] Commissioner Newquist reiterates his views expressed in note 106, supra.

[118] 19 U.S.C. § 1673b(a). The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant." 19 U.S.C. § 1677(7)(A).

[119] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination," but shall "identify each [such] factor . . . and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

[120] As part of its consideration of the impact of imports, the statute as amended by the URAA now also specifies that the Commission is to consider "the magnitude of the margin of dumping." 19 U.S.C. § 1677(7)(C)(iii)(V). The SAA indicates that the amendment "does not alter the requirement in current law that none of the factors which the Commission considers is necessarily dispositive in the Commission's material injury analysis." SAA at 850.

New section 771(35)(C), 19 U.S.C. § 1677(35)(C) defines the "margin of dumping" to be used by the Commission in a preliminary determination as the margin or margins published by Commerce in its notice of initiation. The dumping margins identified by the Commerce Department in its notice initiating its investigations are as follows: Japan, 77.49 percent; the PRC, 139.82 to 183.72 percent; and Taiwan, 82.23 to 91.83 percent. 60 Fed. Reg. 17054-17055 (April 4, 1995). The Commission notes that the magnitude of these alleged dumping margins is substantial.

Although the Commission may consider causes of injury to the industry other than the allegedly LTFV imports, it is not to weigh causes.[121] [122] [123] [124] For the reasons discussed below, we find that there is a reasonable indication that the domestic polyvinyl alcohol industry is materially injured by reason of allegedly LTFV imports from Japan, the People's Republic of China, and Taiwan.

In assessing the volume of subject imports, we observe that although subject imports declined from 70.2 to 51.6 million pounds between 1992 and 1994, their share of total apparent domestic consumption remained high.[125] When measured on the basis of merchant market sales, where the most direct competition with the domestic industry occurs, the market share of subject imports accounted for *** percent of merchant market shipments on a volume basis in 1994.[126] The share of all U.S. PVA shipments held by subject imports was also not insubstantial, amounting to

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[121] 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).

[122] 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).

[123] Commissioner Rohr and Commissioner 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. No. 249, at 57, 74. Rather, a finding that imports are a cause of material injury is sufficient. See e.g., Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741 (CIT 1989); Citrosuco Paulista, 704 F. Supp. at 1101.

[124] Commissioner Crawford notes that the statute requires that the Commission determine whether a domestic industry is "materially injured by reason of" the LTFV imports. She finds that the clear meaning of the statute is to require a determination of whether the domestic industry is materially injured by reason of LTFV imports, not by reason of LTFV imports among other things. Many, if not most, domestic industries are subject to injury from more than one economic factor. Of these factors, there may be more than one that independently are causing material injury to the domestic industry. It is assumed in the legislative history that the "ITC will consider information which indicates that harm is caused by factors other than less-than-fair-value imports." S. Rep. No. 249, at 75. However, the legislative history makes it clear that the Commission is not to weigh or prioritize the factors that are independently causing material injury. Id. at 74; H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979). The Commission is not to determine if the LTFV imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249, at 74. Rather, it is to determine whether any injury "by reason of" the allegedly subsidized and LTFV imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effect of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry." S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987) (emphasis added).

[125] Table 1, CR at I-12, PR at II-7.

[126] Table 23, CR at I-77, PR at II-32.

approximately *** percent in 1994.[127] For purposes of these preliminary investigations, we find that the volume of subject imports and their market share are significant.

The data in these preliminary investigations also indicate that the subject imports may have had an adverse effect on prices for the domestic like product. Selling prices of both the subject imports and the domestic like product generally declined until the second half of 1994, when some domestic price levels began to improve.[128] [129] [130] Price levels in late 1994, however, generally were still below those prevailing at the beginning of the period of investigation in 1992.[131] Consequently, the record suggests that the domestic industry was unable to raise prices commensurate with the substantial increases in production costs during 1994.[132]

Subject imports, moreover, undersold the domestic like product in many instances.[133] [134] We

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[127] Table 22, CR at I-75, PR at II-32. The market share of subject imports ranged from a high of *** percent in 1992 to a low of *** percent in 1994 based on total U.S. shipments of polyvinyl alcohol. Id.

[128] CR at I-86-89, PR at II-36; Appendix F, tables F-1 through F-14, CR at F-3-14, PR at F-3-4.

[129] Petitioner argues that subject imports and domestic PVA are moderately to highly substitutable. Respondents contend that several non-price factors, such as quality differences, sales of niche products, supplier qualification requirements, lead times, and dual sourcing, differentiate subject imports and the domestic like product resulting in a low level of substitutability. In these preliminary investigations, we have given the petitioner the benefit of the doubt and assume that subject imports and domestic PVA are substitutes. We will examine issues of substitutability closely in any final investigations.

[130] Commissioner Newquist notes that, in his view, questions concerning substitutability based on characteristics and uses are appropriately addressed in the like product determination. Accordingly, further assessment of substitutability for purposes of a causation analysis is generally not warranted.

[131] Appendix F, tables F-1 through F-14, CR at F-3-14, PR at F-3-4.

[132] As previously noted, both cost of goods sold and SG&A costs increased between 1993 and 1994. As a percentage of merchant market sales revenue, cost of goods sold increased by *** percent between 1993 and 1994. Whereas cost of goods sold was *** percent of merchant market sales in 1993, such costs increased to *** percent of merchant market sales in 1994. Table 8, CR at I-35, PR at II-18. At the same time, per unit merchant market sales value declined by *** percent, from *** to ***. Id.

[133] The Commission collected pricing data with respect to sales of five different grades of polyvinyl alcohol. Pricing data was submitted regarding sales of polyvinyl alcohol to textile, paper, and adhesive manufacturers. U.S. producer prices to the textile industry ***. CR at I-87, PR at II-35. Subject imports generally undersold the domestic like product in sales to the textile industry. Id. Margins of underselling ranged as ***. Appendix F, tables F-5-8, CR at F-7-10, PR at F-3.

Prices reported by the domestic industry for sales to the paper industry *** occurring during the latter part of 1994. Prices of imports from China and Taiwan were ***. CR at I-88-I-89, PR at II-36. Subject imports from Japan were sold at prices *** the domestic like product prices. Id. Prices for subject imports from Japan in product category 3 *** during the POI. The margin of underselling ranged between *** percent. Appendix F, Table F-2, CR at F-4, PR at F-3.

U.S. producer prices for sales to the adhesives industry *** declines during 1992-94, with the exception of two products that increased in price in ***. The 1994 prices for product 2, however, *** price levels in 1992. See Appendix F, table F-11, CR at F-12, PR at F-4. Imports of Chinese PVA were sold to the adhesive manufacturers at prices that were *** domestic producer prices for *** product, whereas prices of the Japanese subject merchandise were *** than domestic producer prices to the adhesives market. CR at I-88, PR at II-36. Prices for the subject imports from Taiwan *** number of comparisons. For the *** calendar quarters where comparisons were possible, the imports from Taiwan *** instances. Appendix F, tables F-10 through F-14, CR at F-3-14, PR at F-3-4.

find that both the frequency and magnitude of the underselling by the subject imports are significant.[135] Based on evidence of underselling by the subject imports and declining price levels, at least for some of the subject imports and the domestic like product, we conclude for purposes of these preliminary investigations that such imports have depressed or suppressed domestic prices of polyvinyl alcohol to a significant degree.[136] The evidence regarding decreases in the domestic

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[134](...continued)
[134] Commissioner Crawford rarely gives much weight to evidence of underselling since it usually reflects some combination of differences in quality, other nonprice factors, or fluctuations in the market during the period in which price comparisons were sought.

[135] We note, however, that subject imports generally oversold selling prices for the petitioner's off-specification PVA. Report at Appendix F. We intend to collect further information and comments on petitioner's sales of off-specification PVA and the effect this has had on price levels for the domestic like product.

[136] To evaluate the effects of the dumping on domestic prices, Commissioner Crawford compares domestic prices that existed when the imports allegedly were dumped with what domestic prices would have been if the imports had been fairly traded. In most cases, if the subject imports had not been traded unfairly, their prices in the U.S. market would have increased. In these investigations, the dumping margins for China, Japan and Taiwan are relatively high. Thus, prices for the subject imports would have risen by a significant amount if they had been priced fairly. The ability of domestic producers to have raised prices under these circumstances depends on competitive conditions in the market for PVA involving both supply and demand side considerations.

A significant factor in determining what the effects of higher subject import prices would have been on domestic prices is the overall demand elasticity for PVA in the U.S market. This elasticity is determined primarily by the share of downstream product cost that PVA represents and the availability of alternative products. PVA accounts for a small portion of the final product cost in all significant applications except the production of PVB. When the price of an input is a small part of the cost of the total product cost, changes in the price of the input are less likely to alter demand for the downstream product, and by extension, for the input product. Also, it appears that there are few commercially viable alternative products for PVA. In sum, the PVA market is characterized by a relatively low elasticity of demand. That is, purchasers will not change their consumption as rapidly, in response to changes in price.

Even in a market characterized by relatively low demand elasticity, the composition of overall demand can be sensitive to the relative prices of the alternative sources of the product, i.e., subject imports, domestic product and nonsubject imports. If subject imports had been fairly priced, they would have become more expensive relative to domestic products and nonsubject imports. In such case, there would have been a shift in the composition in demand toward the relatively cheaper products. The magnitude of this shift depends on the substitutability of subject imports for products from alternative sources. As has been discussed, in these preliminary investigations we have given Petitioner the benefit of the doubt and find that subject imports and the domestic like product are good substitutes. Because they are good substitutes, many purchasers that were unwilling to pay a higher price for the subject imports would have switched to the relatively less expensive domestic product. Some purchasers also would have sought to switch to relatively less expensive nonsubject imports. Nonsubject imports, however, have not had a significant presence in the PVA market over the period of investigation, and there is no information to suggest that they would have increased significantly if subject imports had been priced fairly. Therefore, it is likely that if imports had been fairly priced, demand would have shifted away from the relatively more expensive subject imports to the relatively cheaper domestic product.

The low demand elasticity and the shift in demand to the domestic product suggest that domestic producers could have increased prices if subject imports had been fairly priced. Whether domestic producers would have been able to increase prices if subject imports had been priced fairly is also affected by supply side considerations, including the amount of available domestic capacity, the ability of domestic producers to divert exports to the domestic market, and the level of competition in the (continued...)

industry's per unit revenues and prices, both in the merchant market and in the market as a whole, and declining financial performance, reasonably indicate that the subject imports have had an adverse impact on the domestic industry.[137] The evidence suggests that underselling by the subject imports and declining prices for subject imports may have depressed or suppressed domestic producer prices, making it difficult for domestic producers to recover increased material costs, particularly late in the investigatory period.[138] Declining prices for U.S.-produced PVA evidently produced a deterioration in the financial performance of the domestic industry despite the gains made by domestic producers in shipment volumes and market share. These factors, particularly the declining subject import price levels, appear to have had an adverse
effect on the domestic industry's ability to recover its costs of production.[139] Operating income and profitability have suffered as a result.[140]

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[136](...continued)
market. Supply side considerations in these investigations also suggest that domestic producers would have been able to increase prices. First, the domestic industry operated at a high rate of capacity utilization over the period of investigation. Unused production capacity alone would not have been sufficient to meet the shift in demand to the domestic product by purchasers unwilling to pay substantially higher prices for subject imports. The domestic industry does export a relatively high percentage of its production which could be diverted to the U.S. market. In these preliminary investigations, however, there is insufficient information regarding demand and competing supply conditions in these export markets to make any determination whether changes in the relative price levels between the domestic market and the export markets would have caused domestic producers to divert export sales. Regarding the level of competition, the domestic industry consists of only three large producers. Of these, only Petitioner and Du Pont make sales in the merchant market. Also, there is only a very small amount of nonsubject imports. Thus, there appears to be little price discipline in the market.

In sum, given the dumping margins for the subject imports and the level of substitutability between the domestic product and subject imports, price increases would have caused many purchasers to switch their demand away from subject imports to the domestic product if subject imports had been fairly traded. To the extent that demand for domestic PVA would have increased, the relatively inelastic demand for PVA suggests that domestic producers should have been able to increase prices. The supply side factors discussed above would have provided the opportunity for such price increases. Thus, if subject imports had been fairly priced, the domestic industry would have been able to raise prices significantly. Accordingly, Commissioner Crawford finds that subject imports did have significant price effects on the domestic industry.

[137] We note that Du Pont stated that ***. Appendix E, CR at E-3, PR at E-3. Monsanto stated that *** . Monsanto Producers' Questionnaire Response at 5. We will further consider the positions of these domestic producers in any final investigations consistent with the decision in Suramerica de Aleaciones Laminadas, C.A. v. United States, Slip op. 93-1579 and 94-1021 (Fed. Cir. Dec. 30, 1994).

[138] *** . CR at I-36-38, PR at II-18. It is believed that *** . CR at I-38, PR at II-18.

[139] In these preliminary investigations, we have given the petitioner the benefit of the doubt in finding that declining prices were the result of the subject imports. In any final investigations, we will continue our investigation of the reasons for the declining prices.

[140] In her analysis of material injury by reason of subject imports, Commissioner Crawford evaluates the impact on the domestic industry by comparing the state of the industry when the imports allegedly were dumped with what the state of the industry would have been had imports been fairly traded. In assessing the impact of subject imports on the domestic industry, she considers, among other relevant 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 as required
(continued...)

CONCLUSION

For the foregoing reasons, we determine there is a reasonable indication that the domestic polyvinyl alcohol industry is materially injured by reason of allegedly LTFV imports from Japan, China, and Taiwan.

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[140](...continued)
by 19 U.S.C. § 1677(C)(iii). These factors either encompass or reflect the volume and price effects of the allegedly dumped imports, and so she gauges the impact of the dumping through those effects. In this regard, the impact on the domestic industry's prices and sales is critical, because the impact on other industry indicators (e.g. employment, wages, etc.) is derived from this impact.

As she noted earlier, Commissioner Crawford finds that demand for the domestic product would have increased significantly had subject imports been priced fairly. Although the domestic industry's unused capacity was less than the volume of subject imports, it would have been able to increase significantly the quantity of its production and sales, and thus its revenues. An increase in sales, combined with the price increase it would have sustained, clearly would have made the domestic industry materially better off if the subject imports had been fairly traded. Accordingly, Commissioner Crawford concludes that there is a reasonable indication of material injury to the domestic industry by reason of the allegedly LTFV imports from China, Japan and Taiwan.

ADDITIONAL VIEWS OF VICE CHAIRMAN JANET A. NUZUM AND CHAIRMAN PETER S. WATSON

Polyvinyl Alcohol from the People's Republic of China, Japan, the Republic of Korea and Taiwan

Investigations Nos. 701-TA-726-729 (Preliminary)

We join our colleagues in finding a reasonable indication that an industry in the United States is materially injured by reason of imports of polyvinyl alcohol from China, Japan and Taiwan allegedly sold at less than fair value ("LTFV"). Except as noted therein, we join in the views of the Commission with regard to these affirmative determinations, as well as with regard to the negligibility finding for imports from Korea. These additional views identify certain weaknesses we found in the case for an affirmative in these investigations. We urge parties to address the issues noted below in their prehearing briefs filed in any final investigation.

I. REASONABLE INDICATION OF PRESENT MATERIAL INJURY

A. Volume of the subject imports

Throughout the period examined, the volume of cumulated imports was significant in size, ranging from a low of slightly more than 15 percent market share to a high of about 25 percent market share.[1] Several factors, however, offset the significance of the sheer size of import volume. First, import volume -- both absolute levels and market shares -- declined consistently during the period.[2] Second, at the same time, the volume and market share of domestic producers' shipments increased.[3] Increasing domestic market share trends in a period of declining consumption may be indicative of an industry injured by imports,[4] but here consumption was either stable overall (in the merchant market) or increasing (in the total market).[5] Furthermore, the domestic industry experienced relatively high capacity utilization rates during this period.[6] In sum, the evidence suggests that subject imports may have been significant in sheer size, but were not significantly displacing domestic product or otherwise having a significant adverse volume effect on the domestic industry.

B. Price effects of the subject imports

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[1] Table 22, CR at I-75, PR at II-32. Import share in the merchant market was even higher. See Table 23, CR at I-77; PR at II-33.

[2] The cumulated imports from China, Japan and Taiwan declined from 70.2 million lbs in 1992 to 52.6 million lbs in 1993 to 51.6 million lbs in 1994. Table 1, CR at I-12, PR at II-7. These imports held the following shares (by volume) of the merchant market: *** percent in 1992, *** percent in 1993, and *** percent in 1994. Table 23, CR at I-77; PR at II-33. The corresponding shares of total U.S. consumption were *** percent, *** percent and *** percent. We have focussed primarily on market share in the merchant market. Table 22, CR at I-75, PR at II-32.

[3] For U.S. producers' shipments in the domestic open market and total market, see Table 4, CR at I-26; PR at II-15. For U.S. producers' shipments as a percent of open-market and total market consumption, see Table 23, CR at I-77, PR at II-33 and Table 22, CR at I-75; PR at II-32.

[4] Such circumstances might reflect, for example, a domestic industry in a soft market holding on to volume at the expense of price.

[5] See Table 2, CR at I-14, PR at II-9.

[6] Table 3, CR at I-22, PR at II-14.

The record indicates a pattern of declining U.S. prices overall during the period examined.[7] From 1992 to 1993, cost reductions may explain some of the observed price declines.[8] Cost reductions would not, however, appear to explain any price declines in 1994. Indeed, for both reporting companies, per-unit cost of goods sold were highest and per-unit revenues lowest, in 1994.[9] A clear answer to the question of what caused price depression and suppression in 1994 is not yet available from the record.

Few conclusions may be drawn on the significance of underselling patterns. Imports showed mixed underselling and overselling during the period examined.[10] There was underselling where U.S. prices declined as well as where they rose. There were domestic price declines in the face of overselling and even in the absence of direct import price competition.[11]

The petitioner maintains that it did not bring its new plant on line so quickly as to flood the market with excess production and thereby depress prices.[12] Sales of off-spec material had some downward effect on prices received, but the petitioner has argued that such price suppression was inconsequential.[13] We would observe that petitioner's analysis may not take into account the indirect effects on their domestic prices of the general suppression caused by their own off-spec sales.

We note that several purchasers reported that they negotiated lower prices from their domestic supplier.[14] The fact that domestic off-spec material displaced higher priced Chinese polyvinyl alcohol suggests price sensitivity in both directions.[15] On the basis of this record, we are unable to conclude with confidence that lower import prices had no significant adverse effect on domestic prices. The evidence of a causal link, however, is tenuous.[16]

C. Impact on the domestic industry

The domestic industry appears to have been adversely affected by a combination of lower prices and higher costs during the most recent year of the period examined. Even with increased shipment volumes, relatively high capacity utilization, and reduced inventories, profit levels declined.[17] Sales of off-spec material by the domestic industry appear to account for at least some of the reduction in revenues and profits.[18] LTFV imports, however, may also have suppressed revenues for the industry in 1994.

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[7] This pattern was not observed for all products and in all end-use sectors, but was shown for the majority of products in the majority of end-use sectors. Figs. 5-8, CR at I-90-I-93, PR at II-35; app. F.

[8] See Tables 8-9, CR at I-35 and I-37, PR at II-18. See also Fig. 4, CR at I-86, PR at II-34.

[9] See Table 9, CR at I-37, PR at II-18.

[10] See Figs. 5-7, CR at I-90-I-92, PR at II-35; app. F.

[11] See id. and Fig. 8, CR at I-93, PR at II-35.

[12] Petitioner's Post-conference Brief at 28-30.

[13] See CR at I-38-I-39, PR at II-18-I-19. See also Petitioner's Post-conference Brief at 31-32.

[14] CR at I-95-I-97, PR at II-36-I-37.

[15] See Post-conference brief on behalf of Wego Chemicals at 11-13.

[16] If this record were before us in a final investigation, we would conclude that there is not substantial evidence of a significant adverse price effect. In light of the fact that these are just preliminary investigations, however, we are willing to give petitioner the benefit of any doubt. In a final investigation, we will hopefully have more information on the factors affecting purchasers' decisions.

[17] Table A-1, CR at A-4-A-5, PR at A-3.

[18] See CR at I-38-I-39, PR at II-18-II-19.

On the cost side, plant shutdowns account for much of the increased costs in 1994 because fixed costs had to be allocated over a smaller volume of production.[19] If the build-up in inventory resulted from excess production of off-spec material, then the plant shutdown and associated cost increases cannot be blamed on LTFV import competition.

D. Present injury conclusion

A negative preliminary determination by the Commission in an antidumping investigation ends the investigation, the rationale being to minimize the resources devoted to cases that have no apparent merit while allowing those that do to proceed. Consistent with that purpose, the standard for an affirmative preliminary injury determination is set lower than that for an affirmative final injury determination.

Here, the available information -- which includes the deterioration of the financial performance of the industry, declines in production and capital expenditures, and the possibility that LTFV imports contributed to these developments -- provides just enough evidence to warrant affirmative preliminary determinations with respect to imports from China, Japan and Taiwan on the basis of present injury. Moreover, outstanding questions on purchasers' behavior support the continuation of these investigations for additional evidence.

II. THREAT OF MATERIAL INJURY

With regard to any threat of material injury analysis, we would express our reservations about the propriety of cumulating imports from Japan with the other subject imports. The imports from Japan showed frequent and substantial overselling,[20] and do not appear to pose any threat of adverse price effect. Nor do other factors support an affirmative threat determination for Japan. Specifically, capacity has declined and is not projected to increase significantly. The United States is a relatively small export market for Japanese products, and exports to the U.S. market declined during the period examined. This trend is projected to continue.[21] Finally, we note that inventories of imported Japanese polyvinyl alcohol are very small.[22]

III. OVERALL CONCLUSION

Given the low standard of "reasonable indication" in a preliminary investigation, we find the record here justifies an affirmative determination, although not strongly. The substantial lack of information on this record from purchasers on important issues relating to price effects warrants further investigation to determine whether there is an absence of either present or future adverse price effects. Additional information on costs and the effects of off-spec material sales would also be useful. While we would not proceed to a final investigation solely on the basis that more information can be obtained, here too many important questions are left unanswered for us to conclude that there is clear and convincing evidence that the domestic industry is neither materially injured nor threatened with material injury by reason of the subject imports.

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[19] See CR at I-38, PR at II-18.

[20] See Figs. 5-7, CR at I-90-I-92, PR at II-35; app. F.

[21] Table 17, CR at I-57-58, PR at II-24.

[22] Table 15, CR at I-48-I-50, PR at II-22.

PART II

INFORMATION OBTAINED IN THE INVESTIGATIONS

INTRODUCTION

These investigations result from a petition filed by Air Products and Chemicals, Inc. (Air Products), Allentown, PA, on March 9, 1995, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of polyvinyl alcohol (PVA)[1] hydrolyzed in excess of 85 percent from China, Japan, Korea, and Taiwan.[2] Information relating to the background of the investigations is shown below.[3]

Date	*Action*
March 9, 1995	Petition filed with Commerce and the Commission; institution of Commission investigations (60 F.R. 14448, March 17, 1995)
March 30	Commission's conference[4]
April 4	Commerce's notice of initiation[5] (60 F.R. 17053)
April 21	Date of the Commission's vote
April 24	Commission determinations transmitted to Commerce

THE PRODUCT

The imported product subject to these investigations is PVA hydrolyzed in excess of 85 percent,[6] whether or not mixed or diluted with defoamer or boric acid. It is a dry, white to cream-colored, solid synthetic polymer and is available in granular or powdered form. According to the petition, PVA is one of the very few high molecular weight commercial polymers that is water-soluble. A wide variety of grades of PVA is available, of varying molecular weight and degree of hydrolysis. This section presents information on both imported and domestically produced PVA, as well as information related to the Commission's "like product" determination.[7]

Physical Characteristics and Uses

PVA can be categorized on the basis of the degree of hydrolysis, the viscosity of an aqueous solution, and the average molecular weight of the finished product. PVA is very stable in the dry form.

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[1] PVA is provided for in subheading 3905.20.00 of the Harmonized Tariff Schedule of the United States (HTS) with a most-favored-nation tariff rate of 3.2 percent ad valorem, applicable to imports from China, Japan, Korea, and Taiwan.

[2] A summary of the data collected in these investigations is presented in app. A.

[3] *Federal Register* notices cited in the tabulation are presented in app. B.

[4] A list of witnesses appearing at the conference is presented in app. C.

[5] The LTFV margins upon which Commerce initiated its investigations are as follows: 139.82 to 183.72 percent with respect to China; 77.49 percent with respect to Japan; 187.43 percent with respect to Korea; and 82.23 to 91.83 percent with respect to Taiwan.

[6] The petition states that "Polyvinyl alcohol less than 85 percent hydrolyzed is a separate like product not produced in the United States, and not included in the scope of this petition." (Petition, p. 5)

[7] The Commission's decision regarding the appropriate domestic product or products that are "like" the subject imported products is based on a number of factors, including (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities and production employees; and, where appropriate, (6) price.

It is nontoxic and therefore considered to be safe to handle and to be environmentally friendly. Care must be taken, however, to minimize airborne dust concentrations during shipping and storage because there is a significant potential for dust explosions.

The degree of hydrolysis is determined by the percentage of acetate groups in the polyvinyl acetate feedstock that were replaced by hydroxyl (OH^-) groups in the finished PVA. Fully hydrolyzed PVA will have a replacement percentage exceeding 98 percent.

The viscosity, which is a function of mass, of an aqueous solution of PVA increases as the molecular weight of the PVA increases. The molecular weight is determined by the average length of the polymer chains in the product. Low-viscosity grades tend to have PVA chain lengths as low as 300 monomer units, with average molecular weights of PVA around 45,000 to 55,000, whereas high-viscosity, fully hydrolyzed grades have PVA chain lengths up to 3,500 monomer units and average molecular weights around 200,000 to 225,000.

PVA is used in the textile and paper industries in sizing formulations; as a binder in adhesive formulations and soil binding compounds; as an emulsion or polymerization aid in colloidal suspensions, water-soluble films, cosmetics, and joint compounds; and as an intermediate in the production of polyvinyl butyral (PVB), which is used as an adhesive film in automotive safety glass. The main use for PVA hydrolyzed 85 percent and under is as a processing aid in producing polyvinyl chloride.[8]

Use of Common Manufacturing Facilities and Production Employees

PVA is generally manufactured by hydrolyzing the acetate groups of vinyl acetate monomer (VAM) with methanol in the presence of anhydrous sodium methylate or aqueous sodium hydroxide and suitable catalysts at moderate temperatures and pressures. This is a continuous process wherein the VAM is polymerized into polyvinyl acetate, which is then converted to PVA. The continuous process produces product hydrolyzed in excess of 85 percent.[9] All of the U.S. producers and respondents use some form of a continuous process in manufacturing PVA.

U.S. producers of PVA do not produce products other than PVA with the same equipment and machinery used to produce PVA. Nor do U.S. producers produce other products using the same production and related workers (PRWs) employed in the production of PVA.

Interchangeability

Petitioner requests that PVA hydrolyzed 85 percent and under be excluded from these investigations.[10] There is no known U.S. production of such PVA and only minimal U.S. imports of this product, either from the four countries subject to these investigations or any other source.[11] In addition to there being no U.S. production, petitioner maintains that PVA hydrolyzed 85 percent and under (1) is physically different than PVA hydrolyzed in excess of 85 percent, (2) is not interchangeable with PVA hydrolyzed in excess of 85 percent in uses, (3) serves different channels of distribution, (4) requires different production methods and uses different production machinery and equipment, (5) is viewed differently from PVA hydrolyzed in excess of 85 percent by customers, and (6) is priced

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[8] Petition, p. 5.

[9] PVA hydrolyzed 85 percent and under most often is produced in a batch process that requires specialized equipment (e.g., special high-intensity mixers, special grinders) not used in the continuous process. (See petition at p. 5.)

[10] Petition, p. 5.

[11] Based on responses to the Commission's questionnaires, U.S. imports of PVA hydrolyzed 85 percent and under accounted for *** percent of total U.S. imports of PVA in 1994. Japan was the principal source of such imports.

significantly higher than PVA hydrolyzed in excess of 85 percent.[12] For these reasons, petitioner argues that PVA hydrolyzed 85 percent and under is not substitutable for PVA hydrolyzed in excess of 85 percent.

At the Commission's conference in these investigations, no party argued for a like product other than that put forth by the petitioner--that is, all PVA hydrolyzed in excess of 85 percent. In its postconference brief, however, Monsanto Company (Monsanto) (which is both a domestic producer and purchaser of PVA, all of which is used captively for producing PVB) argued that:

> Monsanto's production of PVB requires a type of PVA within very restricted specifications. In particular, in its production of PVB, Monsanto requires PVA with a high hydrolysis level and restricted viscosity ranges. There are other specific characteristics of the PVA suitable for use by Monsanto that are at least as important in the production of PVB. These characteristics include resin color, low ash, and low residual organic volatiles. Because these characteristics distinguish the type of PVA suitable for use in the production of PVB, that intermediate product constitutes a distinct "domestic like product."

In addition, Isolyser Company, Inc. (Isolyser), an importer of PVA, argued in its postconference brief that, as a threshold matter, PVA not hydrolyzed in excess of 85 percent is a different product, having different uses and serving different markets.[13] This position notwithstanding, Isolyser also argues for two like products in these investigations, one consisting of PVA hydrolyzed at 95 percent or greater (fully hydrolyzed) and the other consisting of PVA hydrolyzed at less than 95 percent (partially hydrolyzed).[14]

PVA is sold in a variety of standard and specialty grades, each grade varying according to its molecular weight and the degree of hydrolysis.[15] According to petitioner, the degree of hydrolysis is commonly denoted as super ($\geq$ 99 percent hydrolyzed), fully (98-99 percent hydrolyzed), intermediate (90-98 percent hydrolyzed), and partial (85-89 percent hydrolyzed).[16] Beta Chemicals (Beta), another importer of PVA, notes that significant differences exist between imported and domestically produced grades of PVA, resulting in a product that is not entirely fungible and substitutable. For example, Beta alleges that Japanese PVA is sold at the high end of the market and does not compete with Chinese-produced PVA, which is sold at the low end of the market.[17] Furthermore, Beta alleges that little competition exists between Chinese-produced PVA and Japanese-produced PVA. Chinese-produced PVA, it is alleged, competes directly with petitioner's so-called "offspec" or offgrade PVA.[18]

Because it is a unique synthetic water soluble polymer with unique characteristics, PVA has few substitutes for most end-use applications.[19] In the production of PVB, for example, substitutability is limited due to the high-quality specifications for this application; that is, a high hydrolysis level (98 to 99.2 percent), narrow range of viscosity limits, specified resin color, and low ash and organic volatiles

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[12] Petition, note 1, p. 5.

[13] Isolyser's postconference brief, p. 3. Isolyser states that it is an importer of a specific kind of PVA useful in the production of biodegradable healthcare products, and is also a downstream producer of healthcare products that use PVA.

[14] Ibid., pp. 1-4.

[15] Petition, p. 6.

[16] Ibid.

[17] Beta's postconference brief, pp. 1 and 2.

[18] Ibid.

[19] Conference transcript (TR), p. 19.

content.[20] In textile and paper applications, end users may increase the ratio of the starch and clay mixtures to PVA, but this lessens the strength of the end product.

Channels of Distribution

Based on responses to Commission questionnaires, the vast majority of all PVA sold in the United States, whether domestically produced or imported, is sold directly to end-user customers. Distributors, while present in the U.S. market, play a somewhat insignificant role, accounting for less than *** percent and *** percent, respectively, of producers' and importers' total U.S. shipments of PVA in 1994.

In terms of end-use applications, *** percent of U.S.-produced PVA was shipped to end users in the textile industry in 1994 compared with *** percent of the subject PVA imported from China,[21] Japan, Korea, and Taiwan combined (figure 1). Likewise, *** percent of the domestically produced product went to adhesive end-user customers versus *** percent for the imported product,[22] *** percent was sold to paper end-user customers versus *** percent of imported PVA, and *** percent of the domestic product was shipped to end users of other applications versus *** percent of imported PVA. Almost *** percent of U.S. shipments of PVA in 1994 were for use in producing PVB;[23] in contrast, almost no shipments of imported PVA were reported for this use.

Figure 1
U.S. producers' and U.S. importers' U.S. shipments by end-use applications, 1994

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Intermediate Products

All U.S. producers internally transfer a portion of their production of PVA to use in the production of a downstream product. Petitioner's downstream products include emulsion polymers of vinyl acetate and ethylene, which consume about *** percent of petitioner's annual PVA production. E.I. DuPont de Nemours and Company (DuPont), a second U.S. producer of PVA, consumed between *** and *** percent of its PVA production in the production of PVB between 1992 and 1994. Monsanto, the third U.S. producer, consumes all of its PVA production in the production of PVB.[24]

THE DOMESTIC MARKET

Apparent U.S. Consumption

Data on apparent U.S. consumption of PVA based on U.S. producers' total U.S. shipments are shown in table 1, and data on apparent U.S. consumption based on U.S. producers' open-market U.S. shipments are shown in table 2. The quantity of total apparent U.S. consumption of all PVA

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[20] Producer questionnaire response, Monsanto, p. 42.

[21] *** counted as shipments to textile end-user customers its sales of PVA that were shipped to compounders or blenders, firms that purchase PVA and other ingredients for blending together for sales to end users.

[22] *** counted as part of shipments to adhesive end-user customers its shipments of PVA to emulsion polymerizers, since these end users also use PVA for adhesive compounding.

[23] Includes U.S. producers' internal transfers for the production of PVB.

[24] Monsanto's postconference brief, p. 1.

Table 1
Polyvinyl alcohol: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, by products, 1992-94

Item	1992	1993	1994
	Quantity (*1,000 pounds*)		
Hydrolyzed in excess of 85 percent:			
Producers' U.S. shipments	***	***	***
U.S. imports from--			
China	9,075	9,128	5,248
Japan	17,081	13,697	14,145
Korea	0	150	487
Taiwan	44,065	29,760	32,202
Subtotal	70,220	52,735	52,082
Other sources	2,828	2,509	3,606
Total	73,048	55,244	55,688
Apparent consumption	***	***	***
All polyvinyl alcohol:			
Producers' U.S. shipments	***	***	***
U.S. imports from--			
China (subject)[1]	9,075	9,128	5,248
Japan (subject)[1]	17,081	13,697	14,145
Korea (subject)[1]	0	150	487
Taiwan (subject)[1]	44,065	29,760	32,202
Subtotal	70,220	52,735	52,082
Other imports[2]	8,691	8,759	10,199
Total	78,911	61,494	62,281
Apparent consumption	***	***	***
	Value (*1,000 dollars*)		
Hydrolyzed in excess of 85 percent:			
Producers' U.S. shipments	***	***	***
U.S. imports from--			
China	6,253	6,146	3,297
Japan	22,294	21,828	23,549
Korea	0	96	281
Taiwan	36,325	23,863	25,470
Subtotal	64,872	51,933	52,597
Other sources	4,476	4,234	4,729
Total	69,328	56,167	57,326
Apparent consumption	***	***	***

Continued on next page.

Table 1--Continued
Polyvinyl alcohol: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, by products, 1992-94

Item	1992	1993	1994
	Value (*1,000 dollars*)		
All polyvinyl alcohol:			
Producers' U.S. shipments	***	***	***
U.S. imports from--			
China (subject)[1]	6,253	6,146	3,297
Japan (subject)[1]	22,294	21,828	23,549
Korea (subject)[1]	0	96	281
Taiwan (subject)[1]	36,325	23,863	25,470
Subtotal	64,872	51,933	52,597
Other imports[2]	11,733	12,354	13,900
Total	76,605	64,287	66,497
Apparent consumption	***	***	***

[1] Calculated using official statistics of the U.S. Department of Commerce for U.S. imports of all PVA, minus U.S. imports of PVA not hydrolyzed in excess of 85 percent as reported in Commission questionnaires.
[2] Includes imports from Japan and all countries not subject to these investigations of PVA hydrolyzed 85 percent and under.

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

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
Polyvinyl alcohol: U.S. open-market shipments of domestic product, U.S. imports, by sources, and apparent U.S. open-market consumption, 1992-94

Item	1992	1993	1994
	Quantity (*1,000 pounds*)		
Hydrolyzed in excess of 85 percent:			
Producers' domestic open-market shipments	***	***	***
U.S. imports from--			
China	9,075	9,128	5,248
Japan	17,081	13,697	14,145
Korea	0	150	487
Taiwan	44,065	29,760	32,202
Subtotal	70,220	52,735	52,082
Other sources	2,828	2,509	3,606
Total	73,048	55,244	57,326
Apparent consumption	***	***	***
All polyvinyl alcohol:			
Producers' domestic open-market shipments	***	***	***
U.S. imports from--			
China (subject)[1]	9,075	9,128	5,248
Japan (subject)[1]	17,081	13,697	14,145
Korea (subject)[1]	0	150	487
Taiwan (subject)[1]	44,065	29,760	32,202
Subtotal	70,220	52,735	52,082
Other imports[2]	8,691	8,759	10,199
Total	78,911	61,494	62,281
Apparent consumption	***	***	***
	Value (*1,000 dollars*)		
Hydrolyzed in excess of 85 percent:			
Producers' domestic open-market shipments	***	***	***
U.S. imports from--			
China	6,253	6,146	3,297
Japan	22,294	21,828	23,549
Korea	0	96	281
Taiwan	36,325	23,863	25,470
Subtotal	64,872	51,933	52,597
Other sources	4,476	4,234	4,729
Total	69,348	56,167	57,326
Apparent consumption	***	***	***

Continued on next page.

Table 2--Continued
Polyvinyl alcohol: U.S. open-market shipments of domestic product, U.S. imports, by sources, and apparent U.S. open-market consumption, 1992-94

Item	1992	1993	1994
	Value (*1,000 dollars*)		
All polyvinyl alcohol:			
Producers' domestic open-market shipments	***	***	***
U.S. imports from--			
China (subject)[1]	6,253	6,146	3,297
Japan (subject)[1]	22,294	21,828	23,549
Korea (subject)[1]	0	96	281
Taiwan (subject)[1]	36,325	23,863	25,470
Subtotal	64,872	51,933	52,597
Other imports[2]	11,733	12,354	13,900
Total	76,605	64,287	66,497
Apparent consumption	***	***	***

[1] Calculated using official statistics of the U.S. Department of Commerce for U.S. imports of all PVA, minus U.S. imports of PVA not hydrolyzed in excess of 85 percent as reported in Commission questionnaires.
[2] Includes imports from Japan and all countries not subject to these investigations of PVA hydrolyzed 85 percent and under.

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

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.

rose irregularly between 1992 and 1994, increasing from *** million pounds in 1992 to *** million pounds in 1994 (table 1). The value of such consumption dipped from $*** million in 1992 to $*** million in 1993 and rose to $*** million in 1994. Similarly, over the same period, the quantity of total apparent U.S. consumption of PVA hydrolyzed in excess of 85 percent increased unevenly by *** percent, while the value of such apparent consumption fluctuated downward by *** percent.

Apparent open-market U.S. consumption of PVA dropped from *** million pounds, valued at $*** million, in 1992 to *** million pounds, valued at $*** million, in 1993 (table 2). In 1994, open-market consumption rose to *** million pounds valued at $*** million. U.S. producers' open-market shipments represented the largest component of apparent U.S. consumption in all periods. Such open-market shipments increased from *** million pounds, valued at $*** million, in 1992 to *** million pounds, valued at $*** million, in 1994 (table 2).

U.S. Producers

Three U.S. firms, Air Products, DuPont, and Monsanto, produce PVA. Each of these three firms is engaged in the manufacture and worldwide distribution and sale of a diverse range of chemical products. Together, they generated consolidated worldwide revenues totaling about $48 billion in 1993.

Based on information supplied in response to the Commission's questionnaires, Air Products is the largest of the three domestic PVA producers, accounting for *** percent of total U.S. PVA production in 1994. DuPont and Monsanto accounted for *** percent and *** percent of production, respectively, in the same year.

Air Products and Chemicals, Inc.

Petitioner Air Products' primary business segments include industrial gases, chemicals, environmental and energy systems, and equipment and technology. From these four business segments, Air Products had sales totaling $3.5 billion in 1994, 34 percent of which was attributed to sales of its chemical products.[25] In addition to PVA, other principal chemical products produced by Air Products include emulsions, polyurethane and epoxy additives, surfactants, amines, and polyurethane intermediates.

Air Products produces PVA at two locations in the United States, Calvert City, KY, and Pasadena, TX. The Pasadena facility is the newer of the two plants. It was built in 1991 at a cost of more than $*** and went on line in the latter part of the same year.[26] Both facilities are devoted exclusively to the production of PVA.

Air Products produces PVA both for its own internal use and for sales to the merchant market. About *** percent of the firm's production is captively consumed in the production of emulsion polymers of vinyl acetate and ethylene.[27] PVA, however, is not the predominant raw material input in the production of these downstream products.[28]

E.I. DuPont de Nemours and Company[29]

DuPont is one of the world's largest chemical producers, operating in more than 70 countries worldwide. The company has five principal business segments--chemicals, synthetic fibers, polymers, petroleum, and diversified businesses. Consolidated sales from these primary business groups reached $39 billion in 1994.[30]

DuPont's PVA production facility is located at La Porte, TX. Because it only produces fully hydrolyzed PVA, ***. DuPont consumes a significant portion (*** percent in 1994) of its PVA production in the manufacture of PVB.

Monsanto Company[31]

Like Air Products and DuPont, Monsanto's diversified businesses are also worldwide in scope. The company is engaged in the manufacture and sale of a wide range of agricultural, chemical, pharmaceutical, and food-related products. Consolidated worldwide sales of these products totaled $7.9 billion in 1993.

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[25] 1994 Annual Report, pp. 2 and 3.

[26] Petitioner's postconference brief, p. 4; conference TR, pp. 21 and 57.

[27] Air Products' producers' questionnaire response, p. 10.

[28] Ibid., p. 11.

[29] DuPont indicated in its response to the Commission questionnaire that it *** (producers' questionnaire, p. 5).

[30] 1994 Annual Report, p. 61.

[31] In its response to the Commission's producers' questionnaire Monsanto stated: "***."

Monsanto produces PVA at sites in Springfield, MA, and Trenton, MI. However, all of the firm's production of PVA is internally consumed and used to produce PVB.[32] In the early 1980s, Monsanto operated two production facilities in Springfield, MA. At one site it produced PVA for merchant market sales and at the second site it produced PVB. In 1985, the company sold the former plant to Air Products, where Air Products continued to produce PVA. In 1986, Monsanto built a new PVB plant near the old PVB facility.[33]

U.S. Importers

In compiling a list of firms that should be sent importers' questionnaires, the Commission relied on the list of firms named in the petition as well as on information provided by the U.S. Customs Service. This compilation resulted in a list of 73 firms, all of which were sent questionnaires. Of this number, 44 firms responded. Twelve of the 44 indicated in their response that they did not import PVA from any source during the period for which information was requested. Thirty-one of the remaining 32 firms supplied usable information on their imports of PVA.

Based on the responses received, 6 firms imported PVA from China during the period for which information was requested, 11 firms imported PVA from Japan, 1 firm imported PVA from Korea, and 7 firms (***) imported PVA from Taiwan.

*** and *** imported *** PVA during the period for which information was requested. In ***'s case, such 1994 imports were ***.[34] ***.

CONSIDERATION OF ALLEGED MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES[35]

Section 771(7)(B) of the Tariff Act of 1930 (the Act) (19 U.S.C. § 1677(7)(B)) provides that in making its determination in these investigations the Commission--

> shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic 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,

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[32] Monsanto's postconference brief, p. 1.

[33] Telephone conversation between Woodley Timberlake of the Commission's staff and Mr. John C. Trube, senior raw material supply manager, Monsanto, Apr. 6, 1995.

[34] In its questionnaire response, *** stated in part: "***" (producers' questionnaire response, p. 10).

[35] Air Products, DuPont, and Monsanto do not produce PVA not hydrolyzed in excess of 85 percent. Therefore, except where noted, the information presented in this section of the report pertains to PVA hydrolyzed in excess of 85 percent.

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 domestic 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, (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 domestic like product, and (V) in an antidumping investigation, the magnitude of the margin of dumping.

Available information on the margins of dumping was presented earlier in this report and available information on the volume and pricing of imports of the subject merchandise is presented in the section entitled "Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury." Information on the other factors specified is presented in this section and (except as noted) is based on the questionnaire responses of 3 firms that accounted for 100 percent of U.S. production of PVA during 1994.

U.S. Production, Capacity, and Capacity Utilization

The Commission's producers' questionnaire requested information from U.S. producers on their PVA operations during the period January 1, 1992, through December 31, 1994. In the questionnaire, firms were asked if they had experienced any plant openings, relocations, expansions, acquisitions, consolidations, closures or prolonged shutdowns, or other changes that affected the character of their PVA operations during the period for which information was requested. The responses of the firms are summarized below.[36]

In 1994, during the course of regular maintenance, Air Products extended the shutdown of its two production facilities beyond the normal maintenance schedule to permit a reduction in inventory levels.[37] The shutdowns lasted *** weeks at the Calvert City plant and *** weeks at the Pasadena facility. Air Products reported that ***. DuPont reported that ***.[38] Monsanto's questionnaire

[36] Air Products' Pasadena, TX, PVA facility came on stream in 1991, the year prior to the beginning of the period for which the Commission requested information. The plant completed its first full year in operation in 1992. (See conference TR, pp. 14 and 57.)

[37] Air Products' producer questionnaire response, p. 7; conference TR, p. 23.

[38] DuPont's producer questionnaire response, p. 7.

response showed that it did not experience any interruptions in its PVA operations during the period for which information was requested.

Data on U.S. producers' PVA capacity, production, and capacity utilization are shown in table 3. U.S. producers' PVA capacity fluctuated downward by *** pounds from 1992 to 1994, representing a decrease of 0.6 percent. Production rose sharply from 1992 to 1993, increasing from *** pounds in 1992 to *** pounds in 1993, and then dropped to *** pounds in 1994. As a consequence of these fluctuations, capacity utilization rose from *** percent in 1992 to *** percent in 1993 but then declined to *** percent in 1994.

Table 3
Polyvinyl alcohol hydrolyzed in excess of 85 percent: U.S. capacity, production, and capacity utilization, 1992-94

* * * * * * *

Relative to the three producers as a group, Air Products' production *** percent from 1992 to 1993, compared with *** percent for the three combined, and *** by *** percent from 1993 to 1994, compared with *** of *** percent for all three. Similarly, Air Products' capacity utilization rate was *** at *** and *** percent in 1992-93, respectively, than the utilization rate for the three producers combined.[39] However, in 1994, the period in which Air Products reported *** periods of shutdowns for its two production facilities, Air Products' operating rate was *** percentage points lower than that for the three producers combined.

In these investigations, respondents argued that production startup problems at Air Products' Pasadena facility resulted in it producing significant quantities of low-quality offspecification or offgrade PVA.[40] Offgrade PVA is characterized as PVA of poor color and not able to meet hydrolysis, viscosity, or other chemical specifications.[41] In response to this argument, petitioner submitted production, shipments, and inventory data regarding offgrade PVA produced in its production establishments.[42] Those data are presented in figure 2. As shown in the figure, Air Products' production of offgrade PVA *** from *** pounds in 1992 (*** percent of its total production) to *** pounds in 1994 (*** percent of its total production). Shipments of such product rose continuously over the same period while end-of-period inventories fluctuated downward, falling by nearly half from 1992 to 1994. The average unit value of such sales fell from $*** per pound in 1992 to $*** per pound in 1993-94. In its supplemental response, Air Products noted that ***.

Figure 2
Offgrade PVA: Air Products' production, shipments, and inventories, 1992-94

* * * * * * *

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[39] Air Products' Calvert City and Pasadena facilities are rated as having nominal PVA capacities of 115 million and 75 million pounds, respectively. At the Commission's conference, Mr. Clifford A. Bridges, general manager, commercial operations, polymer chemicals division, stated that "the incremental loading that we put on the new plant in the first year of full operation, 1992, was about 35 percent." In its second year of operation the new plant was loaded to 60 percent of capacity. As Air Products achieved combined operating rates of *** and *** percent in 1992-93, the firm's Calvert City facility must have been operating at or above its nominal rated capacity in those two years. (See conference TR, pp. 56-58.)

[40] Conference TR, pp. 88-90.

[41] Air Products' supplemental response to the Commission's producers' questionnaire submitted Apr. 3, 1995.

[42] The data provided included product that was blended and sold as prime.

U.S. Producers' Shipments

Air Products, DuPont, and Monsanto each internally consume PVA for use in the production of downstream products. These downstream products, which do not compete for sales with PVA,[43] include emulsion polymers of vinyl acetate, ethylene, and PVB.[44] For PVB, PVA comprises the predominant material input. This is not so, however, for other downstream products.[45] Additionally, products other than PVA are not generally substituted for PVA in the production of downstream products.

Data on U.S. producers' shipments of PVA are shown in table 4. Over the period for which information was requested in the Commission's questionnaire, U.S. producers' company transfer shipments grew by *** percent, domestic open-market shipments rose by *** percent, and exports increased by nearly *** percent. Company transfers, all of which were for captive use, rose from *** pounds in 1992 to *** pounds in 1994. Domestic open-market shipments increased from *** pounds, valued at $***, in 1992 to *** pounds, valued at $***, in 1994. Similarly, U.S. producers' exports rose from *** pounds, valued at $***, in 1992 to *** pounds, valued at $***, in 1994. Accompanying these increases, however, was a steady drop in the average unit value of such shipments. The average unit value of U.S. producers' domestic open-market shipments fell from $*** per pound in 1992 to $*** per pound in 1994. Likewise, the average unit value of exports declined by *** percent over the same period, dropping from $*** per pound to $*** per pound.

Table 4
Polyvinyl alcohol hydrolyzed in excess of 85 percent: Shipments by U.S. producers, by types, 1992-94

* * * * * * *

Figure 3 shows the percentage distribution of Air Products' and DuPont's total shipments by types in 1994. As shown in the figure, shipments to the domestic open-market accounted for *** share of both firms' total shipments, *** percent in the case of Air Products and *** percent for DuPont. From this point, the distribution of the two firm's shipments diverge. Whereas *** percent of Air Products' total shipments go to export markets, only *** percent of DuPont's shipments are exported. Similarly, whereas company transfers account for *** percent of Air Products' total shipments, company transfer shipments account for *** percent of DuPont's total shipments.

Figure 3
U.S. producers' shipments by types as a share (percent) of total shipments, 1994

* * * * * * *

U.S. Producers' Purchases

Between 1992 and 1994, *** purchased PVA ***, *** purchased PVA ***, and *** imported PVA ***. In its questionnaire response, *** stated that ***. ***'s purchases from ***, and the bulk of ***'s imports from *** were ***.

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[43] Although the downstream products do not compete for sales with PVA, U.S. producers' sales of PVA do go to other producers of the downstream products.

[44] All of Monsanto's PVA production is consumed in the production of PVB.

[45] See questionnaire responses of Air Products, DuPont, and Monsanto, p. 11.

Data on U.S. producers' PVA purchases are shown in table 5. As shown in the table, the total quantity and value of U.S. producers' purchases fell significantly between 1992 and 1993 and increased sharply, but remained far below 1992 levels, from 1993 to 1994. Overall, total purchases dropped from *** pounds, valued at $***, in 1992 to *** pounds, valued at $***, in 1994. The average unit value of purchases fluctuated downward from $*** per pound in 1992 to $*** per pound in 1994.

Table 5
Polyvinyl alcohol hydrolyzed in excess of 85 percent: Purchases of U.S. producers, by products, types, and sources, 1992-94

* * * * * * *

U.S. Producers' Inventories

U.S. producers' end-of-period inventories of PVA are shown in table 6. Monsanto's reported end-of-period inventories were *** during 1992-94, accounting for less than *** percent of production and total shipments. While DuPont's reported yearend inventories were ***, Air Products accounted for the bulk of PVA inventories held by the domestic producers during the 1992-94 period. Yearend inventories of all U.S. producers rose *** percent from 1992 to 1993 and declined by *** percent from 1993 to 1994. The ratio of inventories to production fell unevenly from *** percent in 1992 to *** percent in 1994, and the ratio of inventories to total shipments decreased from *** percent to *** percent over the same period.

Table 6
Polyvinyl alcohol hydrolyzed in excess of 85 percent: End-of-period inventories of U.S. producers, 1992-94

* * * * * * *

U.S. Employment

Information presented in this section of the report is for Air Products and DuPont only; Monsanto did not supply employment information in its response to the Commission's questionnaire. The combined data for Air Products and DuPont are shown in table 7.

All PRWs employed by Air Products and DuPont in the production of PVA are union workers. For both firms, these PRWs are involved only in the production of PVA. In the questionnaire, firms were asked if, during any part of the period January 1, 1992, through December 31, 1994, they had reduced the number of PRWs producing PVA by at least 5 percent or 50 workers. DuPont reported ***. During the requested time period, Air Products reported a reduction of *** PRWs for ***, a reduction of *** PRWs for ***, and ***. The firm attributed these reductions to ***.

In the aggregate, employment trends for both firms were mixed. Between 1992 and 1994 the number of PRWs producing PVA and the number of hours worked by such workers each declined by *** percent, while productivity of those PRWs increased by *** percent. Although the number of workers declined over the period, wages and total compensation paid to PRWs rose by *** percent and *** percent, respectively. Unit labor costs rose similarly, fluctuating upward by *** per pound.

Table 7
Average number of U.S. production and related workers (PRWs) producing polyvinyl alcohol hydrolyzed in excess of 85 percent, hours worked, wages and total compensation paid to such employees, and hourly wages, productivity, and unit production costs, 1992-94

* * * * * * *

Financial Experience of U.S. Producers

Air Products and DuPont, which together accounted for approximately *** percent of U.S. production of PVA in 1994, supplied financial data. Monsanto, which accounted for the remaining *** percent of production, was unable to provide financial data.

DuPont, whose fiscal year ends December 31, is the largest chemical producer in the United States and one of the largest worldwide. Total corporate sales in 1994 were $39.3 billion (up from $37.1 billion in 1993) and net income was $2.7 billion (up from $566 million). DuPont conducts operations in about 70 countries besides the United States, and close to half of its net sales and assets are attributable to foreign operations. The company produces PVA at its plant in La Porte, TX.

Air Products, whose fiscal year ends September 30, produces industrial gases and chemicals and environmental and energy systems. Total corporate sales in 1994 were a record $3.5 billion (up from $3.3 billion in 1993) and net income was $248 million (up from $201 million). The company conducts operations in about 20 countries besides the United States, principally in Europe. About one-quarter of its net sales and 40 percent of its assets are attributable to foreign operations. Air Products produces PVA at its plants in Calvert City, KY, and Pasadena, TX.

Although Air Products was able to provide financial data on the overall operations of its establishments wherein PVA was produced, DuPont was not. In addition to producing PVA at its La Porte facility, DuPont also produces agricultural products and specialty chemicals. Since DuPont was unable to provide financial data on its overall establishment operations, and since *** percent of the revenues associated with Air Products' establishments were sales of PVA, data for the overall establishment operations of the two producers are not presented. All PVA data are for PVA hydrolyzed in excess of 85 percent; neither producer reported any sales of PVA hydrolyzed 85 percent or less.

Operations on PVA

Industrywide intracompany transfers of PVA were significant, increasing from *** percent of sales quantities in 1992 to *** percent in 1994. In previous investigations where there were large intracompany transfers of one product used to produce another, the staff has presented two sets of profit-and-loss data--one on the trade-only sales of the particular product and the other utilizing trade sales and intracompany transfers with certain adjustments. We are also presenting both sets of data in these investigations. The adjustments consist of (1) accounting for any known cost differences between product which was sold to unaffiliated customers and product which was transferred, and (2) assuming intracompany transfers would be sold at the average net trade sales value.[46] Accordingly, the data in tables 8 and 9 relate to trade only sales of PVA, while the data in tables 10 and 11 relate to trade sales of PVA and intracompany transfers with the aforementioned adjustments.

[46] See pp. I-94 and I-95 of the final report in Investigations Nos. 701-TA-319-332 *et al*, Certain Flat-rolled Carbon Steel Plate from 20 countries (INV-Q-115), dated July 20, 1993.

Table 8
Income-and-loss experience of U.S. producers on their trade sales of polyvinyl alcohol, fiscal years 1992-94

* * * * * * *

Table 9
Income-and-loss experience of U.S. producers on their trade sales of polyvinyl alcohol, by firms, fiscal years 1992-94

* * * * * * *

Table 10
Income-and-loss experience of U.S. producers on their trade and transfer sales of polyvinyl alcohol, fiscal years 1992-94

* * * * * * *

Table 11
Income-and-loss experience of U.S. producers on their trade and transfer sales of polyvinyl alcohol, by firms, fiscal years 1992-94

* * * * * * *

Comparing 1992 to 1993, trade only net sales of PVA (table 8) increased about *** percent as a large increase in sales quantities more than offset the decrease in unit sales value from $*** to $*** per pound. Decreases in unit cost of goods sold and selling, general, and administrative (SG&A) expenses tempered the effect of the decreased unit sales values; when combined with the increased sales volume, the result was increased operating and net profits.

In 1994 net sales value increased moderately as another substantial increase in sales quantities again offset a decrease in unit sales value. That year, however, unit cost of goods sold increased from $*** to $***; when coupled with the $*** decrease in unit sales value, unit gross profits fell to $***, or about half their 1992 level. Since the amount was marginally less than unit SG&A expenses, there were operating losses.

Table 9 contains selected financial data for both Air Products' and DuPont's trade only sales of PVA. DuPont's results *** marginally from 1992 to 1993 and then markedly in 1994. From 1992 to 1993 the effect of the company's $*** *** in unit sales value was moderated by $*** and $*** *** in unit cost of goods sold and SG&A expenses, respectively. In 1994 the sales value was unchanged while costs *** by $*** and $***, respectively. As a result, operating income was *** its 1992 level. About *** percent of DuPont's annual sales of PVA are ***. DuPont ***. ***. Operations on this *** product are included in DuPont's data.

Air Products' 1993 net sales value and all levels of profitability were *** compared to 1992 levels as *** in sales quantities and *** in unit costs more than compensated for *** in unit sales values. According to the company, most of the cost *** was because the $*** per pound cost associated with startup difficulties at the Pasadena plant in 1992 was gone. In 1994, net sales values *** again as another large *** in sales quantities exceeded decreased unit sales values. However, all levels of profitability were down sharply as increased unit costs combined with decreased unit sales values to reduce unit profitability by about $*** per pound. Most of the increase in unit costs can be traced to the shutdown of production facilities for *** to *** weeks in 1994. As a result, the fixed costs associated with the plants were spread out over a lower production amount, and unit costs increased.

According to Air Products, the decrease in its unit sales price from year to year was mostly a reflection of market forces and had little to do with sales of offgrade product. Air Products' sales of offgrade product, along with the effect of such sales on its overall unit sales price, are shown in the following tabulation:

* * * * * * *

Based on the above data, sales of the offgrade product increased from *** pounds in 1992 (about *** percent of Air Products' total) to *** pounds in 1994 (about *** percent). Sales of the offgrade product reduced the overall net sales unit price by virtually nothing in 1992, a little under *** cents in 1993, and by a little over *** in 1994.

Income-and-loss data for the trade and transfer sales of PVA are shown in table 10. The difference between the data in table 10 and the data in table 8 are the revenues and costs associated with the producers' transfer sales. The trends are quite similar to those for trade only PVA sales--increasing net sales quantities and values every year; increased profitability in 1993 and decreased profitability in 1994; decreasing unit sales values every period; and decreasing unit costs in 1993 and increasing unit costs in 1994. Since DuPont accounted for about *** percent of the transfer sales every period, and since DuPont *** than Air Products, the fact that the profit levels in table 10 are a bit higher than those in table 8 is not unanticipated. Selected financial data for DuPont's and Air Products' trade and transfer sales of PVA are shown in table 11. Since Air Products had a relatively low level of transfer sales (about *** percent of its total sales quantities), its data are quite similar to those in table 9. While DuPont's unit values are about the same as those for its trade only sales, its net sales values are about *** percent higher because of the relatively high level of its transfer sales (about *** of its total sales quantities). Its operating profits are proportionally higher still.

Respondents have asserted that statements made in Air Products' form 10-Q for the first quarter of its 1995 fiscal year (October 1, 1994, to December 31, 1994) indicate that its PVA operations are doing very well financially. Staff requested and Air Products supplied profit-and-loss data on its PVA operations for this 3-month period. The data are presented in appendix D. Unit sales values have increased over fiscal year 1994 levels and unit cost of goods sold costs have decreased to the point where ***. This is in contrast to all of fiscal year 1994, when the company ***.

Investment in Productive Facilities

Data on Air Products' and DuPont's investments in productive facilities and return on assets are shown in table 12. The original cost and book value of Air Products' fixed assets are about ***, respectively, than DuPont's. The large difference is a reflection of Air Products' $*** investment in its Pasadena, TX, facility in 1989.

Table 12
Value of assets and return on assets of U.S. producers of poloyvinyl alcohol, fiscal years 1992-94

* * * * * * *

Capital Expenditures

The capital expenditures for both producers are shown in table 13. Air Products' annual expenditures decreased from about $*** 1992 and 1993 to about $*** in 1994, while DuPont's decreased by *** from 1992 to 1993 before showing a strong increase in 1994. From 1992 to 1994, DuPont's overall corporate capital expenditures decreased by about *** (from $*** to $***), while expenditures in its polymer business segment (where PVA production is located) decreased by ***, from

$*** to $***. During the same period Air Products' overall corporate capital expenditures increased by about ***, from $*** to $***.

Table 13
Capital expenditures by U.S. producers of polyvinyl alcohol, by firms, fiscal years 1992-94

* * * * * * *

Research and Development Expenses

The research and development (R&D) expenditures for both producers are shown in table 14. Air Products' expenditures have remained steady at about $*** annually, while DuPont's have steadily decreased from about $*** to $***. From 1992 to 1994, DuPont's overall corporate R&D expenditures decreased by about *** percent (from $*** to $***), while Air Products' increased by about *** percent, from $*** to $***.

Table 14
Research and development expenses of U.S. producers of polyvinyl alcohol, by firms, fiscal years 1992-94

* * * * * * *

Capital and Investment

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of PVA from China, Japan, Korea, and Taiwan on their firms' growth, investment, ability to raise capital, or development and production efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown in appendix E.

CONSIDERATION OF ALLEGED 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 subject merchandise, the Commission shall consider, among other relevant economic factors[47]--
>
> > (I) if a countervailable 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 countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,

[47] Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "The Commission shall consider [these factors] . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition."

(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,

(V) inventories of the subject merchandise,

(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

(VII) 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

(VIII) 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 domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).[48]

The available 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 (VIII)) is presented in the section entitled "Consideration of Alleged Material Injury to an Industry in the United States." Available information on U.S. inventories of the subject products (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II) and (VI) (above); any other threat indicators, if applicable (item (IX)

[48] 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 WTO 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."

above); and any dumping in third-country markets, follows. Other threat indicators have not been alleged or are otherwise not applicable.

U.S. Importers' Inventories

U.S. importers' inventories of PVA generally reflected the level of demand in the United States. Coinciding with the decline in consumption from 1992 to 1993, inventories rose from *** pounds in 1992 to *** pounds in 1993 (table 15). The *** percent drop in inventory volume in 1994 similarly coincided with the *** percent increase in apparent consumption. The ratio of inventories to imports and the ratio of inventories to total shipments fluctuated from *** percent in 1992 to *** percent in 1993 and to *** percent in 1994.

Table 15
Polyvinyl alcohol: End-of-period inventories of U.S. importers, by products and by sources, 1992-94

* * * * * * *

Inventories From China

U.S. importers' inventories of PVA hydrolyzed in excess of 85 percent imported from China rose from *** pounds in 1992 to *** pounds in 1994. Both the ratio of inventories to imports and the ratio of inventories to total shipments increased from *** percent in 1992 to *** percent in 1994.

Inventories From Japan

U.S. importers' inventories of subject PVA imported from Japan dropped from *** pounds in 1992 to *** pounds in 1993 and rose to *** pounds in 1994. The ratio of inventories to imports more than doubled from 1992 to 1994, as did the ratio of inventories to total shipments.

Inventories From Korea

Upstate Chemical, Inc. was the only U.S. importer of PVA produced in Korea during 1992-94. In its response to the Commission's questionnaire, Upstate reported ***. However, from 1993 to 1994, its reported yearend inventories *** by *** percent, *** from *** pounds in 1993 to *** pounds in 1994.

Inventories From Taiwan

Imported PVA from Taiwan accounted for the bulk of U.S. importers' total inventories. Following general trends, U.S. importers' inventories of PVA from Taiwan rose by *** percent from 1992 to 1993 and dropped by *** percent from 1993 to 1994. The ratio of inventories to imports and the ratio of inventories to total shipments of imports fluctuated between *** percent and *** percent between 1992 and 1994.

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

In these investigations, the Commission received foreign producers' questionnaire responses from the Chinese PVA producers Vinyl Works (Sichuan) and Shanghai Petrochemical Company Ltd. (SPC); from the Japanese producers Denki Kagaku Kogyo Kabushiki Kaisha (Denki), Kuraray Company, Ltd. (Kuraray), and Nippon Synthetic Chemical Industry Company, Ltd. (Nippon); from the Korean PVA producer, Oriental Chemical Industries, Inc. (Oriental); and from Chang Chun Petrochemical Company, Ltd. (Chang Chun), the only Taiwanese producer of PVA. The Commission also sent telegrams to U.S. embassies in each of the countries subject to these investigations requesting information on the PVA

industries in those countries. Information gathered on the PVA industries in the subject countries is summarized below.

The Industry in China

According to information supplied by Sichuan, 14 factories, Sichuan being the largest, produce PVA in China.[49] Aggregate PVA capacity for these factories was estimated to total 211,200 short tons (192,000 metric tons) during 1992-94; production output was estimated at 214,209 short tons (194,917 metric tons) in 1992, 228,401 short tons (207,637 metric tons) in 1993, and 245,519 short tons (223,199 metric tons) in 1994. Exports to all markets were estimated at 22,000 short tons (20,000 metric tons) in 1992-93 and 19,800 short tons (18,000 metric tons) in 1994.[50] None of the 14 factories are dedicated solely to the production of PVA.[51] For example, in addition to PVA, Sichuan also produces vinyl fiber, methanol, formaldehyde, vinyl acetate, and polyester filament yarn, just to name a few.

Questionnaire data submitted by Sichuan and SPC are aggregated and shown in table 16. The combined capacity utilization rate for both firms increased gradually from *** percent in 1992 to *** percent in 1994. Over the same period, capacity increased by *** percent while production increased by *** percent. Between 1992 and 1994, total shipments increased by nearly *** percent while total exports declined by *** percent. Home market shipments accounted for the bulk of total shipments and exports to markets other than the United States accounted for the bulk of the exports. SPC had no exports to the United States during the period for which information was requested. Sichuan's reported exports to the United States represented between *** percent and *** percent of its total exports between 1992 and 1994.

Based on the projections of both firms, production capacity and production are expected to decline somewhat in 1995 due to ***. Sichuan projects that its exports to the United States will drop by nearly *** percent in 1995 and remain unchanged in 1996.

Table 16
Polyvinyl alcohol: Production capacity, production, shipments, and inventories for Sichuan Vinyl Works and Shanghai Petrochemical Company, Ltd., 1992-94, and projected data for 1995 and 1996

* * * * * * *

The Industry in Japan

Based on official statistics of the U.S. Department of Commerce, Japan is the second-largest world supplier of PVA to the United States. It is also considered to be the largest producer of PVA in the world. The petition lists five Japanese producers of PVA. The Commission received responses to its foreign producers' questionnaire from three of the five producers mentioned in the petition. Kuraray is the largest of the three firms, accounting for at least *** percent of all PVA hydrolyzed in excess of 85 percent produced in Japan, and for at least *** percent of all such product exported to the United States.[52] Kuraray also captively consumes PVA in the production of synthetic fiber, film, and emulsions. Kuraray estimates that PVA not hydrolyzed in excess of 85 percent accounts for *** percent of its total establishment sales of PVA.

Nippon estimates that its production of PVA hydrolyzed in excess of 85 percent represents about *** percent of Japan's total production of such product. It further estimates that its exports to the United States of such product account for *** of all such exports from Japan.

Denki is the smallest of the three Japanese producers that supplied information on their PVA operations to the Commission. It estimates that its production accounts for only about *** percent of

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[49] Respondent Sichuan's postconference brief, attachment 2.

[50] Ibid.

[51] SPC ***.

[52] Kuraray's response to the Commission's foreign producers' questionnaire, p. 5.

Japan's total output of PVA hydrolyzed in excess of 85 percent. Denki also indicated in its response that its PVA production ***.[53]

Aggregate production capacity, production, shipments, and inventory data for Kuraray, Nippon, and Denki are shown in table 17. As the data show, Japan's production capacity was unchanged from 1992 to 1993 at *** pounds, but then dropped by slightly more than *** percent to *** pounds in 1994. Production *** from 1992 to 1994, falling by *** percent overall. Exports to the United States dropped sharply from 1992 to 1993, falling by nearly *** percent, and remained unchanged from 1993 to 1994. In contrast, exports to all other markets rose steadily over the same period, increasing by *** percent from 1992 to 1993 and by *** percent from 1993 to 1994. Inventories fluctuated downward from *** pounds in 1992 to *** pounds in 1994.

Generally, all three producers project increased capacity, production and shipments in 1995. However, exports to the United States are projected to continue to decline into 1996.

Table 17
Polyvinyl alcohol: Production capacity, production, shipments, and inventories for Denki Kagaku Kogyo Kabushiki Kaisha, Kuraray Company, Ltd., and Nippon Synthetic Chemical Industry Company, Ltd., 1992-94, and projected data for 1995 and 1996

* * * * * * *

The Industry in Korea

Oriental is the only producer of PVA in Korea. Based on information supplied in its foreign producer questionnaire, Oriental ***.[54] As indicated in its response, ***.

According to information supplied by the U.S. Embassy in Seoul, the PVA industry in Korea is only 3 years old because of high technological barriers to entry. Oriental was able to enter the business after 7 years of research and development. Even so, it continues to experience a high failure rate, losing up to 40 percent of its PVA production to inferior product. Imports, mostly from Japan, reportedly supply 50 percent of the local market with Oriental supplying the rest.

Information supplied in Oriental's questionnaire response is presented in table 18. The data show that Oriental's production capacity *** between 1992 and 1994 but *** percent in 1996. While production *** between 1992 and 1994, Oriental's shipments to the Korean market *** over the same period, *** from *** pounds in 1992 to *** pounds in 1994. Shipments to the home market are expected to *** by 1996. Exports to the United States were *** percent of total exports and *** percent of total shipments in 1994. By 1996, these shares are expected to *** to *** percent and *** percent, respectively. As a share of production, Oriental's end-of-period inventories *** from *** percent of production in 1992 to *** percent in 1994, and are expected to *** further in 1995 and 1996, *** to *** percent and *** percent, respectively.

Table 18
Polyvinyl alcohol: Oriental Chemical Industries, Ltd.'s production capacity, production, shipments, and inventories, 1992-94, and projected data for 1995 and 1996

* * * * * * *

The Industry in Taiwan

Chang Chun is the sole Taiwanese producer of PVA. PVA accounted for *** percent of its total establishment sales in its most recent fiscal year; PVA not hydrolyzed in excess of 85 percent accounted

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[53] Attachment to Denki's response to the Commission's foreign producers' questionnaire.

[54] Oriental's response to the Commission's foreign producers' questionnaire at attachment. See also Oriental's postconference brief, pp. 11 and 12.

for *** percent of total establishment sales.[55] Chang Chun also produces acetic acid, a co-product of PVA, using the same machinery and equipment used to produce PVA. In its Commission questionnaire response, Chang Chun stated that ***.[56] Chang Chun asserts that ***.[57]

Data supplied by Chang Chun on its PVA operations are shown in table 19. The data reveal that Chang Chun's production volumes *** in all periods and that its total shipments *** production in 1993 and in 1994. As a share of total exports, exports to the United States *** from *** percent in 1992 to about *** percent in 1993 and 1994. Exports to the United States as a share of total shipments *** from *** percent in 1992 to *** percent in 1993 and 1994 and are projected to *** to *** percent in 1995. Chang Chun saw a significant *** in its inventory levels between 1992 and 1994, as inventory volumes *** from *** percent of production in 1992 to a mere *** percent of production in 1994.

Table 19
Polyvinyl alcohol: Chang Chun Petrochemical Company, Ltd.'s production capacity, production, shipments, and inventories, 1992-94, and projected data for 1995 and 1996

* * * * * * *

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

U.S. Imports

The Commission sent importers' questionnaires to 73 firms believed to import PVA from all sources. Responses were received from 44 firms, 12 of which indicated that they did not import PVA from any source during the period for which information was requested. Thirty-one of the remaining 32 firms supplied usable information on their imports of PVA. Six firms reported imports from China, 11 imported from Japan, 1 imported PVA from Korea, and 7 firms (including U.S. producers *** and ***) imported PVA from Taiwan. When compared with official statistics of the U.S. Department of Commerce, which include both subject and nonsubject imports, U.S. imports as reported in questionnaire responses totaled *** percent of official statistics in 1992, *** percent in 1993, and *** percent in 1994. For China, the ratio was *** percent in 1992, *** percent in 1993, and *** percent in 1994. For Korea, the ratio was *** percent and *** percent in 1993 and 1994, respectively. For Japan, the ratio was *** percent in 1992, *** percent of 1993, and *** percent in 1994. For Taiwan, the ratio was *** percent in 1992, *** percent in 1993, and *** percent in 1994. There were no imports from Korea reported in either official statistics or in questionnaire responses for 1992.[58]

U.S. imports of PVA are presented in tables 20 (official statistics) and 21 (questionnaire data). Based on official statistics, the combined imports from China, Japan, Korea, and Taiwan declined from 75.9 million pounds, valued at $71.6 million, in 1992 to 58.5 million pounds, valued at $61.2 million, in 1994. The average unit value of such imports rose steadily over the same period, increasing from

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[55] Foreign producers' questionnaire response, p. 2.

[56] Chang Chun produces 50 to 60 grades of PVA on 9 PVA production lines.

[57] Ibid., p. 3; see also Chang Chung's postconference brief, p. 39.

[58] In the Commission's foreign producers' questionnaire, producers/exporters were requested to list the 5 largest U.S. importers of their product in 1994. Oriental named ***; Sichuan named ***; Nippon named ***; Kuraray named ***; Chang Chun named ***; and Denki named ***. SPC did not supply the names of its top 5 importers. The Commission received importers' questionnaire responses from each of the firms named by the foreign producers.

Table 20
Polyvinyl alcohol: U.S. imports, by sources, 1992-94

Item	1992	1993	1994
	Quantity (*1,000 pounds*)		
China	9,075	9,128	5,248
Japan	22,756	19,777	20,557
Korea	0	150	487
Taiwan	44,065	29,760	32,204
Subtotal	75,895	58,815	58,496
Other sources	3,016	2,679	3,785
Total	78,911	61,494	62,281
	Value (*1,000 dollars*)		
China	6,253	6,146	3,297
Japan	29,021	29,414	32,151
Korea	0	96	281
Taiwan	36,325	23,863	25,473
Subtotal	71,599	59,519	61,202
Other sources	5,006	4,768	5,295
Total	76,605	64,287	66,497
	Unit value (*per pound*)		
China	$0.69	$0.67	$0.63
Japan	1.28	1.49	1.56
Korea	(1)	.64	.58
Taiwan	.82	.80	.79
Average	.94	1.01	1.05
Other sources	1.66	1.78	1.40
Average	.97	1.05	1.07
	Share of total quantity (*percent*)		
China	11.5	14.8	8.4
Japan	28.8	32.2	33.0
Korea	0	.2	.8
Taiwan	55.8	48.4	51.7
Subtotal	96.2	95.6	93.9
Other sources	3.8	4.4	6.1
Total	100.0	100.0	100.0
	Share of total value (*percent*)		
China	8.2	9.6	5.0
Japan	37.9	45.8	48.3
Korea	0	.1	.4
Taiwan	47.4	37.1	38.3
Subtotal	93.5	92.6	92.0
Other sources	6.5	7.4	8.0
Total	100.0	100.0	100.0

[1] Not applicable.

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

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

Table 21
Polyvinyl alcohol: U.S. imports, by products and by sources, 1992-94

Item	1992	1993	1994
	Quantity (*1,000 pounds*)		
Hydrolyzed in excess of 85 percent:			
China	5,550	7,866	5,546
Japan	9,342	5,595	5,488
Korea	0	***	***
Taiwan	43,308	29,472	***
Subtotal	58,200	***	***
Other sources	957	***	***
Total	59,157	44,076	43,887
Hydrolyzed not in excess of 85 percent:			
China	0	0	0
Japan	5,675	6,080	6,412
Korea	0	0	0
Taiwan	0	0	***
Subtotal	5,675	6,080	***
Other sources	***	***	***
Total	***	***	***
All polyvinyl alcohol:			
China (subject)	5,550	7,866	5,546
Japan (subject)	9,342	5,595	5,488
Korea (subject)	0	***	***
Taiwan (subject)	43,308	29,472	***
Subtotal	58,200	***	***
Other sources[1]	***	***	***
Total	***	***	***
	Value (*1,000 dollars*)		
Hydrolyzed in excess of 85 percent:			
China	3,842	5,726	3,685
Japan	9,195	6,237	6,617
Korea	0	***	***
Taiwan	32,247	21,491	***
Subtotal	45,284	***	***
Other sources	1,072	***	***
Total	46,356	34,598	34,437
Hydrolyzed not in excess of 85 percent:			
China	0	0	0
Japan	6,727	7,586	8,602
Korea	0	0	0
Taiwan	0	0	***
Subtotal	6,727	7,586	***
Other sources	***	***	***
Total	***	***	***
All polyvinyl alcohol:			
China (subject)	3,842	5,726	3,685
Japan (subject)	9,195	6,237	6,617

Continued on next page.

Table 21--Continued
Polyvinyl alcohol: U.S. imports, by products and by sources, 1992-94

Item	1992	1993	1994
	Value (*1,000 dollars*)		
Korea (subject)	0	***	***
Taiwan (subject)	32,247	21,491	***
Subtotal	45,284	***	***
Other sources[1]	***	***	***
Total	***	***	***
	Unit value (*per pound*)		
Hydrolyzed in excess of 85 percent:			
China	$0.69	$0.73	$0.66
Japan	.98	1.11	1.21
Korea	(2)	***	***
Taiwan	.74	.73	.72
Average	.78	.78	.78
Other sources	1.12	1.06	1.05
Average	.78	.78	.78
Hydrolyzed not in excess of 85 percent:			
China	(2)	(2)	(2)
Japan	1.32	1.40	1.52
Korea	(2)	(2)	(2)
Taiwan	(2)	(2)	1.50
Average	1.32	1.40	1.52
Other sources	2.82	3.14	3.16
Average	1.38	1.45	1.57
All polyvinyl alcohol:			
China (subject)	$0.69	$0.73	$0.66
Japan (subject)	.98	1.11	1.21
Korea (subject)	(2)	***	***
Taiwan (subject)	.74	.73	.72
Average	.78	.78	.78
Other sources[1]	1.34	1.40	1.48
Average	.83	.86	.88
	Share of total quantity (*percent*)		
Hydrolyzed in excess of 85 percent:			
China	9.4	17.8	12.6
Japan	15.8	12.7	12.5
Korea	0	***	***
Taiwan	73.2	66.9	***
Subtotal	98.4	***	***
Other sources	1.6	***	***
Total	100.0	100.0	100.0
Hydrolyzed not in excess of 85 percent:			
China	0	0	0
Japan	***	***	***

Continued on next page.

Table 21--Continued
Polyvinyl alcohol: U.S. imports, by products and by sources, 1992-94

Item	1992	1993	1994
	Share of total quantity (*percent*)		
Korea	0	0	0
Taiwan	0	0	(3)
Subtotal	***	***	***
Other sources	***	***	***
Total	100.0	100.0	100.0
All polyvinyl alcohol:			
China (subject)	***	***	***
Japan (subject)	***	***	***
Korea (subject)	***	***	***
Taiwan (subject)	***	***	***
Subtotal	***	***	***
Other sources[1]	***	***	***
Total	100.0	100.0	100.0
	Share of total value (*percent*)		
Hydrolyzed in excess of 85 percent:			
China	8.3	16.6	10.7
Japan	19.8	18.0	19.2
Korea	0	***	***
Taiwan	69.6	62.1	***
Subtotal	97.7	***	***
Other sources	2.3	***	***
Total	100.0	100.0	100.0
Hydrolyzed not in excess of 85 percent:			
China	0	0	0
Japan	***	***	***
Korea	0	0	0
Taiwan	0	0	(3)
Subtotal	***	***	***
Other sources	***	***	***
Total	100.0	100.0	100.0
All polyvinyl alcohol:			
China (subject)	***	***	***
Japan (subject)	***	***	***
Korea (subject)	***	***	***
Taiwan (subject)	***	***	***
Subtotal	***	***	***
Other sources[1]	***	***	***
Total	100.0	100.0	100.0

[1] Includes polyvinyl alcohol hydrolyzed not in excess of 85 percent from all sources.
[2] Not applicable.
[3] Positive figure, but less than significant digits displayed.

Note.--Because of rounding, shares may not add to the totals shown. Unit values are calculated using data where both comparable quantity and value information were supplied.

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

$0.94 per pound in 1992 to $1.05 per pound in 1994. Combined, these imports from the four subject countries accounted for 92 percent or more of the quantity and value of total imports.

U.S. Imports From China

The quantity of U.S. imports of PVA from China fell unevenly from 1992 to 1994, declining from 9.1 million pounds in 1992 to 5.2 million pounds in 1994. The value of such imports, however, declined steadily over the same period, dropping from $6.3 million to $3.3 million. The average per-pound unit values of U.S. imports from China declined similarly, falling from $0.69 in 1992 to $0.63 in 1994.

Based on questionnaire responses (table 21), the quantity and value of U.S. imports from China, all of which was comprised of PVA hydrolyzed in excess of 85 percent, rose sharply from 1992 to 1993 and decreased by about the same amount from 1993 to 1994. Such imports increased from 5.6 million pounds, valued at $3.8 million, in 1992 to 7.9 million pounds, valued at $5.7 million, in 1993, and decreased to 5.5 million pounds, valued at $3.7 million, in 1994. As a share of the total quantity of U.S. imports of subject and nonsubject PVA from all sources, China's share increased from *** percent in 1992 to *** percent in 1993 and fell to *** percent in 1994.

U.S. Imports From Japan

Based on official Commerce statistics (table 20), U.S. imports of all PVA from Japan fell from 22.8 million pounds, valued at $29.0 million, in 1992 to 19.8 million pounds, valued at $29.4 million, in 1993, and increased to 20.6 million pounds, valued at $32.2 million, in 1994. When compared with U.S. imports from China, Korea, and Taiwan, the average unit value of imports from Japan was significantly higher in all periods, partly due to the mix of PVA hydrolyzed under 85 percent that is included in the data.

Based on questionnaire responses (table 21), Japan accounted for the bulk of U.S. imports of PVA not hydrolyzed in excess of 85 percent. Such nonsubject imports from Japan rose steadily from 1992 to 1994, increasing from 5.7 million pounds to 6.4 million pounds in 1994. The average unit value of those imports also increased, rising from $1.32 per pound in 1992 to $1.52 per pound in 1994.

The quantity of U.S. imports from Japan of PVA hydrolyzed in excess of 85 percent fell by 40 percent from 1992 to 1993 and dropped further between 1993 and 1994, by 2 percent. The value of such imports fell similarly between 1992 and 1993, by 32 percent, but then increased by 6 percent between 1993 and 1994. As a share of the total quantity of U.S. imports of all PVA, U.S. imports from Japan of PVA hydrolyzed in excess of 85 percent declined from *** percent in 1992 to *** percent in 1993 and 1994.

U.S. Imports From Korea

Korean-produced PVA began to enter the U.S. market in 1993. All of the imports that entered in 1993 and 1994 from Korea were PVA hydrolyzed in excess of 85 percent. Because only one exporter and one U.S. importer account for all the imports from Korea, only minor discrepancies exist between the data shown in tables 20 and 21. Using the data shown in table 20, U.S. imports from Korea increased from 150,000 pounds, valued at $96,000, in 1993 to 487,000 pounds, valued at $281,000, in 1994. The average unit value of Korean imports was the lowest of the four countries subject to these investigations, averaging $0.64 per pound in 1993 and $0.58 per pound in 1994.

U.S. Imports From Taiwan

Using official statistics, the quantity and value of U.S. imports from Taiwan dropped sharply from 1992 to 1993, falling from 44.1 million pounds, valued at $36.3 million, to 29.8 million pounds, valued at $23.9 million. In 1994, U.S. imports recovered somewhat but remained significantly below 1992 levels. While the quantity and value of U.S. imports fluctuated over the period, the average unit values of these imports declined steadily, falling from $0.82 per pound in 1992 to $0.79 per pound in 1994.

When using questionnaire data, U.S. imports from Taiwan show similar trends, that is, decreasing in terms of both quantity and value from 1992 to 1993 and increasing in the succeeding period. The average unit value of U.S. imports decreased steadily over the same period, falling from $0.74 per pound in 1992 to $0.72 per pound in 1994.

U.S. Importers' Current Orders

In the Commission's questionnaire, U.S. importers were asked if they had imported or arranged for the importation of PVA hydrolyzed in excess of 85 percent from China, Japan, Korea, and/or Taiwan for delivery after December 31, 1994. Twenty-three firms, including *** and ***, responded in the affirmative. *** reported that, during 1995, it expects to import between *** and *** pounds ***. *** reported that it has an open purchase order for *** pounds of the Taiwanese product for ***. *** reported that it had arranged to import Taiwanese-produced PVA at the rate of *** pounds per month in 1995. For the most part, however, importers' current orders are scheduled for arrival during the first 6 months in 1995. The sum of U.S. importers' current orders totaled 35.2 million pounds.

Market Penetration

Data on market shares of U.S. imports from China, Japan, Korea, and Taiwan are shown in tables 22 (total market) and 23 (open market). Market shares were calculated using official statistics minus U.S. importers' imports of nonsubject PVA (i.e., hydrolyzed under 85 percent) as reported in Commission questionnaires. Because there is no U.S. production of PVA hydrolyzed below 85 percent, and because imports of that product are minimal, market shares of the subject imports do not vary significantly whether the denominator is U.S. consumption of all PVA or U.S. consumption of PVA hydrolyzed in excess of 85 percent.

The combined market shares of U.S. imports of PVA hydrolyzed in excess of 85 percent from China, Japan, Korea, and Taiwan declined steadily from 1992 to 1994. Based on consumption quantity, the combined market share declined from *** percent in 1992 to *** percent in 1994 (table 22). Based on consumption value, the combined market share dropped from *** percent to *** percent. Conversely, the share of the market accounted for by U.S. producers increased from *** percent of consumption quantity and *** percent of consumption value in 1992 to *** percent of the quantity and *** percent of the value of consumption in 1994.

As a share of U.S. open-market consumption, the combined imports from the subject countries fell from *** percent of the quantity and *** percent of the value of such consumption in 1992 to *** percent and *** percent, respectively, of the quantity and value of consumption in 1994 (table 23). U.S. producers' share of the quantity and value of open-market consumption increased from *** percent and *** percent, respectively, in 1992 to *** percent and *** percent, respectively, in 1994.

China's Market Share

China's share of the quantity and value of U.S. consumption of PVA declined from *** percent in 1992 and 1993 to *** percent in 1994. As a share of U.S. open-market consumption, China's share decreased irregularly from *** percent of the quantity and *** percent of the value of open-market consumption in 1992 to *** percent of the quantity and *** percent of the value in 1994.

Japan's Market Share

As a share of the quantity of apparent U.S. consumption, U.S. imports of PVA hydrolyzed in excess of 85 percent from Japan declined from *** percent in 1992 to *** percent in 1994. Based on value, however, Japan's market share rose from *** percent in 1992 to *** percent in 1993 and remained at *** percent in 1994. As a share of the quantity of U.S. open-market consumption, Japan's market share fell from *** percent in 1992 to *** percent in 1994. Based on value, Japan's market share increased from *** percent in 1992 to *** percent in 1993 and remained at *** percent in 1994.

Table 22
Polyvinyl alcohol: Apparent U.S. consumption and market penetration, by products, 1992-94

* * * * * * *

Table 23
Polyvinyl alcohol: Apparent U.S. open-market consumption and market penetration, 1992-94

* * * * * * *

Korea's Market Share

As a share of apparent U.S. consumption and U.S. open-market consumption, U.S. imports of PVA hydrolyzed in excess of 85 percent from Korea were insignificant in all periods, accounting for zero percent in 1992 and for less than one-half of 1 percent in 1993 and 1994.

Taiwan's Market Share

As a share of the quantity and value of apparent U.S. consumption, U.S. imports of the subject PVA from Taiwan dropped from *** percent and *** percent of apparent consumption, respectively, in 1992 to *** percent of the quantity and value of apparent consumption in 1993 and 1994. Taiwan's market share of U.S. open-market consumption based on quantity dropped by 6 percentage points from 1992 to 1993 and then increased by less than half of a percentage point in 1994. Taiwan's market based on value fluctuated similarly.

Prices

Marketing Practices

Prices of PVA vary by the degree of hydrolysis and viscosity. Air Products produces PVA classified as super hydrolyzed (more than 99 percent hydrolyzed), fully hydrolyzed (98 to 99 percent hydrolyzed), intermediate hydrolyzed (90 to 98 percent hydrolyzed), and partially hydrolyzed (85 to 89 percent hydrolyzed). DuPont refers in its product literature to fully hydrolyzed PVA as 98 percent or higher and partially hydrolyzed as less than 98 percent. DuPont produces only fully hydrolyzed PVA and ***.

PVA products may also differ by percentage of ash, percentage of volatiles, acidity, product clarity in solution, particle type and size, defoamer type and level, boric acid content, iron content, and level of impurities.[59] Air Products produces standard grades and specialty grades including polymerization, fine particle, and tackified. DuPont distinguishes between general purpose grades and specialty and adhesive grades, which provide such characteristics as gel resistance, solubility in cold water, and water resistance.

Because the relative importance of these characteristics differ between end-use applications, prices of PVA vary by end use. Air Products and DuPont have separate price lists for the textile market and for all other markets.[60] Air Products reported in its questionnaire response that *** and *** are the most demanding in terms of qualifying new suppliers while *** are somewhat rigorous in their qualification and *** are much less demanding.

In addition, Air Products reported that "price is not a determining factor in grade selection--it is performance." For example, in adhesives, partially hydrolyzed PVA is most often used because of

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[59] Petition, p. 6.

[60] DuPont's Apr. 1, 1995 textile industry price list showed prices of "general purpose" grades that were $0.06 per pound less than prices of those same grades shown on its general price list. Air Products' Jan. 3, 1995 price lists showed an even larger price difference. For example, its "all markets (excluding textiles)" list prices of grades 325 and 425 were $1.55 per pound for truckload quantities while the same grades were listed for $1.25 per pound on its textile price list.

its water solubility except in cases where water resistance is required, in which case a fully hydrolyzed product is used. For polymerization, partially hydrolyzed is used while fully hydrolyzed is used for PVB. Paper manufacturers' choice of grade will depend on the type of paper produced.

Prices also vary by the quantity purchased and packaging size. PVA is typically sold in 50-pound, 20-kilogram, and 25-kilogram bags, and in bulk form. In 1994, DuPont sold *** percent of its PVA in 50-pound bags and most of the remainder in bulk. Air Products reported that *** percent of its sales were of 50-pound bags, *** percent were bulk shipments, and the remaining *** percent consisted of 25-kilogram bags, bulk bags, or other forms of packaging. Most Taiwanese product was shipped in 50-pound bags. About half of the Japanese product was shipped in 50-pound bags and about half was shipped in 20-kilogram bags. Over 70 percent of the Chinese product and all of the Korean product was shipped in 20- or 25-kilogram bags. Ryan Commerce, a major importer of Chinese product and Upstate Chemical, the sole importer of Korean product, reported that customer formulations are typically measured in 50-pound bags and, therefore, it must sell its Chinese and Korean PVA at a price discount because it is packaged in a different size bag.

Air Products and DuPont both publish price lists that specify quantity discounts. For example, Air Products quotes a base price for 50-pound bags shipped by the truckload and an additional $0.01 for 30,000 to 40,000 pounds, an additional $0.015 for 15,000 to 27,500 pounds, an additional $0.03 for 2,500 to 12,500 pounds, and a price of $2.51 per pound for PVA shipped in amounts of 200 to 2,450 pounds. In addition, bulk shipments are priced lower than shipments in 50-pound bags.

U.S. producers and importers generally quote prices on a delivered basis with terms of net 30 days. U.S. producers' and importers' U.S. inland transportation costs are small, accounting for 1 to 5 percent of the total delivered price of PVA. Air Products reported lead times of *** to *** days while DuPont reported lead times of *** days. Importers' lead times from inventory are generally several days while reported lead times from the foreign producer vary from *** to *** weeks for Japanese product and *** to *** months for imported product from China, Korea, and Taiwan.[61]

Product Comparisons

Air Products reported that PVA from each of the subject countries is interchangeable for its U.S.-produced PVA and that product from Japan, Korea, and Taiwan is of equivalent quality to U.S.-produced PVA. It furthermore stated that PVA from China had a reputation for variable quality in the past but that it has improved in the past 2-3 years and Chinese product is now sold to quality-sensitive paper customers.

DuPont reported that, in most cases, quality differences between the Japanese and Taiwanese products and its U.S.-produced products were not a significant factor in its sales of PVA but that quality differences between Chinese PVA and DuPont's PVA were a significant factor. DuPont also stated that non-price differences between its U.S.-produced product and the imported products were a significant factor in its sales of PVA. Specifically, it cited the availability of its PVA in bulk form via hopper car or hopper truck. In addition, it reported that its technical service and sales support were also advantages over other PVA suppliers.

The majority of sales of Chinese product were to the textile industry. Importers of Chinese product reported that the majority of 1994 shipments consisted of grade 1795. In addition, significant quantities of grades 1797 and 1799 were also sold. *** reported that grade 1799 has an extremely high level of hydrolysis and has a very limited shelf life because it gels. *** reported that because of inferior packaging, contaminants often get in the PVA and cause problems for textile manufacturers. It also reported that lumping is a major problem and, therefore, the Chinese product must be blended with other PVA before it is mixed with water. *** said that because the textile mills have no machinery to pre-mix dry PVA, the Chinese product is excluded from this market.

***, a large importer of Japanese product, reported that Nippon supplies some modified grades of PVA which are not available from any other country. Nippon estimates that these modified grades

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[61] *** and *** noted in their questionnaires that truckload or larger quantities of PVA are usually ordered directly from China and Korea with a lead time of *** to *** weeks, while U.S. producers will deliver truckload quantities in several days.

accounted for approximately *** percent of its 1994 exports to the United States. In addition, Nippon contends that its standard PVA contains many special formulations that are not available domestically.[62] *** also stated that although Japanese PVA other than the modified grades has substitutes from other sources, it has certain advantages including purity, consistent quality, less residual impurities, better performance in emulsions, less gelling, superior rheological properties, and tighter specifications.

***, another large importer of Japanese product, reported that there is a substantial quality difference between the *** products it sells to its largest customer, ***, and other suppliers' products. ***, a manufacturer of ***, reported that it purchases the Japanese product because only the Kuraray product meets its requirements, it does not change its raw material suppliers often, and it views Air Products as a competitor in certain of its end-use products.[63] ***, another importer of *** product, reported that it imports modified PVA products that are not available domestically. In addition, it reported that *** is considered a secondary source for consumers of standard grade PVA and is known internationally for its high quality and consistency.

Upstate Chemical, the importer of Korean product, reported that it sold 3 grades of Korean material, 2 partially hydrolyzed grades, P-17 and P-05, and a fully hydrolyzed grade, F-17. The Korean product was sold to blenders which blended the PVA into sizing for sale to the paper and textile mills, and to a manufacturer of adhesives. According to Upstate Chemical, it was limited in its ability to sell to customers because of its limited range of products, packaging size, long lead times, and inability to provide bulk shipments to textile companies. In addition, a shipment of P-17 failed a test for the paper industry in June 1993 because of lumping and this caused a 6 month loss of sales to the paper industry for Upstate Chemical.

According to Chang Chun, the product from Taiwan differs from the U.S.-produced product offered by Air Products in several respects, including different ranges of hydrolysis and viscosity, the addition of a special defoaming agent in its PVA, less gelling, and finer particle size.[64] In addition, Chang Chun states that imports provide a second source to Air Products for customers for the partially hydrolyzed grades which DuPont does not produce. ***, a large importer and end user of Taiwanese product, reported that similar grades from domestic and foreign suppliers are generally used interchangeably in its application except in certain cases where the defoaming characteristic of the Chang Chun product is critical in the manufacturing and processing of certain liquid downstream products.

Input Prices

Air Products reported its quarterly delivered purchase prices for vinyl acetate monomer during January 1992 and December 1994. As shown in figure 4, prices for this input were *** during 1992-93 and the first half of 1994, but then increased by *** percent during the second half of 1994.

Figure 4
Delivered prices paid by Air Products for vinyl acetate monomer, by quarters, Jan. 1992-Dec. 1994

* * * * * * *

Questionnaire Price Data

The Commission requested U.S. producers and importers to provide quarterly price data between January 1992 and December 1994 for five products.[65] Products 1 and 5 specified hydrolysis levels of higher than 95 percent. Products 2-4 specified hydrolysis levels of less than 89 percent, with varying degrees of viscosity.[66] In addition, Air Products provided pricing for its sales of offspec PVA.

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[62] Letter from Nippon dated Apr. 4, 1995.

[63] Postconference brief of ***.

[64] Postconference brief of Chang Chun, pp. 17-19.

[65] DuPont did not provide pricing data for 1992.

[66] DuPont does not produce the partially hydrolyzed products 2-4 in the United States.

The price data were requested on a net f.o.b. and delivered basis for each responding firm's largest sale in each quarter and for its total quarterly sales to all end users. Firms were instructed to report pricing separately for each of the following end use applications: paper, adhesives, textiles, emulsion polymerization, PVB, and other applications.

Pricing data are presented by end use application in figures 5 to 8 and appendix F. For each product for which the Commission requested data, the specifications for each supplier vary somewhat. In addition, quantity discounts may affect price levels. Also, Chinese respondents argue that prices of PVA from China should be compared with prices for U.S.-produced offspec material, not prime material.[67]

Figure 5
Weighted-average net delivered prices of polyvinyl alcohol sold to the textiles industry, by quarters, Jan. 1992-Dec. 1994

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Figure 6
Weighted-average net delivered prices of polyvinyl alcohol sold to the adhesives industry, by quarters, Jan. 1992-Dec. 1994

* * * * * * *

Figure 7
Weighted-average net delivered prices of polyvinyl alcohol sold to the paper industry, by quarters, Jan. 1992-Dec. 1994

* * * * * * *

Figure 8
Weighted-average net delivered prices of polyvinyl alcohol sold to the polyvinyl butyral industry, by quarters, Jan. 1992-Dec. 1994

* * * * * * *

Textiles

U.S. producers' prices to the textile industry declined during 1992-93 and increased in 1994 for products 1, 2, and 4, but declined throughout the period for product 5. U.S. producers' sales of product 5 increased significantly from 1993 to 1994. In addition, Air Product's sales of offspec PVA to the textiles industry *** and prices *** during 1992-93, although this trend reversed slightly during 1994.

Prices of imported PVA from China sold into the textile market were significantly lower than U.S.-producer prices for graded material but were higher than prices for offspec PVA. Prices of imports from Taiwan were generally slightly lower than U.S.-producer prices for prime material. Small quantities of imported PVA from Korea were sold to the textile market at prices *** those of the Chinese product.

[67] Postconference brief of Beta Chemicals, Ryan Commerce, and Sichuan Vinylon Works, p. 10.

Adhesives[68]

Most of the pricing reported by U.S. producers for sales to the adhesives industry showed declines during 1992-94 with the exception of product 1 prices, which increased during 1993-94, and product 2 prices, which increased slightly during 1994. Air Products also sold offspec material to the adhesives market. Prices for the offspec material *** from 1992 to 1994 and quantities sold ***.

Most of the pricing data reported for the four applications by importers of Japanese product were for emulsions and adhesive applications. Prices of the Japanese products were higher than U.S.-producer prices in almost every quarter. Prices of the largest selling Taiwanese products for the adhesives market were also generally higher than U.S.-producer prices. Importers of Chinese and Korean PVA sold only small quantities to this market, generally at lower prices than the U.S.-produced prime product but above those for offspec material produced by Air Products.

Paper

Of the four applications, prices were highest to the paper industry. U.S. producers' price trends for the four PVA products for which U.S. producers reported pricing varied during 1992-94, but each product showed an increase in price during the latter part of 1994. Prices of imports from China, Korea, and Taiwan were below those of U.S. producers during virtually every quarter for which sales were reported. Importers of Japanese PVA reported higher prices for products 1 and 2 but lower prices for product 3.

Polyvinyl butyral

Air Products accounted for virtually all sales of PVA for PVB on the open market during 1992-94.[69] Monsanto, the only producer of PVB besides DuPont, ***. Air Product's sales prices for PVB applications *** percent during 1992-94.[70]

Lost Sales and Lost Revenues

Air Products reported *** lost revenue allegations involving Japan and Taiwan and *** lost sale allegations involving China, Japan, and Taiwan. DuPont reported *** lost revenue allegations involving Taiwan, *** allegation involving Japan, and *** cases in which it did not know the country of origin. However, DuPont reported that it had not lost sales to imports of PVA from China, Japan, Korea, or Taiwan during January 1992-December 1994. Neither producer reported specific allegations regarding Korea. The total quantity and value of these allegations, by country, are shown in the tabulation below.

* * * * * * *

In a *** lost revenue allegation involving *** pounds of *** PVA sold to ***, Air Products stated that it lowered its price from $*** per pound to $*** per pound because of competition from

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[68] The data shown in figure 6 and tables F-11, F-12, and F-13 for adhesives combines pricing for sales to adhesive and emulsion manufacturers. For products 2-4, Air Products reported that it could not break out sales to adhesives manufacturers from sales to emulsion manufacturers since emulsion manufacturers purchase for both emulsions and adhesives. Air Products does not sell fully hydrolyzed grades (products 1 and 5) for emulsions and thus provided pricing only for sales to adhesive applications for these products. Importers of Japanese PVA provided emulsions pricing for products 2-4 and adhesives pricing for products 1-4. Importers of Chinese, Korean, and Taiwanese did not report any sales to emulsion manufacturers but did report pricing for sales to adhesive manufacturers.

[69] *** sold *** pounds of PVA to *** in the *** quarter of ***.

[70] Air Products reported that it faced price competition from suppliers of PVA from Japan and Taiwan in its sales to ***. See the "Lost Sales and Lost Revenues" section of this report.

lower-priced PVA from Taiwan and Japan. *** purchased PVA almost exclusively from Air Products during 1992-94, ***. Staff spoke with *** of ***, who said that *** was seeking a second source of supply to Air Products and did not purchase from *** because ***. Therefore, *** sampled small quantities of PVA from two suppliers of Chinese product, a supplier of Taiwanese product, and a supplier of Japanese product. *** then chose to work to qualify Chan Chung, a producer of Taiwanese product and purchased *** pounds from Chan Chung during the *** quarter of *** to try a full scale run using Chan Chung's product. *** said that Chan Chung's price for PVA was about *** percent lower than Air Products' price.

*** said that *** has an *** contract with Air Products which will end ***. Under the contract, Air Products is guaranteed a certain percentage of ***'s business. Prices are negotiated *** using a formula which takes into account PVA raw material prices and market prices for PVA. *** said that Air Products did lower its price during ***.

In a second lost revenue allegation, Air Products alleged that in the *** quarter of *** it lowered its prices on *** pounds of PVA from an average price of $*** per pound to $*** per pound to meet the prices of imported PVA from Japan and Taiwan. ***, the purchaser named in the allegation, is ***. *** provided detailed information concerning its purchases of PVA in its importer questionnaire response.

*** reported that from *** to ***, it was under a supply agreement with Air Products in which it was required to purchase *** percent of its U.S. and *** requirements or *** pounds, whichever was greater, from Air Products.[71] The price paid by *** under this agreement was the weighted-average price charged by Air Products to ***. *** reported that as it became Air Products' largest (or nearly largest) purchaser of PVA for ***, it "expected a price at least as low as the lowest price paid by Air Products' largest customers, not the weighted-average price paid by a group of purchasers all or most of whom were buying smaller quantities than ***."

*** reported that the supply agreement ended in ***, and it sought out second sources to Air Products, including ***.[72] It reported that at this time it experienced difficulties with inconsistent product supplied by Air Products. *** reported that it negotiated a new contract for *** through *** with Air Products under which *** agreed to purchase much larger volumes on a *** basis than under the former contract. In exchange for the large volume commitment, *** reported it received "favorable pricing". Lastly, *** said that Air Products announced price increases in July 1994, October 1994, January 1995, and April 1995, totaling $*** per pound, and that Air Products has realized about *** of the announced increases with no loss of sales to ***.

In another lost revenue allegation, Air Products claimed that in *** it lowered its price on *** pounds of several grades of PVA from an average price of $*** per pound to $*** per pound because of lower-priced PVA from Taiwan. Staff spoke with *** of ***, the purchaser named in the allegation. *** said that *** only purchases PVA from Air Products and ***, an importer of Japanese product. He said that *** had purchased small samples from other sources but did not consider these sources further and that he purchased only from Air Products and *** because of the reliability of supply and quality of these suppliers. He further said that Air Products lowered its price to *** in *** to meet the price at which Air Products was selling PVA to ***.

*** said that his firm purchases approximately *** pounds of PVA per year, about *** percent of which are specialty grades which are priced two to four times higher than the commodity grades he purchases. *** said that *** purchases these specialty grades from ***, an importer of Nippon product, and that these grades were only available from Nippon and possibly Kuraray. He said that he has asked Air Products to produce these products but that Air Products is unable to do so.

*** stated that *** purchases *** to *** percent of its commodity grades of PVA from Air Products but that it purchases a small amount of commodity grades from ***. He explained that Air Products was not able to meet the required viscosity levels for its *** grade which *** uses to produce *** and, therefore, *** purchases *** percent of its requirements of this grade from ***, at a higher price than the Air Products' product.

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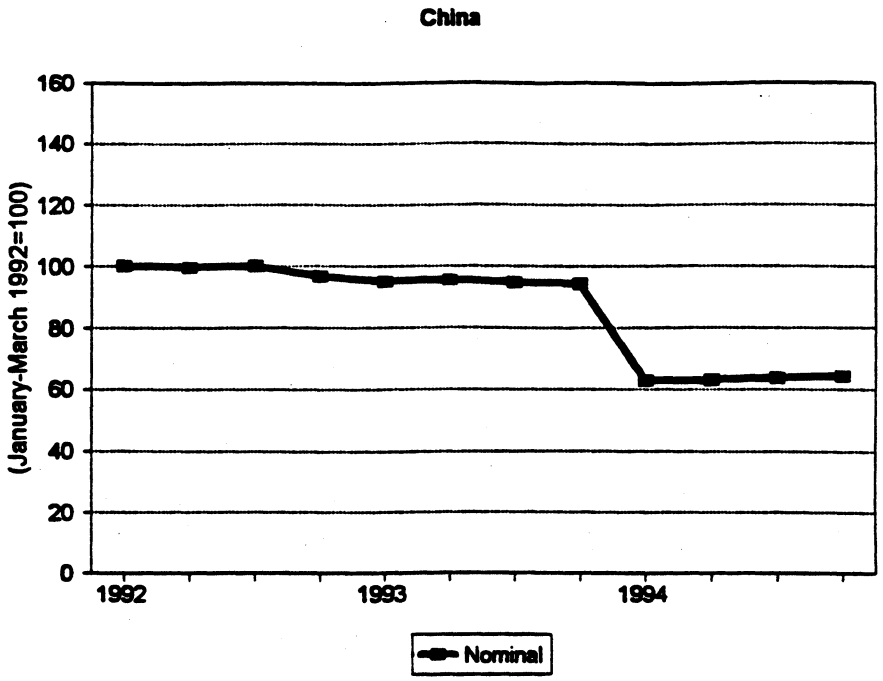
[71] This supply agreement ***.

[72] *** reported that it purchases mainly *** grades and *** expressed no interest in supplying these grades.

Exchange Rates

Quarterly exchange rates reported by the International Monetary Fund for the four subject countries during the period January 1992-December 1994 are shown in figure 9.

Figure 9
Exchange rates: Indexes of nominal and real exchange rates relative to the U.S. dollar of the Chinese yuan, Korean won, Japanese yen, and Taiwanese NT, by quarters, Jan. 1992-Dec. 1994



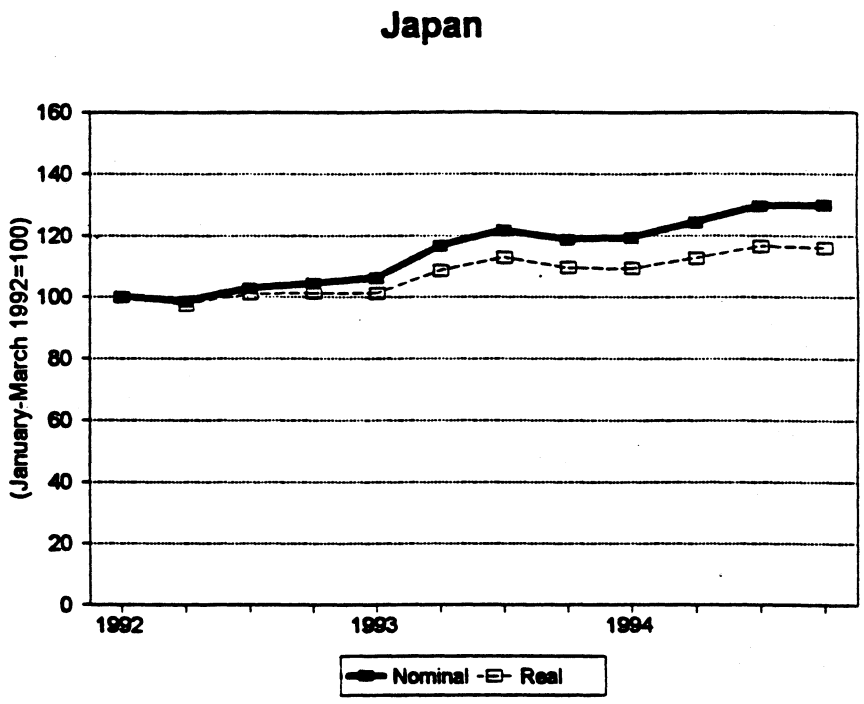
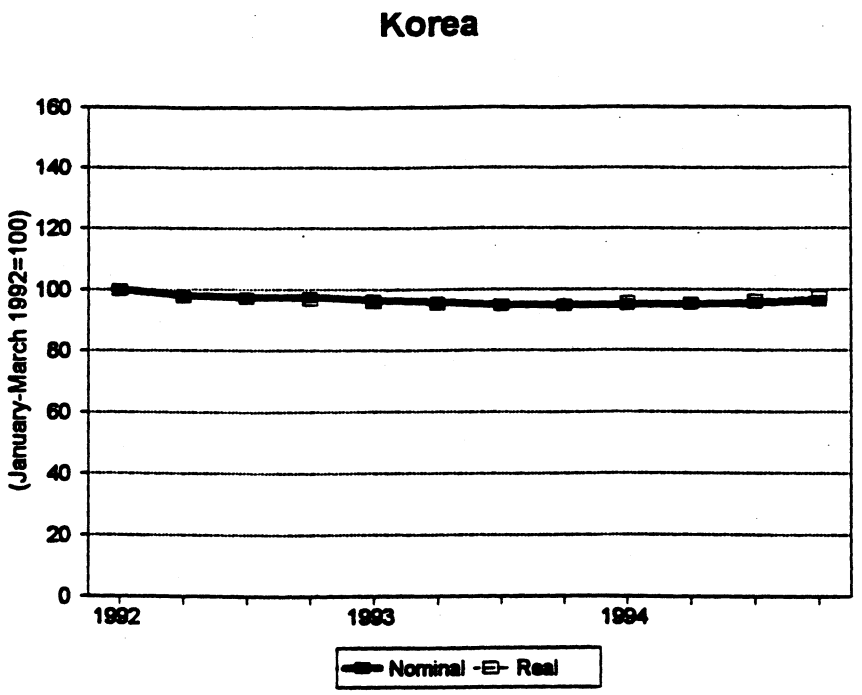
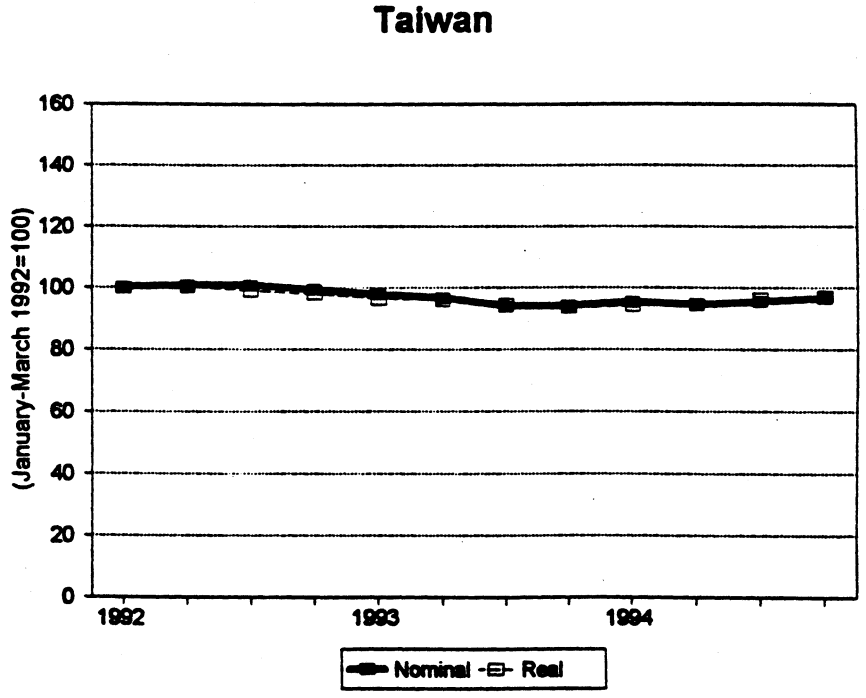


Figure continued.

Figure 9--Continued
Exchange rates: Indexes of nominal and real exchange rates relative to the U.S. dollar of the Chinese yuan, Korean won, Japanese yen, and Taiwanese NT, by quarters, Jan. 1992-Dec. 1994





Source: International Monetary Fund, *International Financial Statistics*, Mar. 1995.

APPENDIX A

SUMMARY DATA

Table A-1
Polyvinyl alcohol hydrolyzed in excess of 85 percent: Summary data concerning the U.S. market, 1992-94

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Table A-2
Polyvinyl alcohol hydrolyzed in excess of 85 percent: Summary data concerning the U.S. open market, 1992-94

* * * * * * *

APPENDIX B

FEDERAL REGISTER NOTICES

[Investigations Nos. 731–TA–726–729 (Preliminary)]

Polyvinyl Alcohol From China, Japan, Korea, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of preliminary antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigations Nos. 731–TA–726–729 (Preliminary) under section 733(a) of the Tariff Act of 1930, as amended by Section 212b of the Uruguay Round Agreements Act (URAA), Pub. L. 103–465, 108 Stat. 4809 (1994) (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China, Japan, Korea, and Taiwan of polyvinyl alcohols,[1] provided for in subheading 3905.20.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by April 24, 1995. The Commission's views are due at the Department of Commerce within 5 business days thereafter, or by May 1, 1995.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207), as amended.

EFFECTIVE DATE: March 9, 1995.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202–205–3188), 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:

Background

These investigations are being instituted in response to a petition filed on March 9, 1995, by Air Products and Chemicals, Inc., Allentown, PA.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the

[1] Polyvinyl alcohol is a dry, white to cream-colored, water-soluble synthetic polymer usually prepared by hydrolysis of polyvinyl acetate. The product covered by the petition includes all polyvinyl alcohols hydrolyzed in excess of 85 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid.

investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

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

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on March 30, 1995, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Woodley Timberlake (202–205–3188) not later than March 28, 1995, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before April 4, 1995, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of 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 investigations must be served on all other 4 parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority

These investigations are being conducted under authority of the Tariff Act of 1930, title VII, as amended by the URAA. This notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: March 13, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–6583 Filed 3–16–95; 8:45 am]

BILLING CODE 7020–02–P

[A-588-836, A-580-826, A-570-842, A-583-824]

Initiation of Antidumping Duty Investigations: Polyvinyl Alcohol From Japan, the Republic of Korea, the People's Republic of China, and Taiwan

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

EFFECTIVE DATE: April 4, 1995.

FOR FURTHER INFORMATION CONTACT: Louis Apple or John Brinkmann at (202) 482-1769 or (202) 482-5288, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Initiation of Investigations

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA).

The Petition

On March 9, 1995, the Department of Commerce (the Department) received a petition filed in proper form by Air Products and Chemicals, Inc. (the petitioner), one of three U.S. producers of polyvinyl alcohol. Supplements to the petition were filed on March 21 and 24, 1995.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of polyvinyl alcohol from Japan, the Republic of Korea (Korea), the People's Republic of China (PRC), and Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, a U.S. industry.

The petitioner states that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act.

Determination of Industry Support for the Petition

Section 732(c) of the Act, as amended by the URAA, requires that the Department determine, prior to the initiation of an investigation, that a minimum percentage of the domestic industry supports an antidumping petition. A petition meets those minimum requirements if (1) domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product; and (2) those domestic producers or workers expressing support account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

The petitioner, one of three known domestic producers of the domestic like product, accounts for more than 25 percent of the total production of the domestic like product as defined in the petition. One producer has informed the Department that it takes no position regarding this antidumping petition. Although the petition identified only two U.S. producers of polyvinyl alcohol, on March 29, 1995, the Department received a statement from another company indicating that it is a producer of polyvinyl alcohol and that it opposes the petition. A review of production data reveals that the petitioner accounts for more than 25 percent of the total production of the domestic like product and for more than 50 percent of that produced by companies expressing support for, or opposition to, the petition. Accordingly, the Department determines that this petition is supported by the domestic industry.

Scope of the Investigations

The merchandise under investigation is polyvinyl alcohol. Polyvinyl alcohol is a dry, white to cream-colored, water-soluble synthetic polymer, usually prepared by hydrolysis of polyvinyl acetate. This product includes polyvinyl alcohols hydrolyzed in excess of 85 percent, whether or not mixed or diluted with defoamer or boric acid.

The merchandise under investigation is currently classifiable under item 3905.20.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Export Price and Normal Value

Japan

Export price was based on a price offered by a Japanese trading company in late September 1994. The petitioner adjusted the price for foreign inland and ocean freight, storage and handling, U.S. duties, and U.S. inland freight.

The petitioner based normal value on the low end of a range of prevailing domestic invoice pricing obtained from a Japanese trading company. The petitioner made adjustments to normal value for home market inland freight, trading company mark-ups and differences between home market and U.S. credit.

Based on a comparison of the export price to normal value, the calculated dumping margin is 77.49 percent.

Korea

Export price was based on the average c.i.f. unit value of U.S. imports from the Korea during November 1994. The petitioner adjusted this price for foreign inland and ocean freight expenses.

The home market price was based on a letter from a Korean producer to a home market customer, announcing an increase from the price in effect during the fourth quarter of 1994. The petitioner adjusted the price in effect prior to the increase for home market inland freight.

The petitioner based the normal value on constructed value (CV) because it asserts that the Korean home market price provided in the petition represented sales that were made below the cost of production (COP) and, therefore, was not an appropriate basis for calculating normal value.

The two components of COP are the cost of manufacture (COM) and selling, general and administrative expenses (SG&A). The petitioner calculated COM on the basis of its own cost and production experience and published prices in trade publications for certain chemical inputs, adjusted for known differences in Korean costs. For SG&A, including financial expenses, the petitioner relied upon the financial statements of the Korean producer of polyvinyl alcohol.

The allegation that the Korean producer is selling the foreign like product in its home market at prices below its COP is based upon a comparison of the adjusted home market price with the calculated COP Based on this information, we find reasonable grounds to believe or suspect that sales of the foreign like product were made at prices below COP in accordance with 773(b)(2)(A)(i) of the Act. Accordingly, the Department will initiate a cost investigation with respect to Korea.

Therefore, for purposes of this initiation, in accordance with section 773(b)(1) of the Act, we are accepting the petitioner's estimate of CV as the appropriate basis for Korean normal value. The petitioner based CV on its COP methodology, adding an amount for profit and export packing to arrive at a total CV. Prior to the amendment of the Act by the URAA, the Department used the greater of actual profit or an eight percent minimum profit to calculate CV. The URAA eliminated the statutory minimum for profit. In the petition, therefore, profit was calculated on the basis of the Korean producer's financial statements, a method that is consistent with the URAA amendments. Packing was based upon the petitioner's own cost experience.

For Korea, based on comparisons of export price to CV, the calculated dumping margin is 187.43 percent.

People's Republic of China

Export price was based on the average c.i.f. unit value of U.S. imports from the PRC during November 1994 and on a sales call report from the same month. In both cases, the petitioner adjusted the starting prices for ocean freight and U.S. credit. Because this is an export price calculation, and because the Department does not deduct direct selling expenses

from the export price, we have recalculated the petitioner's export price to remove the U.S. credit adjustment.

The petitioner asserts that the PRC is an NME within the meaning of sections 771(18)(A) and (C) of the Act and in accordance with section 773(c) of the Act. Accordingly, the normal value of the product should be based on the producer's factors of production, valued in a surrogate market economy country. In previous investigations, the Department has determined that the PRC is an NME, and the presumption of NME status continues for the initiation of this investigation. *See, e.g., Final Determination of Sales at Less Than Fair Value: Glycine from the People's Republic of China*, 60 FR 5620 (Jan. 30, 1995).

It is our practice in NME cases to construct normal value from the factors of production of those factories that produced polyvinyl alcohol sold to the United States during the period of investigation.

In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters. *See Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the PRC*, 59 FR 22585 (May 2, 1994).

With the exception of two raw materials, the petitioner based the factors of production (*i.e.*, raw materials, labor, and energy) on its own production process and usage experience. For the two exceptions, the petitioner made adjustments based on its knowledge of differences in the manufacturing processes in the PRC and estimated the raw material consumption and the amount of by-product based upon its knowledge of the production process of the other U.S. producer. Profit, SG&A, and factory overhead were based on rates calculated from a financial statement that included the chemical sector in India, published in the *Reserve Bank of India Bulletin* (September 1994).

The petitioner valued these factors, where possible, on publicly available published information from the surrogate country it selected. India was selected for the surrogate country because it is the only non-industrialized country listed in the *Directory of World Chemical Producers* (1995/1996 Standard Edition) that the petitioner knows is producing the merchandise subject to investigation. Further, India's gross domestic product is comparable to the PRC's.

Indian packing costs are not included in the valuation of the factors of production because the petitioner was unable to obtain the necessary information. Factory overhead, SG&A, and profit are based on the financial statement for Indian chemical producers, as published in the September 1994 *Reserve Bank of India Bulletin*.

Based on a comparison of the export price to the factors of production, the calculated dumping margins range from 139.82 to 183.72 percent.

Taiwan

Export price was based on the average c.i.f. unit value of U.S. imports from Taiwan during October 1994. The petitioner made adjustments for foreign inland and ocean freight expenses.

The home market price was based on a domestic invoice from a Taiwanese producer to a home market customer in October 1994. The petitioner adjusted this price for home market inland freight.

The petitioner based the normal value on CV because it asserts that the Taiwanese home market price provided in the petition represented sales that were made below the COP and, therefore, was not an appropriate basis for calculating normal value.

The components of COP are COM and SG&A. The petitioner calculated the COM on the basis of its own cost and production experience and published prices in trade publications for certain chemical inputs, adjusted for known cost differences in Taiwan. For SG&A, including financial expenses, the petitioner relied upon the financial statements of the Taiwanese producer of polyvinyl alcohol. This producer manufactures and sells products in multiple industries. Since the petitioner had submitted financial data for a Taiwanese chemical producer whose manufacturing activities are limited to the chemical sector, we recomputed SG&A using this data.

The allegation that the Taiwanese producer is selling the foreign like product in its home market at prices below its COP is based upon a comparison of the adjusted home market price with the calculated COP. Based on this information, we find reasonable grounds to believe or suspect that sales of the foreign like product were made at prices below COP in accordance with section 773(b)(2)(A)(i) of the Act. Accordingly, the Department will initiate a cost investigation with respect to Taiwan.

Therefore, for the purposes of this initiation, we are accepting the petitioner's estimate of CV, as adjusted by the Department, as the appropriate basis for Taiwanese normal value. The petitioner based CV on its COP methodology, described above, adding an amount for profit and packing to arrive at a total CV. The Department made the same adjustment to the petitioner's Taiwanese SG&A estimate as in the COP calculation. The petitioner calculated profit on the basis of financial data for three Taiwanese chemical producers, however only one of these chemical producers manufactured and sold solely chemical products. Therefore, the Department recomputed profit on the basis of the financial data for the one company whose operations were limited to chemicals. This treatment of profit is consistent with the URAA amendments. Packing costs were based on the petitioner's experience.

For Taiwan, based on comparisons of export prices to CV, the recalculated dumping margins are in a range from 82.23 to 91.83 percent.

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of polyvinyl alcohol from Japan, Korea, the PRC, and Taiwan are being, or likely to be, sold at less than fair value. If it becomes necessary at a later date to consider the petition as a source of facts available, we may review the calculations.

Initiation of Investigations

We have examined the petition on polyvinyl alcohol and have found that it meets the requirements of section 732 of the Act, including the requirements concerning the material injury or threat of material injury to the domestic producers of a domestic like product by reason of the complained-of imports, allegedly sold at less than fair value. Therefore, we are initiating antidumping duty investigations to determine whether imports of polyvinyl alcohol from the PRC, Japan, Korea, and Taiwan are being, or are likely to be, sold in the United States at less than fair value. Unless extended, we will make our preliminary determinations by August 16, 1995.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, copies of the public version of the petition have been provided to the representatives of the PRC, Japan, Korea, and Taiwan. We will attempt to provide copies of the public version of the petition to all the exporters named in the petition.

ITC Notification

We have notified the International Trade Commission (ITC) of our

initiations, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by April 24, 1995, whether there is a reasonable indication that imports of polyvinyl alcohol from Japan, Korea, the PRC, and Taiwan are causing material injury, or threaten to cause material injury to a U.S. industry. A negative ITC determination will result in the investigations being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act.

Dated: March 29, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95-8193 Filed 4-3-95; 8:45 am]

BILLING CODE 3510-DS-P

APPENDIX C

CALENDAR OF PUBLIC CONFERENCE

CALENDAR OF PUBLIC CONFERENCE

Investigations Nos. 731-TA-726-729 (Preliminary)

Polyvinyl Alcohol from China, Japan, Korea, and Taiwan

Those listed below appeared as witnesses at the United States International Trade Commission's conference held in connection with the subject investigations at 9:30 a.m. on March 30, 1995, in Courtroom B of the USITC Building, 500 E Street, SW, Washington, DC.

In support of the imposition of antidumping duties

Ellis & Aeschliman--Co-Counsel
Dublin, OH

Wickens & Lebow--Co-Counsel
Washington, DC
on behalf of

Air Products and Chemicals, Inc.

Clifford A. Bridges, general manager, commercial operations, polymer chemicals division, Air Products and Chemicals, Inc.
Robert J. D'Angelo, sales manager, eastern region, polymer chemicals division, Air Products and Chemicals, Inc.
Ben Espie, technical director, eastern region, Ajax Adhesives Industries, Inc.
John C. Lang, purchasing strategist, polymers and resins, purchasing department North America, Rohm and Haas Company
Daniel Klett, Capital Trade, Inc.
Stephen J. Jones, counsel, Law Group

David R. Busam)
Edward M. Lebow) --OF COUNSEL

In opposition to the imposition of antidumping duties

Mudge Rose Guthrie Alexander & Ferdon--Counsel
Washington, DC
on behalf of

The Nippon Synthetic Chemical Industry Co., Ltd.

N. David Palmeter)
Richard G. King) --OF COUNSEL

In opposition to the imposition of antidumping duties--Continued

Ablondi, Foster, Sobin & Davidow--Counsel
Washington, DC
on behalf of

Chan Chun Petrochemical Co., Ltd.

Irving Laub, president, Perry Chemical Co.

Peter J. Koenig)
Lauren D. Frank) --OF COUNSEL

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

Beta Chemicals, Inc.
Sichuan Vinylon Works
Ryan Commerce, Inc.

Anthony J. Ryan, president, Ryan Commerce, Inc.

William E. Perry)
Terry X. Gao) --OF COUNSEL

Gardner, Carton & Douglas--Counsel
Washington, DC
on behalf of

Wego Chemical and Mineral Corporation

Joseph Rabaglia, Wego Chemical and Mineral Corporation
Richard Boltuck, Trade Resources, Inc.

W. N. Harrell Smith)
George N. Grammas) --OF COUNSEL
Bing Wang)

Akin, Gump, Strauss, Hauer & Feld--Counsel
Washington, DC
on behalf of

Oriental Chemical Industries

Valerie A. Slater)
James E. Mendenhall) --OF COUNSEL

In opposition to the imposition of antidumping duties--Continued

Graham & James--Counsel
Washington, DC
on behalf of

Kuraray Co., Ltd.

Lawrence R. Walders)--OF COUNSEL

APPENDIX D

INCOME-AND-LOSS EXPERIENCE OF AIR PRODUCTS ON ITS PVA OPERATIONS, OCTOBER 1 TO DECEMBER 31, 1994

Table D-1
Income-and-loss experience of Air Products on its polyvinyl alcohol operations, Oct. 1-Dec. 31, 1994

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APPENDIX E

EFFECTS OF IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

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

1. Since January 1, 1992, has your firm experienced any actual negative effects on its growth, investment, ability to raise capital, or existing development and production efforts, including efforts to develop a derivative or more advanced version of the product, as a result of imports of PVA from China, Japan, Korea, and Taiwan?

Air Products--"***--

Product--All PVA

Countries--China, Japan, Korea, and Taiwan

Description of actual negative impact--***."

Du Pont--"***."

2. Does your firm anticipate any negative impact of imports of PVA from China, Japan, Korea, and Taiwan?

Air Products--"Yes--

Product--All PVA

Countries--China, Japan, Korea, and Taiwan

Description of anticipated negative impact--***."

Du Pont--"***."

3. Has the scale of capital investments undertaken been influenced by the presence of imports of PVA from China, Japan, Korea, and Taiwan?

Air Products--"***."

Du Pont--"***."

APPENDIX F

PRICING TABLES

Table F-1
Weighted-average net delivered prices and total quantities of product 1 sold for paper applications, reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, Jan. 1992-Dec. 1994

* * * * * * *

Table F-2
Weighted-average net delivered prices and total quantities of product 2 sold for paper applications, reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, Jan. 1992-Dec. 1994

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Table F-3
Weighted-average net delivered prices and total quantities of product 3 sold for paper applications, reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, Jan. 1992-Dec. 1994

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Table F-4
Weighted-average net delivered prices and total quantities of product 5 sold for paper applications, reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, Jan. 1992-Dec. 1994

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Table F-5
Weighted-average net delivered prices and total quantities of product 1 sold for textile applications, reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, Jan. 1992-Dec. 1994

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Table F-6
Weighted-average net delivered prices and total quantities of product 2 sold for textile applications, reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, Jan. 1992-Dec. 1994

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Table F-7
Weighted-average net delivered prices and total quantities of product 4 sold for textile applications, reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, Jan. 1992-Dec. 1994

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Table F-8
Weighted-average net delivered prices and total quantities of product 5 sold for textile applications, reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, Jan. 1992-Dec. 1994

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Table F-9
Weighted-average net delivered prices and total quantities of offspec polyvinyl alcohol sold for textile applications, reported by Air Products, Jan. 1992-Dec. 1994

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Table F-10
Weighted-average net delivered prices and total quantities of product 1 sold for adhesives applications, reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, Jan. 1992-Dec. 1994

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Table F-11
Weighted-average net delivered prices and total quantities of product 2 sold for adhesives applications, reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, Jan. 1992-Dec. 1994

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Table F-12
Weighted-average net delivered prices and total quantities of product 3 sold for adhesives applications, reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, Jan. 1992-Dec. 1994

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Table F-13
Weighted-average net delivered prices and total quantities of product 4 sold for adhesives applications, reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, Jan. 1992-Dec. 1994

* * * * * * *

Table F-14
Weighted-average net delivered prices and total quantities of product 5 sold for adhesives applications, reported by U.S. producers and importers, and margins of underselling/(overselling), by quarters, Jan. 1992-Dec. 1994

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Table 15
Weighted-average net delivered prices and total quantities of offspec polyvinyl alcohol sold for adhesives applications, reported by Air Products, Jan. 1992-Dec. 1994

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Table F-16
Weighted-average net delivered prices and total quantities of product 1 sold for polyvinyl butyral applications, reported by U.S. producers, by quarters, Jan. 1992-Dec. 1994

* * * * * * *