Bulk Acetylsalicylic Acid (Aspirin) From China

Investigation No. 731-TA-828 (Final)

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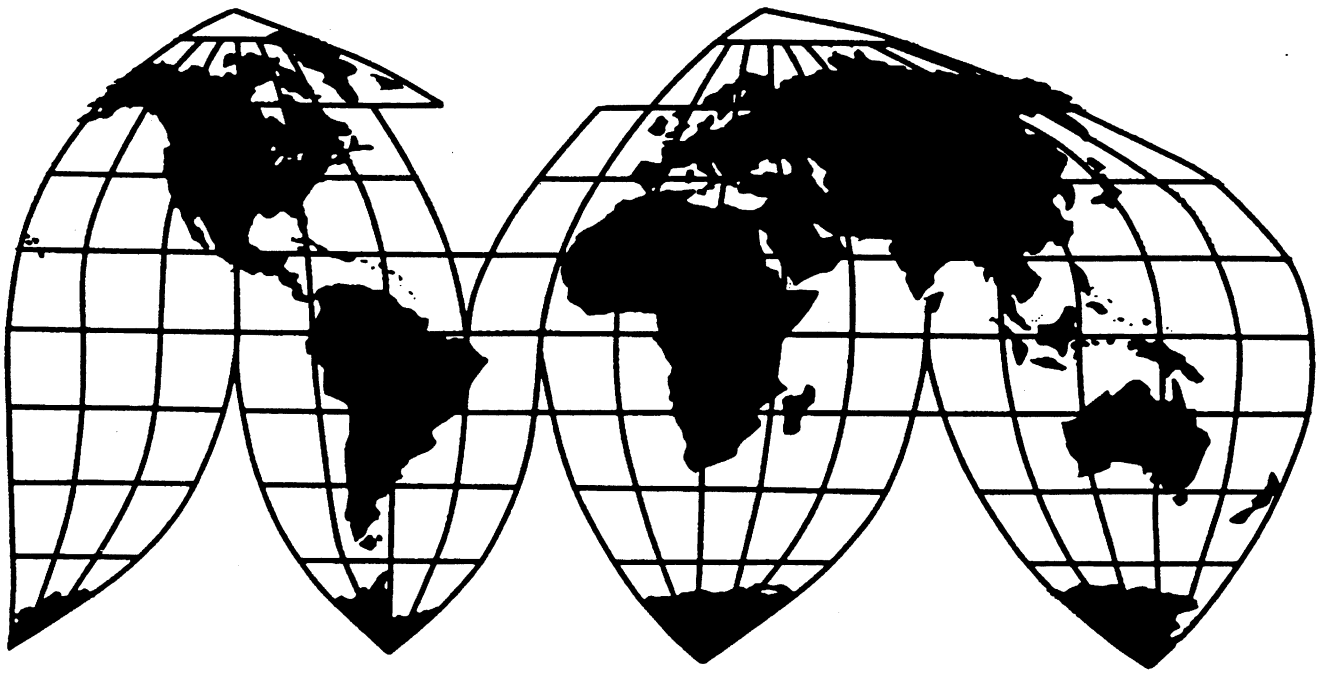
U.S. International Trade Commission



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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-828 (Final)

BULK ACETYLSALICYLIC ACID (ASPIRIN) FROM CHINA

DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is threatened with material injury by reason of imports from China of bulk acetylsalicylic acid (aspirin), provided for in subheadings 2918.22.10 and 3003.90.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). The Commission further determines that it would not have found material injury but for the suspension of liquidation.

BACKGROUND

The Commission instituted this investigation effective May 28, 1999, following receipt of a petition filed with the Commission and the Department of Commerce by Rhodia, Inc., Cranbury, NJ. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of bulk aspirin from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of February 4, 2000 (65 FR 5659). The hearing was held in Washington, DC, on May 18, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

VIEWS OF THE COMMISSION

Based on the record in this investigation, we find that an industry in the United States is threatened with material injury by reason of imports of bulk acetylsalicylic acid ("aspirin")[1] from China that have been found by the Department of Commerce ("Commerce") to be sold at less than fair value ("LTFV").

I. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

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

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission applies the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[4] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[5] The Commission looks for clear dividing lines among possible like products, and disregards minor variations.[6] Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise being sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[7]

Commerce has defined the imported article within the scope of this investigation as:

> bulk acetylsalicylic acid, commonly referred to as bulk aspirin, whether or not in pharmaceutical or compound form, not put up in dosage form (tablet, capsule, powders or similar form for direct human consumption). Bulk aspirin may be imported in two forms, as pure ortho-acetylsalicylic acid or as mixed ortho-acetylsalicylic acid. Pure ortho-acetylsalicylic acid can be either in crystal form or granulated into a fine powder

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[1] The product is also referred to as ortho-acetylsalicylic acid. See 65 Fed. Reg. 33805 (May 25, 2000).

[2] 19 U.S.C. § 1677(4)(A).

[3] 19 U.S.C. § 1677(10).

[4] See, e.g., Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995). 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 and producer perceptions; and, where appropriate, (6) price. See id. at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[5] See, e.g., Nippon Steel, 19 CIT at 454-55.

[6] Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991).

[7] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

(pharmaceutical form). This product has the chemical formula $C_9H_8O_4$. It is defined by the official monograph of the United States Pharmacopoeia ("USP") 23. It is classified under the Harmonized Tariff Schedule of the United States ("HTSUS") subheading 2918.22.1000.

Mixed ortho-acetylsalicylic acid consists of ortho-acetylsalicylic acid combined with other inactive substances such as starch, lactose, cellulose, or coloring materials and/or other active substances. The presence of other active substances must be in concentrations less than that specified for particular nonprescription drug combinations of aspirin and active substances as published in the Handbook of Nonprescription Drugs, eighth edition, American Pharmaceutical Association. This product is classified under HTSUS subheading 3003.90.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.[8]

Bulk acetylsalicylic acid, commonly known as bulk aspirin, is a white, odorless, organic compound with the chemical formula $C_9H_8O_4$.[9] It is used for medicinal purposes, primarily for mild pain relief, fever relief, or as an anti-inflammatory agent.[10] Aspirin also is used in low dosages for the treatment of stress and cardiovascular disease.[11]

For the purposes of this investigation, bulk aspirin may be in pharmaceutical or compound form but not in measured doses, tablets, or capsules for direct human consumption.[12] It may be pure acetylsalicylic acid in crystal form or granulated into a fine powder. The acetylsalicylic acid also may be mixed with small amounts of inactive materials, such as starch, lactose, cellulose, or coloring agents.[13]

In the preliminary phase of this investigation, the Commission determined that there was one domestic like product.[14] In that determination, the Commission noted that it normally does not find separate like products based on different grades of chemical or mineral products and that aspirin crystal and aspirin starch are both used to produce dosage forms of aspirin or other medicaments which use aspirin as an input. We have been presented with no new arguments or new evidence that suggest it would be appropriate to change that finding in this final phase of the investigation. Accordingly, for the same reasons articulated in the preliminary phase determination, we determine that there is one domestic like product consisting of all bulk aspirin.

B. Domestic Industry

The domestic industry is defined as "the producers as a [w]hole of a domestic like product."[15] In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all of the domestic production of the like product, whether toll produced, captively

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[8] 65 Fed. Reg. 33805 (May 25, 2000).

[9] Confidential Staff Report ("CR") at I-3, Public Staff Report ("PR") at I-3.

[10] CR at I-3-4, PR at I-3.

[11] CR at I-4, PR at I-3.

[12] CR at I-3, PR at I-2.

[13] CR at I-4, PR at I-3.

[14] Bulk Acetylsalicylic Acid (Aspirin) from China, Inv. No. 731-TA-828 (Preliminary), USITC Pub. 3211 (July 1999) ("Preliminary Determination") at 5.

[15] 19 U.S.C. § 1677(4)(A).

consumed, or sold in the domestic merchant market.[16] Based on our domestic like product determination, we find that the domestic industry consists of the sole domestic producer of bulk aspirin, Rhodia, Inc. ("Rhodia"), as the Commission found in the preliminary phase of the investigation.[17]

II. NO MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

In the final phase of antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the subject imports under investigation.[18] In making these determinations, the Commission must consider the volume of the subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[19] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[20] In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[21] 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."[22]

For the reasons discussed below, we determine that the domestic industry producing bulk aspirin is not materially injured by reason of LTFV imports from China, but that it is threatened with material injury.

A. Conditions of Competition

We find the following conditions of competition relevant to our analysis in this investigation. As an input, the demand for bulk aspirin is derived from the demand for finished tablets containing aspirin.[23] Demand for bulk aspirin is relatively inelastic, such that modest reductions in price would be unlikely to stimulate meaningful additional demand for bulk aspirin.[24] Additionally, aspirin competes with acetaminophen and ibuprofen in the finished analgesic market.[25] Chemically, however, there are no direct substitute products for bulk aspirin.[26] Aspirin accounted for 23.4 percent of the analgesic market in 1998, up from 22.4 percent in 1995.[27]

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[16] See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

[17] Preliminary Determination at 8.

[18] 19 U.S.C. § 1673d(b).

[19] 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).

[20] 19 U.S.C. § 1677(7)(A).

[21] 19 U.S.C. § 1677(7)(C)(iii).

[22] 19 U.S.C. § 1677(7)(C)(iii).

[23] CR at II-5, PR at II-3.

[24] CR at II-20, PR at II-12.

[25] CR at II-5, PR at II-3.

[26] CR at II-6, PR at II-4.

[27] CR at II-6, PR at II-4.

Until 1996, U.S. demand for bulk aspirin was steadily declining.[28] However, more recently, demand has grown slightly, apparently due to recent news that aspirin is helpful in the prevention of cardiovascular disease and specific cancers and by increased advertising of aspirin in the media, especially since Bayer Corp. ("Bayer") has re-acquired the rights to the Bayer trade name.[29]

Over the last decade, the domestic industry went through two major consolidations. Prior to 1989, four firms comprised the domestic industry: Dow Chemical Company ("Dow"), Monsanto Chemical Company ("Monsanto"), Norwich-Eaton, and Sterling Drug.[30] In 1989, Rhone-Poulenc S.A., the French multinational corporation, acquired the analgesic business of Monsanto, including Monsanto's bulk aspirin manufacturing facility in St. Louis, Missouri.[31] In 1994, Bayer acquired Sterling Drug and closed that company's bulk aspirin production operations.[32] In the following year, Norwich-Eaton ceased production of bulk aspirin and began to source its aspirin requirements from Rhone-Poulenc.[33] In late 1995, Rhone-Poulenc entered into an agreement to acquire certain assets of Dow's salicylates businesses, including ***.[34] These structural changes culminated in an industry that was reduced from four producers in 1989 to only one producer, Rhone-Poulenc, after 1996. Rhodia, Inc., was formed in 1997 following a reorganization by Rhone-Poulenc. Rhodia's direct parent is Rhodia S.A., a French firm.[35]

There are two tiers of aspirin tableters that purchase bulk aspirin: producers of brand name aspirin tablets and store brand (private label)/generic tablet producers (collectively "generic/store brand aspirin").[36] Tableters producing generic/store brand aspirin are more sensitive to fluctuations in the price of bulk aspirin than brand name tableters because bulk aspirin accounts for less of the total cost of name brand aspirin than generic/store brand aspirin.[37]

Bulk aspirin must "qualify" to be sold in the United States. To do so, it must satisfy two minimum requirements: (1) the USP-23 requirements for chemical purity; and (2) the Food and Drug Administration's stability requirement for shelf life.[38] In addition, the upper-tier tableters have their own supplier qualification requirements, such as requiring that the bulk aspirin production facility meet Good Manufacturing Processing ("GMP") standards.[39] Various tableters in the U.S. have qualified, or are in the process of qualifying, bulk aspirin from the *** producers in China, Shandong Xinhua Pharmaceutical Group Corp. ("Shandong") and Jilin Pharmaceutical Co., Ltd. ("Jilin").[40]

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[28] CR at II-3, PR at II-2.

[29] CR at II-3, PR at II-2.

[30] CR at III-1, PR at III-1.

[31] CR at III-1, PR at III-1.

[32] CR at III-1, PR at III-1.

[33] CR at III-1, PR at III-1.

[34] CR at III-1, PR at III-1.

[35] CR at III-2, PR at III-1.

[36] CR at II-1, PR at II-1.

[37] CR at II-1, II-6-7, PR at II-1, II-4.

[38] CR at II-13, PR at II-8.

[39] CR at II-11, PR at II-6.

[40] CR & PR at Table II-3. For example, ***, has qualified Shandong and is in the process of qualifying Jilin. CR & PR at Table II-3, CR at II-14, V-17, & VII-4, PR at II-8, V-9, VII-3.

Bulk aspirin may be purchased in different forms: pure aspirin crystals; granular 100 percent aspirin; and pure aspirin mixed with starch, usually a blend of 90 percent aspirin and 10 percent starch.[41] The domestic industry typically produces crystals in 20, 40, 80, or 20/60 mesh (particle) sizes.[42] The record evidence shows, on the other hand, that Chinese producers have limited ability to effectively separate bulk aspirin crystals by mesh size;[43] therefore, Chinese bulk aspirin crystal generally is only available in combined mesh form.[44] Using Chinese bulk aspirin crystals thus reduces tableters' productivity because it requires more down time for machinery adjustment.[45] Such a quality difference between subject and domestic products does not exist with respect to aspirin starch because the bulk aspirin input into aspirin starch is in granulated form.[46]

Aspirin processors can either purchase premixed aspirin starch or, if they have the appropriate equipment, they can purchase pure aspirin and blend their own starch mixture.[47] Aspirin starch enters the United States duty-free whereas 100 percent aspirin is subject to an 8 percent *ad valorem* rate of duty.[48] However, aspirin starch is priced approximately *** than unmixed aspirin.[49] Chinese production of aspirin starch comprises the largest portion of its overall production of bulk aspirin.[50] In contrast, aspirin starch production makes up a relatively smaller percentage of total U.S. production.[51]

Over the period of investigation, the volume of nonsubject imports was large and increasing.[52] Nonsubject imports also steadily increased their market share over the period of investigation.[53] The large increase in the volume and value of nonsubject imports over the period of investigation, especially in 1999, is largely explained by the 1997 decision of *** to switch its source of bulk aspirin from the domestic producer to ***.[54] ***, another important customer, also switched from domestic aspirin to nonsubject imports over the period of investigation. Once *** switched suppliers, *** became Rhodia's largest customer.[55]

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[41] CR at I-7-8, PR at I-6.

[42] CR at I-4, I-7-8, PR at I-3, I-6. ***. CR at I-8, PR at I-6.

[43] CR at II-4, II-11, II-13, II-15, PR at II-3, II-7, II-9.

[44] CR at V-4 -5, PR at V-3.

[45] CR at II-4, PR at II-2-3.

[46] CR at I-8, PR at I-6.

[47] CR at I-5-7, PR at I-4-6.

[48] CR at I-8, PR at I-6.

[49] CR at I-8, PR at I-6.

[50] June 20, 2000 E-mail from Cynthia Trainor to Commission including table of reported shipments of aspirin starch and aspirin crystals. Shipments of aspirin starch increased from 38.9 percent of Chinese shipments of bulk aspirin to the United States in 1997 to 51.4 percent by 1999. Id.

[51] CR at III-4, PR at II-2. Domestic shipments of aspirin starch in 1999 were only *** percent of total shipments, while *** of shipments were of aspirin crystals. Id.

[52] The volume of nonsubject imports was 2.1 million pounds in 1997 and increased to 4.9 million pounds by 1999. In terms of value, nonsubject imports increased from $4.2 million in 1997 to $9.2 million in 1999. CR & PR at Table IV-1, CR at IV-3, PR at IV-2.

[53] In terms of volume, nonsubject imports' market share increased from *** percent in 1997 to *** percent in 1999. In terms of value, nonsubject imports increased from *** percent of total shipments in 1997 to *** percent in 1999. CR & PR at Table IV-3, CR at IV-5, PR at IV-3.

[54] CR & PR at Table VI-2, CR at VI-6, PR at VI-3.

[55] CR & PR at Table VI-2, CR at VI-6, PR at VI-3.

The domestic producer generally sells bulk aspirin on a *** contract basis.[56] It generally sets its prices from a published price list, unless ***.[57] For example, ***.[58] Rhodia's contracts generally contain ***.[59] In contrast, importers of subject merchandise generally use either transaction-by-transaction negotiations for establishing their prices or blanket orders for multiple shipments.[60] Most purchasers of Chinese aspirin noted that pricing is negotiable.[61]

B. Volume of Subject Imports

Section 771(7)(C)(I) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[62]

Over the period of investigation, subject imports nearly doubled both in terms of quantity and of value.[63] Also, the market share of subject imports increased significantly both in terms of quantity and value.[64] The domestic producer's volume and market share in the U.S. market decreased substantially over the period of investigation.[65] Imports of nonsubject bulk aspirin, however, increased at an even greater rate[66] than subject imports in terms of volume and market share during the period of investigation.[67] As noted above, the increased market share of nonsubject imports corresponded with Rhodia's loss of two of its major accounts to nonsubject producers.[68]

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[56] CR at V-3, PR at V-2. Although Rhodia generally sells on a *** contract basis, it sells on a *** contract basis to ***. CR at V-9, PR at V-4.

[57] CR at V-3, PR at V-2.

[58] CR at V-13, PR at V-7.

[59] CR at V-3, PR at V-2.

[60] CR at V-3, PR at V-2.

[61] CR at V-3, PR at V-2.

[62] 19 U.S.C. § 1677(7)(C)(i).

[63] The quantity of subject imports rose from 2.6 million pounds in 1997 to 4.0 million pounds in 1999. The value of subject imports rose from $3.1 million in 1997 to $5.2 million in 1999. CR & PR at Table IV-1.

[64] Chinese market share on the basis of quantity increased from *** percent in 1997 to *** percent in 1998 and to *** percent in 1999. Chinese market share on the basis of value increased from *** percent in 1997 to *** percent in 1998 and to *** percent in 1999. CR & PR at Table IV-3.

[65] The volume of the domestic producer's shipments fell from *** million pounds in 1997 to *** million pounds in 1999. In terms of value, the domestic producer's shipments fell from $*** million in 1997 to $*** million in 1999. CR & PR at Table IV-2. The U.S. producer's market share based on quantity fell from *** percent in 1997 to *** percent in 1999. On the basis of value, U.S. market share fell from *** percent in 1997 to *** percent in 1999. CR & PR at Table IV-3, CR at IV-5, PR at IV-3, CR at IV-5, PR at IV-3.

[66] From 1997 to 1999, nonsubject imports increased *** percentage points by volume and *** percentage points by value whereas subject imports increased *** percentage points by volume and *** percentage points by value. CR & PR at Table IV-3, CR at IV-5, PR at IV-3.

[67] The volume of nonsubject imports on the basis of quantity rose steadily from 2.1 million pounds in 1997 to 2.8 million pounds in 1998 and to 4.9 million pounds in 1999. CR & PR at Table IV-1. On the basis of value, nonsubject imports increased from $4.2 million in 1997 to $5.7 million in 1998 to $9.2 million in 1999. CR & PR at Table IV-1. Market share of nonsubject imports, on the basis of value, rose from *** percent in 1997 to *** percent in 1998 and to *** percent in 1999. In terms of quantity, nonsubject imports increased from *** percent in 1997 to *** percent in 1998 to *** percent in 1999. CR & PR at Table IV-3, CR at IV-5, PR at IV-3.

[68] Pet. Posthearing Br. at 8.

While the volume of subject imports increased substantially from 1997 to 1999, for the reasons discussed below, we find that the volume of subject imports and the increase in the volume of those imports have not had significant adverse consequences on the domestic industry at the present time.[69]

C. Price Effects of Subject Imports

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports,

> 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.[70]

The record shows that domestic bulk aspirin and subject imports have had somewhat limited substitutability, but are increasingly becoming substitutable as more domestic producers are qualifying the Chinese aspirin for use in their tablet production. Although tableters may use any country's product interchangeably once they have successfully completed qualification, even Rhodia admits that, until recently, Chinese producers generally have not offered acceptable consistency, order lead times, and product grade offering.[71] Consequently, only generic aspirin tableters and a small number of private label tableters have qualified Chinese aspirin for use in their facilities to this point.[72] However, the record also shows that an increasing number of tableters of private label aspirin, including the domestic producer's largest customer (alone accounting for *** percent of Rhodia's total net sales of bulk aspirin in 1999), have recently qualified or are imminently going to qualify Chinese product.[73]

Subject imports undersold the domestic like product in every comparison over the period of investigation.[74] We note, however, that the price comparisons for domestic products 1 and 2 have a somewhat reduced probative value because the domestic product is not being compared to identical subject merchandise. Whereas the subject merchandise is unsifted bulk aspirin crystals, the domestic products are higher-value products that have been sifted into specific crystal sizes.[75] In any event, the record does not indicate that the underselling by subject imports has had a significant effect on the prices of the domestic like product. Prices for the domestic like product have fluctuated significantly over the period of investigation[76] while prices of subject merchandise have remained flat over the same period, with only slight decreases in the later part of the period.[77] Therefore, we find no correlation between the LTFV price of subject merchandise and the price of the domestic product to date. Thus, we find that, as yet, subject imports have not suppressed or depressed prices to a significant degree. However, as

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[69] Commissioner Bragg finds that while the increased volume of subject imports, standing alone, may be considered significant, such increased volume is not significant when viewed in the context of the entire record in this investigation.

[70] 19 U.S.C. § 1677(7)(C)(ii).

[71] CR at II-16, PR at II-9.

[72] CR & PR at Table II-3, CR at II-14, PR at II-8.

[73] CR & PR at Tables II-3 & VII-2. ***. CR & PR at Table II-3, CR at II-14, PR at II-8.

[74] CR & PR at Tables V-1 - V-3, CR at V-5-7, PR at V-4-6.

[75] CR at V-5-6, PR at V-3.

[76] CR & PR at Figures V-I & V-2, CR at V-8, PR at V-6-7.

[77] CR & PR at Figures V-I & V-2, CR at V-8, PR at V-6-7.

discussed below, as Chinese producers begin to compete more fully with the domestic product for private label tableters (such as Rhodia's largest customer), we expect that significant adverse price effects will occur.

D. Impact of Subject Imports

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.[78] [79] 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.

Data for many of the trade indicators collected over the period of investigation point to an industry whose condition is worsening. For example, while the capacity of the domestic producer was steady throughout the period, capacity utilization decreased as a result of decreased production levels.[80] Net sales quantity and value also decreased ***.[81] The domestic industry therefore *** in 1998 and 1999 and, on an operating income basis, was ***, although *** in 1999.[82] These negative indicators, however, appear to be due to factors other than subject imports. Rhodia lost over *** pounds of business in 1998 and 1999 to nonsubject imports.[83] Further, Rhodia engaged in plant restructuring to increase processing efficiency in anticipation of losing this business from ***.[84] During the period of investigation, Rhodia also incurred significant expenses as a result of absorbing Dow's bulk aspirin business and relocating the corporation's headquarters to the United States.[85] In addition, Rhodia had to pay ***, a cost included in the cost of goods sold, although this practice ended in 1999 when Rhodia became an independent company.[86]

Moreover, although the confirmed lost sales and lost revenue allegations provide some support for a finding that the industry is presently materially injured by reason of subject imports, in light of other evidence showing the lack of present significant price effects noted above, we find that the industry is not materially injured by reason of subject imports at this time. While the domestic producer has been

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[78] 19 U.S.C. § 1677(7)(C)(iii). See also Uruguay Round Agreements Act ("URAA") Statement of Administrative Action, H.R. Rep. 316, 103d Cong., 2d Sess., vol. I, at 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports."). See also id. at 851.

[79] As part of its consideration of the impact of imports, the statute, as amended by the URAA, specifies that the Commission is to consider "the magnitude of the margin of dumping most recently published prior to the closing of the Commission's administrative record." 19 U.S.C. § 1677(7)(C)(iii)(V); 1677(35)(C)(ii). Commerce's final antidumping duty margins for the specified producers/exporters are 42.77 percent for Shandong, 4.72 percent for Jilin, and 144.02 percent for all others. 65 FR 33807 (May 25, 2000).

[80] CR & PR at Table III-1. Production of the domestic like product declined from *** million pounds in 1997 to *** million pounds in 1999. The U.S. producer's capacity has remained steady since 1997 at *** million pounds while capacity utilization has decreased from *** percent in 1997 to *** percent in 1999. Id.

[81] CR & PR at Table VI-1, CR at VI-2, PR at VI-1.

[82] CR & PR at Table VI-1, CR at VI-2, PR at VI-1.

[83] CR & PR at Table VI-2, CR at VI-7, PR at VI-3.

[84] CR at VI-5, PR at VI-2-3.

[85] CR at VI-5, PR at VI-2-3.

[86] CR at VI-5, PR at VI-2.

forced to lower its prices on a single recent sale of a modest quantity to its largest customer in order to meet the prices of subject imports,[87] as yet, there have been no significant price effects on the domestic industry by reason of subject imports and the impact of subject imports thus has not yet been felt by the domestic industry.[88] Now that the domestic industry must compete for the business of even its largest customer, in addition to other private label aspirin tableters, the impact of subject imports will be manifest in the imminent future. Therefore, we find that the domestic industry producing bulk aspirin, although not yet materially injured by subject imports, is vulnerable to material injury in the imminent future by reason of subject imports from China.

III. THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

Section 771(7)(F) of the Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing 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."[89] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued.[90] In making our determination, we have considered all statutory factors that are relevant to this investigation,[91] including imminent increases in production capacity in China, the rate of the increase in the volume and market penetration of subject imports, the low prices of subject imports, and the substantial inventories of subject merchandise.

As an initial matter, we note that the domestic industry producing bulk aspirin is vulnerable in light of the many negative indicators of the condition of the industry noted above. Moreover, the loss of the industry's largest customer, ***, to nonsubject imports has left the domestic producer particularly susceptible to the effects of competition with subject imports for Rhodia's remaining customers. Its current largest purchaser, ***, has already qualified and purchased *** truckloads of aspirin from ***.[92] As noted above, the domestic producer already has been forced to reduce its prices to this customer when it had to compete with the lower price of this Chinese subject merchandise.[93] Further, this large customer also has stated that it expects to ***.[94]

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[87] Petitioner's Prehearing Brief at App.59.

[88] In addition, we note that the impact of subject merchandise was mitigated somewhat by the fact that subject producers shipped over 50 percent of their product as aspirin starch, whereas the domestic producer shipped approximately *** percent of its product in crystalline form. See June 20, 2000, E-mail from Cynthia Trainor.

[89] 19 U.S.C. § 1673d(b) and 1677(7)(F)(ii).

[90] 19 U.S.C. § 1677(7)(F)(ii).

[91] 19 U.S.C. § 1677(7)(F)(i). Factor I is inapplicable because this investigation does not involve countervailing duties. Factor VI regarding product-shifting is not an issue in this investigation. Factor VII also is inapplicable because this investigation does not involve imports of a raw agricultural product.

[92] CR & PR at Table II-3, CR at V-17, PR at V-9.

[93] Petitioner's Prehearing Brief at 59.

[94] CR & PR at Table II-3, CR at II-14, PR at II-8.

The volume of the subject imports nearly doubled over the period examined[95] and market penetration increased substantially.[96] Further, exports to the United States, as a percentage of total shipments by Chinese producers, have increased rapidly and significantly while exports to other markets have shown only slight increases.[97] This trend of increasing exports to the United States is projected to continue, with projected increases of *** percent in 2000 and a further *** percent increase in 2001.[98] Assuming steady apparent consumption, these increases would more than double China's U.S. market share. By 2000, the volume of China's exports of subject merchandise to the United States is expected to surpass its exports to all other markets combined.[99] At the same time, Chinese home market shipments have decreased over the period of investigation and are expected to decrease even further in 2000.[100] Moreover, while production of bulk aspirin in China increased slightly over the period,[101] there remains considerable excess capacity.[102] The reported current Chinese capacity to produce bulk aspirin is large and significant increases are anticipated in the future.[103] Finally, importers' inventories increased over the period of investigation.[104] All of these factors indicate the likelihood of substantially increased imports of subject merchandise unless an order is issued.

In addition, consistent underselling at substantial margins was present throughout the period of investigation,[105] and we expect that such pervasive underselling will continue in the imminent future. As already noted, however, domestic prices have not yet been affected significantly by this underselling

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[95] U.S. shipments of subject imports from China increased from 2.6 million pounds in 1997 to 3.6 million pounds in 1998, then to 4.0 million pounds in 1999. CR & PR at Table IV-2, CR at IV-4, PR at IV-3.

[96] Subject imports' market share increased from *** percent in 1997 to *** percent in 1998, then increased further to *** percent in 1999. CR & PR at Table IV-3, CR at IV-5, PR at IV-3.

[97] Exports to the United States increased from *** percent of total shipments in 1997 to *** percent in 1999. Exports to other markets increased from *** percent of total shipments in 1997 to *** percent in 1999. CR & PR at Table VII-3, CR at VII-5-6, PR at VII-3.

[98] CR & PR at Table VII-3, CR at VII-5-6, PR at VII-3.

[99] By 2000, exports of subject merchandise to the United States are expected to reach *** million pounds, or *** percent of total shipments, while exports to other markets are expected to be *** million pounds, or *** percent of total shipments. CR & PR at Table VII-3, CR at VII-5-6, PR at VII-3.

[100] Shipments of Chinese bulk aspirin to the Chinese home market decreased from *** million pounds in 1997 to *** million pounds in 1999, and are projected to decrease even further to *** million pounds in 2000. As a percentage of total shipments, *** percent of Chinese bulk aspirin was shipped to the Chinese home market in 1997, declining to *** percent in 1999, and an expected *** percent in 2000. CR & PR at Table VII-3, CR at VII-5-6, PR at VII-3.

[101] Chinese production of subject imports increased from *** million pounds in 1997 to *** million pounds in 1998. CR & PR at Table VII-1, CR at VII-2, PR at VII-1.

[102] Capacity utilization increased from *** percent in 1997 to *** percent in 1998. CR & PR at Table VII-1, CR at VII-2, PR at VII-1.

[103] The two largest Chinese producers reported that their capacity would remain stable at *** million pounds over the 1999 and 2000 periods, but then anticipated that their capacity would increase sharply to *** million pounds by 2001. PR & CR Table VII-3. We note that these capacity levels do not reflect all Chinese capacity and are substantially lower than what total capacity would be because some large producers of Chinese aspirin did not respond to Commission questionnaires. CR at VII-1, n.2, PR at VII-1, n.2.

[104] U.S. importers' end-of period inventories increased from 311,000 pounds in 1997 to 699,000 pounds in 1999. The ratio of U.S. importers' end-of-period inventories to U.S. shipments of imports increased from 14.4 percent in 1997 to 21.5 percent in 1999. CR & PR at Table VII-4, CR at VII-7, PR at VII-3.

[105] The Chinese product undersold the domestic product for every product in every quarter. Margins of underselling ranged from 30.7 to 68.4 percent. See CR & PR at Tables V-1 - V-3, CR at V-5-7, PR at V-4-6.

because subject imports generally have not been competing for the domestic industry's main customers.[106] Nevertheless, we expect that subject merchandise will begin to exert significant downward pressures on the prices for the domestic product as tableters of private label aspirin continue to qualify the lower-priced Chinese aspirin. Evidence of the ability of Chinese subject import prices to influence lower pricing for the domestic like product in such transactions already exists on this record because the domestic producer very recently was forced to reduce its price to its largest customer pursuant to a meet-or-release clause.[107] Therefore, as subject imports increasingly compete on a large-scale basis with the domestic product, which we find is likely to occur imminently, subject imports will have significant price depressing and suppressing effects on the domestic industry producing bulk aspirin.

Other demonstrable adverse trends also indicate the probability of imminent material injury by reason of subject imports. As noted above, domestic net sales quantities and values declined *** between 1997 and 1999 while *** remained unchanged.[108] The domestic industry experienced declining profitability over the period of investigation and experienced *** in 1998 and 1999.[109] As the domestic industry is faced with greater competition from subject imports, the already difficult situation of the domestic industry will be exacerbated. Competition with low-priced subject imports will drive down domestic prices and/or decrease Rhodia's sales volume. With the lower sales volume resulting from *** switch to nonsubject imports, Rhodia has already experienced increased unit costs.[110] Rhodia will be unable to increase prices to cover these rising costs as competition with subject Chinese aspirin becomes even more intense. Finally, low returns have stalled long-term investments and research and development by Rhodia.[111]

In sum, we find that the volume of subject imports will increase significantly and these imports will enter the U.S. market at prices that are likely to have significant depressing or suppressing effects, unless an order is issued. Such negative volume and price effects would adversely impact the domestic industry. Accordingly, we find that the domestic industry producing bulk aspirin is threatened with material injury by reason of subject imports from China.[112]

CONCLUSION

For the foregoing reasons, we determine that the domestic industry producing bulk aspirin is threatened with material injury by reason of subject imports from China.

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[106] CR & PR at Tables V-1 - V-3, CR at V-5-7, PR at V-4-6.

[107] See Petitioner's Prehearing Brief at App. 59.

[108] CR at VI-3, PR at VI-2.

[109] CR at VI-3-4, PR at VI-2.

[110] CR at VI-4, PR at VI-2.

[111] CR & PR at App. E-4.

[112] For the reasons discussed earlier regarding the lack of present material injury by reason of subject imports, we do not find that but for the suspension of liquidation, we would have found the domestic industry to be experiencing material injury. See 19 U.S.C. § 1673d(b)(4).

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by Rhodia, Inc., Cranbury, NJ, on May 28, 1999, 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 bulk acetylsalicylic acid (aspirin)[1] from the People's Republic of China (China). Information relating to the background of the investigation is provided below.[2]

Date	*Action*
May 28, 1999	Petition filed with Commerce and the Commission; institution of Commission investigation
June 23, 1999	Commerce's notice of initiation
July 12, 1999	Commission's preliminary determination
December 21, 1999 .	Commerce's preliminary determination (65 FR 116, January 3, 2000);[3] scheduling of final phase of Commission investigation (65 FR 5659, February 4, 2000)
May 17, 2000	Commerce's final determination (65 FR 33805, May 25, 2000)
May 18, 2000	Commission's hearing[4]
June 22, 2000	Commission's vote
June 30, 2000	Commission's determination transmitted to Commerce

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on the questionnaire response of the one firm (Rhodia, Inc.) that is

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[1] For purposes of this investigation, the product covered is bulk acetylsalicylic acid, commonly referred to as bulk aspirin, whether or not in pharmaceutical or compound form, not put up in dosage form (tablet, capsule, powders, or similar form for direct human consumption). Bulk aspirin may be imported in two forms, as pure ortho-acetylsalicylic acid or as mixed ortho-acetylsalicylic acid. Pure ortho-acetylsalicylic acid can be either in crystal form or granulated into a fine powder (pharmaceutical form). This product has the chemical formula $C_9H_8O_4$. It is defined by the official monograph of the United States Pharmacopoeia (USP) 23. It is classified under the *Harmonized Tariff Schedule of the United States* (HTS) subheading 2918.22.10 with a 2000 general duty rate of 8 percent *ad valorem*, applicable to imports from China.

Mixed ortho-acetylsalicylic acid consists of ortho-acetylsalicylic acid combined with other inactive substances such as starch, lactose, cellulose, or coloring materials and/or other active substances. The presence of other active substances must be in concentrations less than that specified for particular nonprescription drug combinations of aspirin and active substances as published in the Handbook of Nonprescription Drugs, Eighth Edition, American Pharmaceutical Association. This product is provided for in subheading 3003.90.00 of the HTS with a general duty rate of free applicable to imports from China. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

[2] *Federal Register* notices cited in the tabulation are presented in app. A.

[3] Commerce calculated final LTFV margins to be as follows: Shandong Xinhua Pharmaceutical Factory (Shandong), 42.77 percent; Jilin Pharmaceutical Co., Ltd./Jilin Pharmaceutical Import and Export Corp. (Jilin), 4.72 percent; and a China-wide rate of 144.02 percent. The final LTFV margins for the complying firms were based on comparisons of export price or constructed export price to normal value, and the final China-wide LTFV margin was based on "adverse facts available," which consisted of the highest margin alleged in the petition.

[4] A list of witnesses appearing at the hearing is presented in app. B.

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believed to have accounted for the entirety of U.S. production of bulk aspirin during 1999. U.S. imports are based on a combination of Chinese export statistics, official U.S. import statistics, and responses to Commission questionnaires.

PREVIOUS INVESTIGATIONS

Bulk aspirin has been the subject of two previous Commission investigations. On October 31, 1986, the Commission instituted investigations Nos. 701-TA-283 (Preliminary) and 731-TA-364 (Preliminary) following the filing of petitions on behalf of Monsanto Co. (St. Louis, MO) alleging that subsidized and LTFV imports of bulk aspirin from Turkey were being sold in the United States. In December 1986, the Commission determined that there was a reasonable indication that an industry in the United States was materially injured by reason of the alleged subsidized and LTFV imports from Turkey. Following final affirmative countervailing duty and antidumping determinations by Commerce, the Commission, in August 1987, made affirmative final determinations of injury with respect to the subsidized and LTFV imports from Turkey. Final weighted-average dumping margins as determined by Commerce ranged from 27.35 percent to 38.60 percent, and the final countervailable subsidy rate was 6.54 percent.[5]

On March 1, 1999, the Commission gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on aspirin from Turkey would be likely to lead to a continuation or recurrence of material injury. Finding no circumstances that would warrant a full review, the Commission determined that it would conduct an expedited review and gave notice to that effect. The Commission determined on July 22, 1999, that revocation of the antidumping order on aspirin from Turkey would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonable foreseeable time (investigation No. 731-TA-364 (Review), *Aspirin from Turkey*, USITC Pub. 3215, July 1999).

THE PRODUCT

The imported product subject to this investigation is bulk acetylsalicylic acid, commonly known as bulk aspirin, whether or not in pharmaceutical or compound form, but not put up in measured doses, capsules, or tablets for direct human consumption, as defined on page I-1. The following sections present information on both imported and domestically produced bulk aspirin, as well as information related to the Commission's "domestic like product" determination.[6]

In the preliminary phase of this investigation, Rhodia contended that there is only one domestic like product in the investigation, bulk aspirin; that the domestic product is the same as the imported product; and that there are no substitutes for bulk aspirin.[7] Respondents argued that *** imported from China should be excluded from the like product.[8] The Commission determined that there are no clear

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[5] The countervailing duty order was subsequently revoked due to a lack of interest by the then existing domestic industry.

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

[7] Rhodia's postconference brief, pp. 4-14.

[8] Dastech Corp. and Jilin's postconference brief, pp. 2-10. Jilin's DC-90 product, which is subject merchandise, is composed of 90-percent bulk acetylsalicylic acid and 10-percent starch, and is one of the three products for which separate pricing information was requested.

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dividing lines between bulk aspirin crystals and aspirin starch and found that the domestic like product includes all forms of bulk aspirin within the scope of this investigation.

Physical Characteristics and Uses

The subject bulk aspirin, with the chemical name acetylsalicylic acid, is a white, odorless, organic compound with the chemical formula $C_9H_8O_4$. Bulk aspirin is the active ingredient in numerous drugs and medicines and is principally used for the relief of mild to moderate pain (analgesic), the relief of fever (anti-pyretic), and the relief of inflammation (anti-inflammatory). More recently aspirin has also been used in low dosages for secondary therapeutic applications, such as for the treatment of stress and cardiovascular disease. Bulk aspirin consists of pure acetylsalicylic acid in crystal form, granulated into a fine powder (pharmaceutical form), or mixed with small amounts of inactive materials, such as excipients (starch, lactose, cellulose, or coloring materials). End users of bulk aspirin typically produce tablets, capsules, powders, or other finished dosages.

Pricing information on two particle size distributions (20 mesh and combined 20/60 mesh) of 100-percent crystalline bulk acetylsalicylic acid and 90-percent crystalline bulk acetylsalicylic acid with 10-percent starch (DC-90) was requested for the purposes of the investigation. Rhodia reported price data for all three products ***.

Manufacturing Process

Aspirin is produced by the reaction of acetic anhydride with salicylic acid (figure I-1). The resulting liquid, which includes acetylsalicylic acid, acetic acid, and residual acetic anhydride, is first filtered to remove insoluble impurities. Next the effluent undergoes crystallization, a 6- to 10-hour process that consists of a prescribed series of cooling and agitation cycles to achieve the desired range of crystal size. Once the aspirin crystals have formed and are suspended in the acetic acid (and residual acetic anhydride), the liquid-crystal mixture is passed through a centrifuge to isolate the aspirin. The liquid, known as the mother liquor, is captured and further processed to recover the remaining acetic anhydride and acetic acid, which are marketable chemicals.[9]

The dried aspirin, which includes a broad range of crystal sizes, is further scrubbed and purified. It is then sent (1) through a sifter, essentially a series of screens of increasingly small mesh openings, to separate the crystals by size or (2) to a granulator (figures I-2 and I-3). In Rhodia's St. Louis plant, aspirin crystals are sifted as 20 mesh (largest), 40 mesh, and 80 mesh (finest). Rhodia generally can adjust its manufacturing process to meet customer crystal size specifications by changing the sifter screen sizes; in certain circumstances, modifications to the crystallization process may also be necessary.[10]

Aspirin can also be granulated, either alone or with another ingredient, typically starch. To create a granulated mixture, aspirin and starch (which aids processing into tablets) are added to a blender in a predetermined weight ratio, generally 90 percent aspirin to 10 percent starch. The straight aspirin or the blended mixture is compressed into a sheet and then sent through the granulator, "a knife that pushes this aspirin sheet through a wire mesh."[11] From the granulator, the product is sifted to remove the largest and smallest granules from the desired middle-size product, which is then sent through the final processing steps; the large and small granules are recycled through the blender with a fresh mixture of aspirin and starch.[12]

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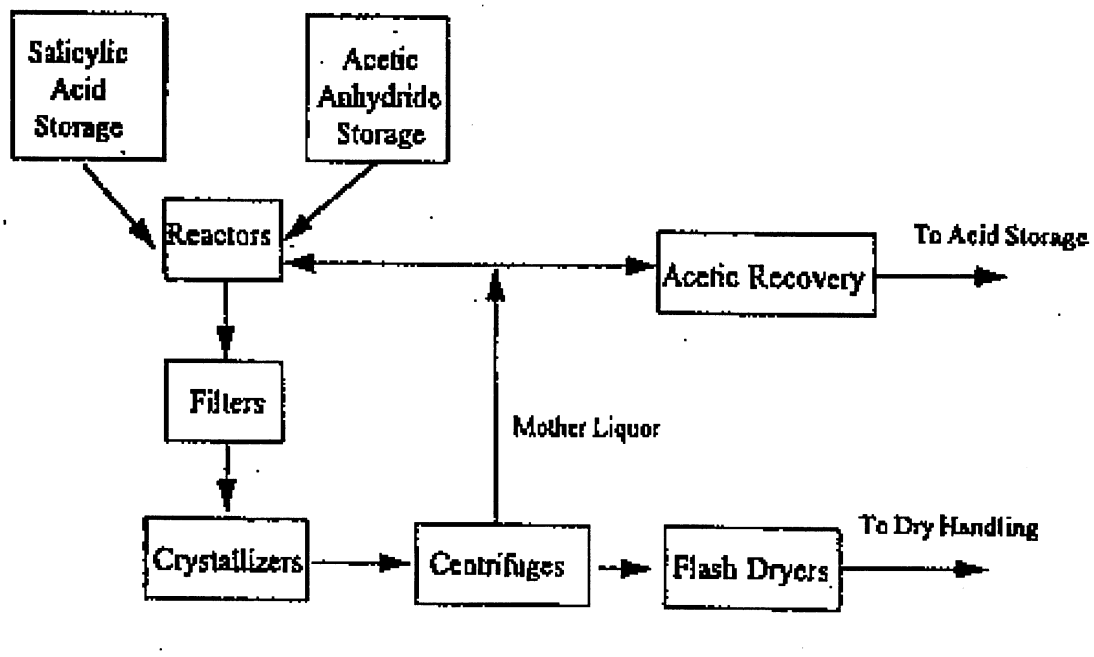
[9] Andrew McMaster, Plant Manager, Rhodia, Luling, LA, conference transcript, pp. 6-8.

[10] Ibid., pp. 8-10.

[11] Ibid., p. 10.

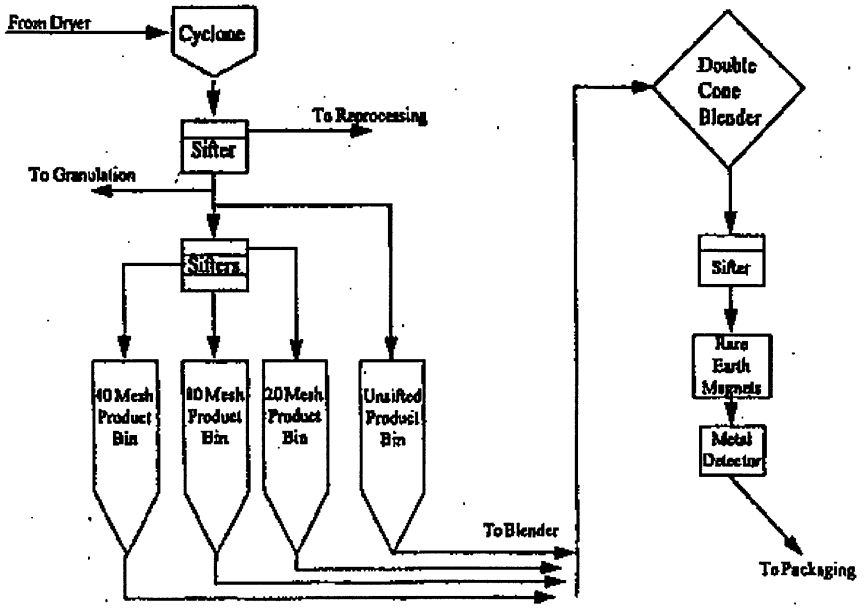
[12] Ibid., pp. 10-11.

Figure I-1
Aspirin process block flow diagram



Source: Rhodia, Inc.

Figure I-2
Crystal aspirin process flow



Source: Rhodia , Inc.

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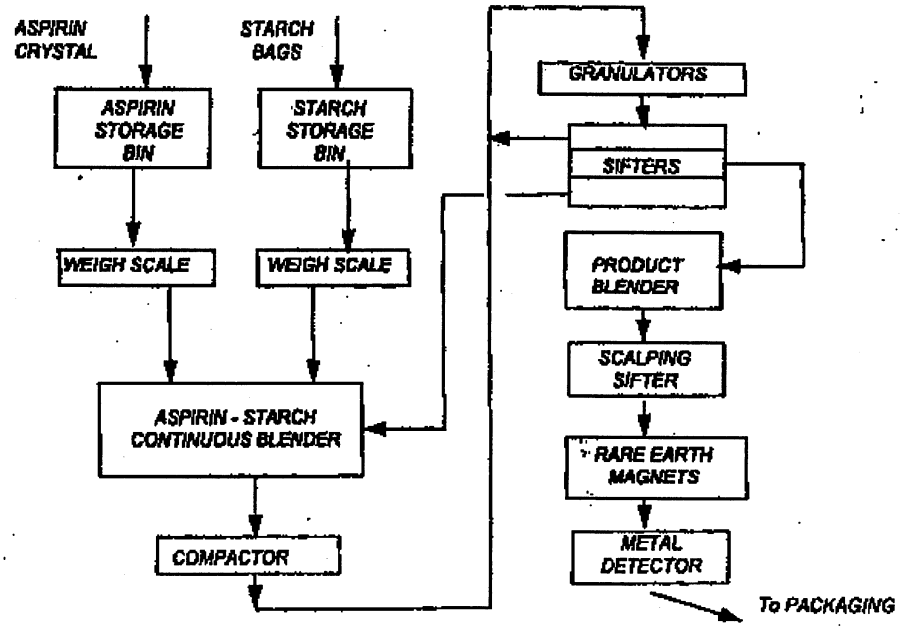
Figure I-3
Granulation process flow



Source: Rhodia, Inc.

One notable reported difference between U.S. and Chinese production is ***.[13] Additionally, the Chinese producers reportedly do not have the equipment to manufacture and isolate crystal size with the same consistency as Rhodia; the majority of Chinese crystal product is 20/60 mesh (a mix in the range between 20 mesh and 60 mesh) or 20 mesh.[14]

The manufacturing equipment used to produce bulk aspirin is used only in the manufacture of that product. Likewise, production workers are dedicated exclusively to the production of aspirin.[15]

Interchangeability

The U.S. producer asserts that all bulk aspirin is interchangeable, once USP requirement qualification is met.[16] Bulk acetylsalicylic acid may be purchased in any of several different forms. Crystals are typically available as 20, 40, or 80 mesh, or as a 20/60 mesh, which includes a range of sizes. The 20 mesh and 20/60 mesh are used in the most economical aspirin products, while the 80 mesh is used in more specialized products, such as effervescent tablets[17] or those where aspirin and another medicament are combined.[18] Aspirin processors select crystal size based on their equipment specifications and on their particular dosage form (e.g., tablets, capsules). Adjusting aspirin processing

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[13] Petition, exh. 6.

[14] David Zhao, President, Jilin USA, conference transcript, pp. 52-53.

[15] Benoit Cossart, Business Director, North America Zone, Rhodia, conference transcript, p. 34.

[16] Rhodia's producers' questionnaire, p. 18.

[17] Andrew McMaster, Plant Manager, Rhodia, Luling, LA, conference transcript, p. 13.

[18] Petition, exh. 1.

equipment to handle a different crystal size requires at least a 3-month qualifying process because raw materials are qualified for a specific crystal size. As a result, there is an issue of the interchangeability of crystal mesh grades over the short run.[19]

Granular 100 percent aspirin is typically used for filming and coating in slow-release aspirin products.[20] Granulated bulk aspirin is also commonly sold mixed with starch, usually at a 90/10 ratio by weight. The granules are available in a range of sizes as required by customer specifications. Using the granulated mixture allows aspirin processors to avoid a step, the blending of bulk aspirin and starch, in the production of dosage form aspirin. For those processors choosing to purchase 100 percent aspirin and blend their own starch mixture, additional manufacturing equipment is required. In both cases, however, the end product is dosage form aspirin.[21] Because aspirin mixed with starch may be imported free of duty into the United States under HTS heading 3003.90.00, there may be certain price incentives for importing the mixed product in place of 100-percent aspirin, which has an 8 percent *ad valorem* rate of duty. However, the compounded aspirin is more expensive, generally priced *** than the unmixed aspirin.[22]

***.[23] The U.S. Food and Drug Administration (FDA) must qualify producers;[24] only pharmaceutical processors (or distributors to such processors) are purchasers of the product.[25]

Importers are divided on whether or not U.S.-produced and imported bulk aspirin from China are used interchangeably. It has been ***'s experience that customers will not use these products interchangeably.[26] *** maintains that most U.S.-produced and imported bulk aspirin from China are interchangeable.[27] *** states that U.S.-produced and imported bulk aspirin from China are interchangeable.[28] *** replied that they can theoretically be used interchangeably, but are not unless both are approved. According to ***, the equipment for manufacturing aspirin requires a consistent mesh size or else it affects the tableting and speed of the process.[29] *** maintains that the products are not interchangeable and that aspirin from different producers is interchanged with effort. However, product may be selected from different producers to maximize process performance, and in some applications the Chinese material has offered process advantages.[30] *** believes that the two products are interchangeable.[31] *** does not feel that the products are interchangeable because the Chinese material has no Drug Master File.[32]

The Chinese producers assert that the significant differences in product quality and consistency have led to two distinct types of bulk aspirin: high-quality product made to strict specifications, used

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[19] Petition, pp. 40-41; Michael Sadler, Senior Account Executive, Rhodia, conference transcript, pp. 43-44.

[20] Petition, exh. 1.

[21] James Cannon, Jr., Esq., Stewart and Stewart, conference transcript, pp. 37-39.

[22] Based on data submitted in response to Commission questionnaires.

[23] Ibid.

[24] In order for dosage form aspirin to be approved by the FDA, the bulk aspirin contained in the finished aspirin must comply with USP standards, and the finished product must meet the FDA's stability requirements. The stability testing may take as little as 3 months to complete. Petition, pp. 40-41.

[25] Petitioner's postconference brief, pp. 4-9.

[26] ***'s importers' questionnaire, p. 9.

[27] ***'s importers' questionnaire, p. 9.

[28] ***'s importers' questionnaire, p. 9.

[29] ***'s importers' questionnaire, p. 9.

[30] ***'s importers' questionnaire, p. 9.

[31] ***'s importers' questionnaire, p. 9.

[32] ***'s importers' questionnaire, p. 9.

only by brand-name producers, and less expensive, lower quality aspirin, such as that used by generic and discount brand producers.[33] In particular, the Chinese report that, ***, their bulk product is significantly more difficult to process into dosage form. For tableters competing in the discount finished aspirin market, where low price is critical, the cost savings of the Chinese product justify ***. The Chinese bulk aspirin is also of ***. Additionally, the Chinese aspirin may have *** not found in the Rhodia bulk product.[34]

Respondents assert that as recently as 1998, Rhodia sold its factory ***. However, recent refurbishments to Rhodia's St. Louis facility have eliminated its production of ***. This discount aspirin tableter was not willing to pay the *** and therefore turned to a Chinese supplier.[35]

Finished acetaminophen and ibuprofen are two products that compete with finished aspirin in the analgesic market, but the parties agree they are not considered interchangeable. As chemically distinct products with differing biological activity, each has a unique set of performance characteristics. For example, aspirin is believed to cause stomach problems in large dosages, yet it has been found to provide certain cardiovascular benefits not ascribed to acetaminophen or ibuprofen. Additionally, both acetaminophen and ibuprofen are priced 2 to 5 times higher than aspirin.

Channels of Distribution

All bulk aspirin, regardless of mesh size or form, is distributed the same way. In the United States and in foreign countries bulk aspirin producers sell their product[36] either to pharmaceutical processing companies or to chemical distributors, which in turn sell the bulk product to pharmaceutical processors. Pharmaceutical processors put up the bulk product into dosage form (tablets, capsules, etc.), in some cases adding other active pharmaceutical ingredients or excipients (such as coloring). These processors then sell the finished product to retail outlets, including pharmacies, drugstores, and grocery stores, or to medical facilities.

The Chinese aspirin producers assert that bulk aspirin is supplied to two tiers of aspirin tableters, brand-name and generic. The tableters producing brand-name aspirin products reportedly require higher quality bulk product than those producing for the generic or store-brand market, especially in the "dollar" stores ***. Generic tableters, particularly in the dollar store market, allegedly compete in the consumer aspirin market based solely on price and therefore are not willing to pay the additional cost for higher quality bulk aspirin.[37] However, Rhodia asserts that the brand name companies have tested and qualified Chinese product, but have not yet purchased.[38] Channels of distribution of bulk aspirin are discussed more fully in Part II of this report.

Customer and Producer Perceptions

Customer perceptions may be responsible for some segmentation in the market place. Higher tier applications reportedly use U.S. product while others use imported material.[39] Further, *** asserts that

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[33] Respondents' postconference brief, pp. 4-6.

[34] Ibid., p. 3.

[35] Ibid. ***. Closed session hearing transcript, p. 111.

[36] All bulk aspirin products and particle sizes for which information was gathered.

[37] Respondents' postconference brief, pp. 6-7.

[38] Hearing transcript, pp. 41-42.

[39] ***'s importers' questionnaire, p. 10.

the domestic product has an advantage in quality, availability, product range, and technical support.[40] *** responded that they feel the quality and consistency of domestic material is far superior to the Chinese aspirin.[41] According to ***, the physical characteristics of the Chinese material provide process advantages.[42] *** maintains that domestic product prices are artificially high due to the "semi-monopoly of Rhodia/Dow." It asserts that Chinese product is less expensive.[43] *** believes that the advantage of Chinese aspirin lies in its price, while the disadvantages of Chinese aspirin are inconsistent quality and lack of customer technical support.[44]

Purchasers' perceptions vary with regard to comparability of U.S.-produced bulk aspirin with subject and nonsubject imported product. *** responded that although imported *** and domestically produced *** bulk aspirin are generally comparable, they are not used in the same applications as mesh size is extremely important in achieving optimum process flow and compression, which in turn allows maintenance of proper weight control of unit doses.[45] *** sources bulk aspirin *** for use in the same applications.[46] *** believes that U.S., Chinese, and Colombian bulk aspirin may be used in the same applications.[47] *** responded that domestic, Chinese, and Mexican bulk aspirin are used in the same applications with the clarification that specific products require specific mesh sizes since optimum mesh size helps maintain proper formulation and dissolution time specifications.[48] *** maintains that material can be interchangeable if end users approve the product. ***. ***.[49] *** believes that domestic and Chinese bulk aspirin may be used in the same applications.[50]

Price

The Commission collected pricing data from Rhodia and from U.S. importers of bulk aspirin from China on two 100-percent crystalline bulk acetylsalicylic acid products and on one compound bulk acetylsalicylic acid product, or "aspirin starch." Prices of the aspirin starch product were generally found to be somewhat higher than those of the crystalline bulk products. In general, prices of imports from China were *** percent below those of Rhodia's products. More detailed information on prices is presented in Part V of this report.

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[40] ***'s importers' questionnaire, p. 10.

[41] ***'s importers' questionnaire, p. 10.

[42] ***'s importers' questionnaire, p. 10.

[43] ***'s importers' questionnaire, p. 10.

[44] ***'s importers' questionnaire, p. 10.

[45] ***'s purchasers' questionnaire, pp. 12-15.

[46] ***'s purchasers' questionnaire, pp. 12-15.

[47] ***'s purchasers' questionnaire, p. 13.

[48] ***'s purchasers' questionnaire, pp. 12-13.

[49] ***'s purchasers' questionnaire response, p. 13.

[50] ***'s purchasers' questionnaire response, p. 13.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

MARKET SEGMENTS AND CHANNELS OF DISTRIBUTION

The two principal bulk aspirin products are 100-percent crystal aspirin and crystal aspirin mixed with around 10-percent starch. Tableters purchase the bulk aspirin and produce aspirin tablets for retail and institutional markets. Some tableters, like those that mix the bulk aspirin with other medicines to form combination products, can only use the 100-percent crystal form. Other tableters may only purchase the aspirin starch form. Only if the tableter has the equipment to mix the starch (or other excipient) with the aspirin to make a directly compressible form of aspirin can the tableter switch from buying the aspirin starch mix to buying the crystal form. Seven purchasers noted that bulk aspirin accounts for *** percent of the direct cost of their final products that contain aspirin. Two of these noted that the percentage varies depending on factors such as the size of the container and the number of pills contained therein, labeling, labor, overhead, and with which other ingredients the aspirin is combined (if the dosed product is a combined medicament).

Aspirin tablets are marketed using brand names or as generics. The first, higher priced, tier includes the national-brand makers of aspirin tablets such as Bayer and Bristol-Myers Squibb (Bristol-Myers). Producers such as *** supply tablets for store-specific brands (such as Walgreens, Wal-Mart, and Rite-Aid) and for generic aspirin to "dollar" stores such as Dollar Tree and Family Dollar.[1] Tableters producing store brand and generic aspirin tablets are increasingly more price-sensitive to changes in the cost of bulk aspirin than are those in the first tier.[2]

*** sells its product to both large tableters and distributors, although it sells ***. Distributors serve mainly the smaller tableters. Overall, importers reported shipping around *** percent of their domestic bulk aspirin sales to tableters; only *** did not ship all their imported aspirin to tableters.[3]

There also exists an extremely small market segment that uses bulk aspirin as a component in a cleaning compound. This segment accounts for less than *** percent of the bulk aspirin market.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Bulk acetylsalicylic acid is sold to tableters, either directly or through distributors, for the manufacture of dosed aspirin tablets or capsules, or to be dosed and then mixed with other medicaments to make drugs for the relief of multiple symptoms. It is produced and sold by only one U.S. firm. The producer is likely to respond to changes in demand with moderate changes in the quantity shipped to the U.S. market. Supply responsiveness is enhanced by the existence of substantial excess capacity and an increased inventory level compared with one year ago, but decreased by the lack of production alternatives and the lack of significant alternative markets.

The U.S. producer's capacity remained steady throughout the period of study. Its utilization rate decreased from *** percent in 1997 to *** percent in 1998 and then to *** percent in 1999.

The U.S. producer's export shipments have been small compared to shipments to the U.S. market and have been steadily declining. The percentage of the U.S. producer's export shipments relative to its

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[1] Telephone conversation with ***, June 11, 1999.

[2] Response to *** questionnaire.

[3] *** shipped *** percent of their bulk aspirin to tableters.

total shipments on a quantity basis decreased from *** percent in 1997 to *** percent in 1998 and then to *** percent in 1999. On a value basis, a similar trend is apparent.

Inventories tend to be moderately high in the bulk aspirin market in order to meet customer needs with a very short lead time. End-of-period inventory levels decreased from *** percent of the U.S. producer's total shipments in 1997 to *** percent of such shipments in 1998, and then increased to *** percent in 1999.

Rhodia manufactures no other products using the same equipment and workers. Further, the process has been automated, changing "from stand-alone areas in the plant where people operated manually to a computer-controlled plant."[4] Although methyl salicylate is also produced at the St. Louis facility, its production is in a separate, stand-alone building that shares no production workers.

U.S. Demand

Demand Characteristics

Until 1996, U.S. demand for bulk aspirin was steadily declining. However, over the past 2 to 3 years, demand has been growing at a rate of 1 to 3 percent per year due to recent news that aspirin is helpful in the prevention of cardiovascular disease and specific cancers. In addition, growth has been refueled by the increased advertising of aspirin in the media, especially since Bayer has re-acquired the rights to the Bayer trade name.[5]

While some tableters can use only the aspirin starch mixtures, those with the most flexible production techniques have the ability to mix the crystal aspirin with starch and make their own aspirin starch mixtures. This usually occurs if the difference in price between crystal aspirin and aspirin starch is too large.[6] Some tableters have strict preferences for mesh size of crystal aspirin because their machines have been calibrated to run with that size crystal. The petitioner claims the machines can change without much difficulty, however, to switch between different mesh sizes, since they maintain data regarding machine settings on log sheets for future reference.[7] [8] Less consistent mesh size will cause more downtime for machinery calibration and adjustment, thus reducing productivity.[9]

*** has identified, as examples, various end-use products that would contain the different mesh-size crystals. For example, ***.[10] Finer mesh crystals will dissolve more quickly when ingested, enhancing the effectiveness of the product. Larger crystals are more suitable for longer-acting or timed-release pain relievers.[11]

The Chinese product *** is not sifted by mesh size, either in pure crystal or starch mixture form.[12] This has made it difficult for some U.S. tableters to handle the Chinese material in their

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[4] Mr. McMaster, plant manager, Rhodia, Inc., conference transcript, p. 39.

[5] Response to *** questionnaire.

[6] Affidavit of ***, pp. 1-2.

[7] Conference transcript, p. 51.

[8] Tableters need to re-calibrate their machinery when changing either grades or suppliers. Petitioner's posthearing answers to Commissioners' questions, p. 27.

[9] Ibid., p. 25.

[10] ***.

[11] Petitioner's posthearing answers to Commissioners' questions, pp. 8-9.

[12] ***.

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production processes.[13] For instance, ***'s trial analysis of the Chinese product revealed that it frequently caused their machine to stop during the tableting process because it contained particles that were too big.[14] David Zhao of Jilin Pharmaceutical (USA), Inc. (Jilin USA) noted at the preliminary conference that Chinese producer Jilin Pharmaceutical Co., Ltd., has tried to implement technology to separate bulk aspirin crystals by size in order to gain market share, but was not successful and has since stopped trying.[15] However, *** requires its suppliers of Chinese aspirin to put the aspirin through a separate, special sieve step to get a more consistent input that is closer to the domestic 40-mesh product. It has not attempted to purchase 20- or 80-mesh aspirin from China in this manner, nor has it even begun to qualify aspirin originally from China in those sizes.[16]

The Analgesic End-Use Market

Since bulk aspirin is an input into the production of tablets, demand for it is derived from the demand for any type of tablet that contains aspirin. As such, although bulk aspirin does not compete with other over-the-counter analgesics such as bulk ibuprofen or bulk acetaminophen in the production process, tableted aspirin may compete with tableted ibuprofen and tableted acetaminophen in the end-use market. Each of these has analgesic properties in addition to their distinctive properties: aspirin helps with cardiovascular problems and stress; ibuprofen is more effective against arthritic pain; and acetaminophen is a more effective anti-pyretic (fever-reducer).[17] Hence, although not exactly the same product, there may be some substitution among aspirin, ibuprofen, and acetaminophen tablets.

The value of the market for over-the-counter analgesics in the United States increased by 4.1 percent in nominal terms during the five years ending in 1998, but, adjusting for inflation, declined in real terms by 5.5 percent. Firms have struggled to increase prices as an increase of discount-oriented retailing and the use of analgesics as "loss leaders" have put downward pressure on prices.[18]

Private label products have flourished in the end-use market, now accounting for 17 percent of the entire analgesic market value.[19] Though aspirin tablet sales growth in general has been slow recently, the generic "dollar" store sales of aspirin are expected to grow at around 10 percent per year.[20] Of the analgesic market, aspirin held a market share of 23.4 percent in 1998, up from 22.4 percent in 1995, due mostly to the discovery of aspirin's use as a preventative measure against second heart attacks.[21]

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[13] Telephone conversation with ***, June 11, 1999 and respondents' postconference brief, p. 4.

[14] Respondents' postconference brief, exh. 1.

[15] Conference transcript, p. 61.

[16] Telephone conversation with ***, April 12, 2000.

[17] Petitioner's postconference brief, exh. 4, pp. 9-16.

[18] A "loss leader" is a product that is advertised and sold at a price so low that the store actually loses money on the product. The reason stores do this is to attract people to the store with an unrealistically low price on that product, with the hope that (since the consumers are already there) they will decide to buy other products they may have otherwise bought somewhere else. Pricing of this sort is prevalent in supermarkets and drug stores.

[19] Ibid., p. 2.

[20] Telephone conversation with ***, June 11, 1999.

[21] Petitioner's postconference brief, exh. 4, p. 2.

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Substitute Products

Chemically, there are no direct substitute products for bulk aspirin. Aspirin is a chemical compound with the formula $C_9H_8O_4$ and is defined by the official monograph of the USP 23. In order to tablet and sell aspirin to consumers, the input must meet USP 23 certification as acetylsalicylic acid. Commercially, however, there are competitive over-the-counter analgesics: ibuprofen, acetaminophen, naproxen, and ketoprofen. Although aspirin is the lowest cost over-the-counter analgesic on the market, changes in the price of bulk aspirin might result in a modest change in the quantity of aspirin tablets demanded.

Cost Share

Bulk aspirin accounts for a varying percentage of the cost of aspirin tablets and other pharmaceutical formulations in which it is used. The exact percentage varies by producer and product. *** and *** noted that on average bulk aspirin accounts for between 12 and 17.6 percent of the final cost of the products that contain it, with *** giving different numbers for differing strength aspirin, a sentiment shared by ***. *** mentioned a range of between 10 and 50 percent, stating that the exact amount depends on the size of the bottle and the number of pills contained therein. *** reported cost shares between 40 and 70 percent.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported bulk acetylsalicylic acid depends on a number of factors. Relative prices are an especially important factor in the generic segment of the market, as well as the conditions of sale (lead times, payment terms, etc.). Also, quality of the product is an important determining factor. As already noted, mesh size is an important factor. Other important quality factors include color, clarity, and cohesion of final tablets. In addition, tableter preferences for a single supplier or a desire to maintain multiple sources may play a role in the degree of substitution.

Factors Affecting Purchasing Decisions

Available data indicate that a variety of factors influence purchasing decisions for bulk aspirin. Purchasers were asked to list the top three factors that they consider in choosing a supplier of aspirin. Fourteen of 24 purchasers ranked quality as the most important factor, with four more ranking it second and two ranking it third. Price was the second most important factor overall, ranking most important by 5 purchasers, second by 10, and third by 8. Availability was the third most important factor, with two purchasers stating it was the most important factor, five placing it second, and five placing it as the third most important factor. Other important factors noted by purchasers were service (noted by three), reliability (noted by two), capacity to meet a large customer's needs, international market share, delivery, consignment of purchases, technical support, and mesh size. According to 22 of 24 responding purchasers, the lowest price offered will not always win a sale. Twenty of the 22 mentioned quality or the ability to meet standards as an additional factor, while six added availability, the ability to meet demand, or having enough capacity as additional factors that determine if a sale is made.

Purchasers were asked to assess the importance of 14 separate factors in deciding among bulk aspirin vendors. Their responses are tabulated in table II-1. Product consistency and quality were the two factors most often ranked very important. The next most important was availability, followed by reliability of supply and lowest price.

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Table II-1
Bulk aspirin: Importance of factors used in purchasing decisions as reported by U.S. purchasers

Factor	Number of firms reporting		
	Very important	Somewhat important	Not important
Availability	12	2	0
Delivery terms	9	4	1
Delivery time	10	4	0
Discounts offered	6	4	4
Lowest price	11	3	0
Minimum quantity requirements	4	7	3
Packaging	7	7	0
Product consistency	13	1	0
Product quality	13	1	0
Product range	2	5	3
Reliability of supply	11	3	0
Technical support/service	4	8	1
Transportation network	4	6	2
U.S. transportation costs	2	9	2

Source: Compiled from data submitted in response to Commission questionnaires.

The most important factor in determining the quality of aspirin is whether it meets the requirements of the official USP monograph. If a bulk aspirin producer cannot satisfy these requirements, then the aspirin cannot be made into tablets for human consumption. Accordingly, processed aspirin must meet FDA requirements before it can be sold to the public. Among other characteristics considered important by purchasers in determining the quality of bulk aspirin are particle size (mesh size), particle shape, chemistry, assay, density, foreign matter, having a Good Manufacturing Practices (GMP) plant, and rejection history.

Twenty-four of 25 responding purchasers were always aware of whether their aspirin purchases were U.S.-produced or imported, while one was usually aware. Nineteen of 25 were always aware of who manufactured the bulk aspirin they purchased, with four usually, one sometimes, and one never aware. When asked how often the buyers of the purchaser's products are aware of or interested in the country of origin of the aspirin, 14 replied their buyers were always aware, five were never aware, four were sometimes aware, and two were usually aware.

Fourteen responding purchasers indicated that they or their customers have no preference for one country's aspirin over another's. However, the other 10 do have a preference. Specifically, *** prefer domestic aspirin and *** prefer Chinese aspirin. One other used to prefer Argentine aspirin, but the price difference between it and Chinese aspirin overshadowed that preference, and another prefers Colombian aspirin, but sometimes buys Chinese to lower average raw material costs. The final purchaser, a distributor, only has a preference if its customers do.

Comparison of Domestic Products and Subject Imports

Twelve purchasers compared Chinese aspirin with domestic aspirin on 14 factors. The results of these comparisons are given in table II-2. Overall, replies were more or less split between the domestic producers being superior or comparable to Chinese aspirin producers on 12 of 14 factors. The only factor on which all purchasers agreed was that the domestic industry offered inferior (higher) prices. Also, no purchasers ranked the domestic bulk aspirin industry as superior on discounts offered.

Table II-2
Bulk aspirin: Comparisons between U.S.-produced and Chinese products as reported by U.S. purchasers

Factor	Number of firms reporting		
	U.S. superior	Comparable	U.S. inferior
Availability	4	8	0
Delivery terms	3	7	2
Delivery time	6	4	2
Discounts offered	0	8	4
Lowest price[1]	0	0	12
Minimum quantity requirements	2	7	3
Packaging	5	6	1
Product consistency	7	4	0
Product quality	6	6	0
Product range	6	4	1
Reliability of supply	4	7	0
Technical support/service	9	3	0
Transportation network	7	5	0
U.S. transportation costs	1	9	0

[1] A rating of superior means that the price is generally lower. For example, if a firm reports "U.S. superior," this means that it rates the U.S. price generally lower than the Chinese price.

Source: Compiled from data submitted in response to Commission questionnaires.

Interchangeability

Purchasers were asked if the domestic and Chinese products could be used interchangeably, i.e., used in the same applications. Nine out of 10 responding purchasers noted that domestic and Chinese imported aspirin are used in the same applications, and one more noted that all material can be interchangeable if it is approved. However, although *** replied that the two were interchangeable, it added that Chinese product is "usually limited to low end, less critical uses - animal treatments, small,

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inefficient tablet producers." ***, the sole purchaser that noted non-interchangeability, stated that Rhodia is the only supplier of ***.

In addition, when purchasers were asked if some products were only available from certain countries, eight of 24 responded affirmatively. Regarding crystal aspirin, *** added that Rhodia is the only producer of 80-mesh aspirin and *** stated that only Rhodia offers some specialty products and that it is the only supplier that ships in bulk bags. Besides ***'s above comment regarding aspirin starch, *** stated that DC-90 is only produced by one domestic and two Chinese companies; *** echoed ***'s comment, but was not aware that Rhodia produced it. However, *** relayed that the Chinese DC-90 is not a good product, although it admits it is not very familiar with ***'s product.

Importers were also asked if the domestic and Chinese products could be used interchangeably. Three out of five responding importers reported that the products are not interchangeable. *** noted that the bigger, multinational companies use only domestic product because they need to fulfill GMP and FDA guidelines. They also noted that the period and method for FDA approval and stability tests limit the use of the Chinese product.[22] *** indicated that Chinese producers cannot separate crystals into different mesh ranges and therefore have to sell the aspirin at 20/60 mesh combined.[23] *** also noted that two U.S. tableters tried ***'s aspirin starch and discontinued using it after the trial period because the Chinese aspirin starch could not be used interchangeably with Rhodia's aspirin starch. *** replied that the Chinese material offers process advantages in some applications, and in other cases U.S.-produced material offers process advantages.

When asked to describe how mesh size affects the speed and efficiency of processing aspirin in the manufacture of its end-use products, four of five responding importers and all 16 responding purchasers mentioned that there is a definite effect. Eleven purchasers and one importer noted that mesh size affects the physical characteristics of the tableted aspirin, i.e., friability, capping, dissolution characteristics, content (dosage), tablet weight, hardness, and active morphology. This can lead to material produced that fails to meet tablet specifications, which reduces productivity. Furthermore, all four importers and 13 purchasers mentioned that mesh size affects the speed and efficiency at which the end-use products that contain aspirin can be produced. This is especially true for the higher speed processing equipment used by most large tableters. *** further noted that "optimum formulations allow machines to operate with fewer breakdowns and usually under less high forces, thereby reducing machine stress and wear and tear." Its thorough explanation summarizes most importer and purchaser attitudes in stating that, "{p}roper particle size produces the optimum physical tablet quality and dosage form at {the} lowest operating cost while minimizing maintenance system costs."

Purchasers and importers were also requested to describe whether mesh size has an impact on the effectiveness of the end-use product containing aspirin. Eleven of 15 responding purchasers, but only one of five responding importers, replied that there is some effect. Specifically, seven purchasers noted dissolution and disintegration rates. This is one of the factors that could cause material to not meet USP requirements. It could also affect the dissolution of other active ingredients in the same dosage form, such as acetaminophen or caffeine. Four purchasers mentioned that uniformity could also be

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[22] The petition and petitioner's testimony at the conference indicated that the approval process for new products requires only three months. This is the time it takes for the accelerated stability test *only*. Staff has learned the following in a conversation with ***, June 11, 1999. ***.

If the tablets still maintain enough active ingredients (e.g., if the tablets in a bottle of 325 mg aspirin still maintain 325 mg of active medicine) after two years, and minimum requirements are met with respect to how quickly the table dissolves once ingested, the product is qualified. Hearing transcript, pp. 48-49.

[23] Although Rhodia does not sift its aspirin so that only one mesh size of crystals remains, its sifting process does produce a narrower range of mesh sizes than the unsifted Chinese aspirin.

compromised if the proper mesh size aspirin is not used. Of the importers that responded negatively, *** said that there is no difference in use once the aspirin has been tableted and the tablets have passed dissolution and disintegration standards; *** stated that correctly compressed particle size will not affect dosage functionality; and ***'s customers have not indicated that the aspirin tablet's physical properties have any impact on its effectiveness.

Qualification

All tableters who responded to the Commission's questionnaires replied that they require pre-qualification or certification of their suppliers before they order production quantities of bulk aspirin. The aspirin must be certified to meet the requirements of the official USP monograph. In addition, the dosed aspirin tablets made with that bulk aspirin must be able to meet the FDA requirements.[24] The two main Chinese producers of bulk aspirin that is exported to the United States are *** and ***. ***. Various tableters have qualified material from both *** and ***. The status of qualification, by tableter, is displayed in table II-3.

Table II-3
Bulk aspirin: Qualification status of Chinese producers at U.S. tableters

* * * * * * *

Quality

As previously noted, Jilin's bulk aspirin is not separated by mesh size. Jilin also is not able to match Rhodia's consistency in producing aspirin starch mixture; the latter's product is exactly 90 percent aspirin and 10 percent starch.[25] ***.[26]

The material that *** uses to produce its aspirin tablets is of a lower quality in terms of color, clarity, and cohesion. At times, the bulk aspirin that *** gets from China is not pure white, but is rather slightly discolored. At other times, there are small black flecks, which are both time-consuming and difficult to remove. In addition, sometimes the aspirin does not compress to form perfectly shaped, cohesive tablets.[27]

All four importers responding to the Commission's question regarding differences between domestic and Chinese bulk aspirin replied that differences exist. *** said that the Chinese product cannot offer the range or consistency of mesh sizes. ***. *** acknowledged that its aspirin starch is produced for a special cheap tablet producer, and the quality is not as good as Rhodia's aspirin starch. It claims its 20/60 combined mesh cannot be used in the applications that use 20-, 40-, or 80-mesh aspirin. *** asserted that the domestic advantages are quality, availability, product range, and technical support. However, *** noted that, according to its customer, since each country's products are a little different, the physical characteristics of the Chinese material (as with all other foreign and domestic bulk aspirin) may provide process advantages.[28]

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[24] See footnote 22 for a description of what this entails.

[25] Conference transcript, p. 66.

[26] ***. Petitioner's prehearing brief, exh. 13.

[27] Telephone conversation with ***, June 24, 1999.

[28] Responses to importers' questionnaires.

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Lead Times/Delivery

Rhodia reported lead times of ***. Importers' lead times varied greatly, however. *** reported lead times of one to five days. *** needs only three to four days of lead time. *** reported that it needs only a week, as it keeps a stock on hand. In the preliminary phase, *** reported that it just ships as scheduled for contract customers, but did not give a specific lead time for any returning spot customers. It did, however, reply that the first delivery takes six to eight weeks.

The other importers apparently order bulk aspirin from a manufacturer after an order comes in. Hence, *** carries a lead time of 60 to 120 days, *** has a lead time of no less than 60 days, and *** requires 75 to 90 days notice.

Comparison of Domestic Products to Nonsubject Imports

The vast majority of nonsubject imports (in order of volume of 1999 imports) originate from Spain, Argentina, Colombia, Mexico, and Thailand, with somewhat smaller quantities from Panama, Germany, Italy, and Canada.[29] Imports from Spain grew from $425,000 in 1998 to $4,455,000 in 1999.[30] This was due to *** switching its purchases of aspirin to its parent-owned company in Spain. Rhodia noted that ***.[31]

Five of seven responding importers answered that the U.S. and nonsubject bulk aspirin products are generally used interchangeably. Of the dissenters, ***, which used to purchase Colombian aspirin, reported that it has been its experience that its customers do not use them interchangeably. ***, which has experience with Mexican aspirin, reported that aspirin from different producers is interchanged with effort: product is used from different companies to maximize process performance, and in some applications the Chinese material has offered process advantages. *** answered both "yes" and "no," citing that the two are theoretically interchangeable, but the material needs to be approved first, and that the material cannot be run on the same equipment with the same speed and efficiency. *** replied that the two are interchangeable once each is qualified as meeting USP standards.

Four of six importers that answered the query did not know of any differences in product characteristics or sales conditions between U.S. aspirin and nonsubject imports. *** answered "no," but asserted that it dropped the Mexican product due to performance problems.[32] *** noted a difference, stating that "only certain (types) of customers can use Chinese aspirin due to (the) quality issue," and in ***'s affirmative response, it noted that it has seen more segmentation in the marketplace. Specifically, "higher tier (more ethical applications)" use domestic material while others use imported material. *** responded that there are no differences, adding that "any advantage vis-a-vis Chinese aspirin has been somewhat less important vis-a-vis nonsubject imports, which have generally offered equivalent consistency, order lead times, and product grade offering."

Purchasers were asked to compare domestic products to nonsubject imports on 14 factors. Five purchasers have each had experience with a nonsubject Latin American country (either Argentina, Colombia, or Mexico), while two others have had experience with multiple nonsubject Latin American countries (Argentina and Mexico for one and Argentina, Colombia, and Mexico for the other).

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[29] ***.

[30] USITC Trade Dataweb, based on official statistics of the U.S. Department of Commerce.

[31] Response to Rhodia's producers' questionnaire.

[32] In the preliminary phase, *** had answered "yes" and explained that the domestic producer offered better quality, availability, product range, and technical support.

Responses from these four purchasers are grouped together as nonsubject Latin American products and are shown in table II-4. Overall, the opinion of the purchasers is that these nonsubject imports are mostly comparable to slightly inferior compared with domestic bulk aspirin.

Table II-4
Bulk aspirin: Comparisons between U.S.-produced and nonsubject Latin American products as reported by U.S. purchasers

Factor	Number of firms reporting		
	U.S. superior	Comparable	U.S. inferior
Availability	3	4	0
Delivery terms	1	6	0
Delivery time	5	2	0
Discounts offered	0	6	0
Lowest price[1]	1	3	3
Minimum quantity requirements	3	4	0
Packaging	3	4	0
Product consistency	3	4	0
Product quality	1	6	0
Product range	2	5	0
Reliability of supply	3	3	0
Technical support/service	4	3	0
Transportation network	3	3	0
U.S. transportation costs	0	4	1

[1] A rating of superior means that the price is generally lower. For example, if a firm reports "U.S. superior," this means that it rates the U.S. price generally lower than the Latin American price.

Source: Compiled from data submitted in response to Commission questionnaires.

Comparison of Subject Imports to Nonsubject Imports

Again, five of seven responding importers noted that the Chinese and nonsubject bulk aspirin products are generally used interchangeably. All of the importers that responded to this question echoed their responses to the question regarding interchangeability between domestic and nonsubject imports. *** replied that the two are interchangeable once each is qualified as meeting USP standards.

Five of the nine responding importers either did not know or did not answer if there were any differences between nonsubject and Chinese production quality or sales conditions. Of the remaining four, two responded that differences exist between Chinese and nonsubject imports. *** replied that nonsubject quality and technical support were different and *** noted that the physical characteristics of each country's aspirin may provide process advantages. *** also responded that no differences exist, noting that a former purchaser of Chinese material now uses nonsubject material because of quality.

Four purchasers compared the nonsubject Latin American bulk aspirin to that imported from China on 14 factors. Two used Colombia as a comparison, another used Mexico, and a third used Mexico, Colombia, and Argentina. It was their unanimous opinion that the Chinese material was comparable with respect to availability, delivery terms, and U.S. transportation costs; that the nonsubject material had superior technical support/service; but that the nonsubject aspirin had inferior (higher) pricing. Product quality, consistency, and reliability of supply of nonsubject Latin American aspirin were defined as superior by two purchasers and comparable by two with respect to Chinese aspirin.

ELASTICITY ESTIMATES

The elasticity estimates below are those that were used in the COMPAS analysis that is presented in appendix D.

U.S. Supply Elasticity

The domestic supply elasticity for bulk aspirin measures the sensitivity of the quantity supplied by the U.S. producer to changes in the U.S. market price of bulk aspirin. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which the producer can alter capacity, the producer's ability to shift to production from other products, the existence of inventories, and the availability of alternative markets for U.S.-produced bulk aspirin. The sole domestic producer of bulk aspirin has no production alternatives using the same facilities, and it locks into price contracts on a *** basis. However, the firm has excess capacity and the ability to ship domestically more quickly than importers if purchasers' inventories become depleted. On balance, these factors indicate that the U.S. industry is somewhat able to increase or decrease shipments to the U.S. market when there is a change in price. However, if the one domestic facility is running at full capacity, the only way to purchase additional bulk aspirin is through importation. Therefore, an estimate in the range of 0.5 to 2 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for bulk aspirin measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of bulk aspirin. This estimate depends on factors discussed earlier such as the existence of substitutes for dosed, tableted aspirin for use as an analgesic in the downstream, end-use market, its importance in the cost structure of tableting finished-dose aspirin, as well as the lack of any substitutes in the production of tableted aspirin. Based on the available information, the aggregate demand for bulk aspirin is likely to be moderately inelastic. An elasticity in the range of -0.5 to -2 is suggested.

Substitution Elasticity

The elasticity of substitution depends upon the extent of differentiation between the domestic and imported products.[33] Differentiation in bulk aspirin, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (availability, sales terms/discounts/rebates,

[33] The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like product to changes in their relative prices. This reflects how easily purchasers switch from the U.S. aspirin to the subject aspirin (or vice versa) when prices change.

purchases from related firms, etc.). Although domestically produced bulk aspirin is a more refined product than bulk aspirin imported from China because it is sifted by mesh size, it still possesses somewhat commodity-like interchangeability, after the Chinese aspirin has been approved. Five of seven responding importers replied that subject and domestic bulk aspirin are used in the same applications, though some noted that tableting machines are optimized for a certain type of bulk aspirin, either the unsifted Chinese material or the sifted domestic aspirin. Based on available information, the elasticity of substitution between U.S.-produced aspirin and aspirin imported from China is likely to be in the range of 3 to 5.[34] The elasticity of substitution between domestic and nonsubject imports and between subject and nonsubject imports is likely to be in the range of 1.5 to 3.5.

[34] The petitioner's posthearing brief suggests an estimate of 3 to 5 rather than the original staff estimate of 2 to 4, since "information on account penetration in 2000 reveals an even higher degree of interchangeability." Petitioner's posthearing brief, p. 10. Since ***, the market Rhodia must compete in consists of a higher share of accounts with which it must compete with Chinese bulk aspirin. Thus, the elasticity of substitution should have increased. This also reduces, however, the interchangeability between domestic and nonsubject imports and between subject and nonsubject imports.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the margin of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire response of one firm that is believed to have accounted for all U.S. production of bulk aspirin during 1999.

U.S. PRODUCERS

Prior to 1989, the domestic industry was composed of four firms: Dow, Monsanto, Norwich-Eaton, and Sterling Drug. Over the last decade, the domestic industry producing bulk aspirin went through two major consolidations. The first of these consolidations occurred in 1989 when Rhone-Poulenc S.A., the French multinational corporation, acquired the analgesics business of Monsanto Co. (Monsanto), including Monsanto's bulk aspirin manufacturing facility in St. Louis, MO. Then, in 1994, Bayer Corp. acquired Sterling Drug and proceeded to shut down that company's bulk aspirin production operations. In the following year, Norwich-Eaton ceased its own production of bulk aspirin and began to source its aspirin requirements from Rhone-Poulenc. At the close of 1995, Rhone-Poulenc entered into an agreement to acquire certain assets of Dow Chemical Co.'s (Dow) salicylates businesses, including Dow's inventory of bulk aspirin as well as its customer lists. These structural changes culminated in an industry that was reduced from four to two producers at the start of 1996 and only one after 1996.[1]

Rhodia, Inc. was formed in 1997 following a reorganization by Rhone-Poulenc. Rhodia's direct parent is Rhodia S.A., a French firm.[2] Rhodia's assets consist of the St. Louis, MO, bulk aspirin facility formerly owned by Monsanto and the aspirin business acquired from Dow. In testimony at the Commission's conference, Mr. Benoit Cossart, business director for Rhodia's North American pharmaceutical ingredients business, described Rhodia's St. Louis production facility as state-of-the-art and having the largest capacity of any aspirin production facility in the world.[3] Since its acquisition, the manufacturing processes at the facility reportedly have been transformed from stand-alone, manually operated processes to computer-controlled processes.[4] Capital projects undertaken since 1996 to bring about this transformation have included investments in ***. Total spending for these projects amounted to about $***.[5]

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[1] Pursuant to its agreement to acquire Dow's salicylates businesses, Rhone-Poulenc and Dow entered into a tolling agreement that called for Dow to toll-produce bulk aspirin for Rhone-Poulenc. Petitioner's postconference brief (at p. 34) states that Dow's toll production occurred in 1996 and "to a small extent, in 1997." However, in a telephone discussion with staff, *** of Stewart and Stewart conveyed to staff that no such production occurred in 1997 and that all toll production took place in 1996 only. Petitioner's postconference brief reported such production as totaling *** pounds in 1996 and *** pounds in 1997.

[2] Affiliated firms that also produce bulk aspirin include Rhodia Thai Industries, Ltd. (Bangpoo, Thailand) and Rhodia Chemie (St. Fons, France). The combined production capacity of these two firms totals *** metric tons, or *** pounds. About *** percent of the product produced in Thailand is sold in Asian markets and another *** percent goes to European markets. *** of the St. Fons facility is sold in European markets. (Rhodia's response to the Commission's Follow-Up Questions to the Questionnaire.)

[3] Conference transcript, p. 16.

[4] Ibid., p. 39.

[5] Rhodia's postconference brief, exh. 8.

III-1

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Rhodia states that its St. Louis, MO, production facility utilizes the latest technological advances and enjoys substantial economies of scale. The limiting factor or constraint on its production capability is ***. The elimination of this constraint, Rhodia asserts, would boost its bulk aspirin production capability by roughly *** pounds annually.[6] Production also could be expanded by ***.[7] Asked in the Commission's producer questionnaire whether it had experienced any changes (e.g., plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns) in the character of its operations relating to the production of bulk aspirin since January 1, 1997, Rhodia reported ***.[8]

Data concerning the U.S. industry's bulk aspirin production capacity, production, and capacity utilization are shown in table III-1. As noted previously, Dow reportedly ***.[9] Rhodia's bulk aspirin production decreased *** from 1997 to 1998 and decreased further from 1998 to 1999. Rhodia attributes the 1998 production decrease to ***. Rhodia cut back on production in an effort to ***.[10] Rhodia's production capacity was unchanged from 1997 to 1999. Capacity utilization therefore decreased in conjunction with the decrease in production, falling from *** percent in 1997 to *** percent in 1998, and to *** percent in 1999.

Table III-1
Bulk aspirin: U.S. capacity, production, and capacity utilization, 1997-99

* * * * * * *

As shown in the following tabulation, bulk aspirin in crystalline form comprised the bulk of Rhodia's bulk aspirin production between 1997 and 1999.

* * * * * * *

U.S. PRODUCER'S SHIPMENTS

Rhodia produces bulk aspirin strictly for sale to unrelated third parties. Its U.S. shipments therefore consist entirely of commercial or open-market sales. The bulk of its sales are to end-user firms that put the bulk aspirin into tablet and capsule form. Based on data supplied in its response to the Commission's producer questionnaire, non-end-use customers accounted for not more than *** percent of its domestic shipments during the period for which information was requested. ***.

Data on the U.S. producer's domestic shipments of bulk aspirin are presented in table III-2. The quantity and value of Rhodia's domestic shipments decreased by *** percent and *** percent, respectively, from 1997 to 1998, and by *** percent and *** percent, respectively, between 1998 and 1999. Overall, Rhodia's domestic shipments between 1997 and 1999 decreased by *** percent on the basis of quantity and *** percent on the basis of value. In terms of unit value, the average unit value of Rhodia's domestic shipments rose irregularly from 1997 to 1999, increasing by *** percent, or by *** per pound, over the period.

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[6] Rhodia's producers' questionnaire response, p. 4.

[7] Ibid.

[8] ***. Ibid., p. 4.

[9] ***.

[10] Rhodia's response to the Commission's Follow-Up Questions to the Questionnaire.

III-2

Table III-2
Bulk aspirin: U.S. producer's shipments, by types, 1997-99

* * * * * * *

As shown in the tabulation that follows, the bulk of Rhodia's domestic shipments of bulk aspirin consisted of the crystalline grade product.

* * * * * * *

As a share of its total shipments quantity, Rhodia's exports of bulk aspirin declined from *** percent of total shipments in 1997 to *** percent of total shipments in 1999. *** are Rhodia's most important export markets. The most significant market within these regions is ***. The quantity and value of Rhodia's export shipments fell steadily during the period for which information was requested. Between 1997 and 1999, such exports fell by *** percent on the basis of quantity and declined by *** percent on the basis of value.

U.S. PRODUCER'S INVENTORIES

The volume of inventories held by Rhodia[11] was *** percent lower at year-end 1998 than at year-end 1997 and was *** percent higher at year-end 1999 than at year-end 1998 (table III-3). The ratio of Rhodia's end-of-period inventories to its U.S. production increased by *** percentage points from *** percent in 1997 to *** percent in 1999. Relative to its U.S. shipments, the ratio of inventories fluctuated during the period for which data were gathered, falling by *** percentage points from 1997 to 1998 and rising by *** percentage points from 1998 to 1999.

Table III-3
Bulk aspirin: Rhodia's end-of-period inventories, as of December 31

* * * * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Rhodia's bulk aspirin is produced in dedicated, stand-alone facilities utilizing workers dedicated solely to its production. Rhodia reported no changes to its operations that might have otherwise affected its bulk aspirin production operations during the period for which the Commission requested information.[12] Employment data pertaining to Rhodia's bulk aspirin operations are shown in table III-4. Trends are somewhat mixed. Between 1997 and 1998, a period in which Rhodia experienced a ***-percent decrease in production, the number of its production-and-related workers (PRWs) producing bulk aspirin remained the same. PRWs, however, worked *** percent fewer hours and the firm had lower productivity (down by *** percent) than in 1997. The number of workers declined by *** percent from 1998 to 1999, while productivity rose by *** percent. Total wages paid fell relative to the number of hours worked by such workers. Hourly wages, however, fluctuated during the period, increasing by *** percent from 1997 to 1998 and decreasing by *** percent from 1998 to 1999.

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[11] ***. Rhodia, written submission, April 17, 2000, p. 4.

[12] In its postconference brief (at pp. 33 and 34), Rhodia states that it reduced its workforce by *** percent in the first half of 1999, attributing the layoffs to ***.

Table III-4
Bulk aspirin: Average number of production-and-related workers producing bulk aspirin, hours worked, wages paid to such workers, and hourly wages, productivity, and unit labor costs, 1997-99

* * * * * * *

III-4

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

The Commission sent importers' questionnaires to 40 firms, of which 38 responded. Of those that responded, 24 indicated that since January 1, 1997, their firm had no imports of bulk aspirin from any source. Fourteen firms indicated that they did import bulk aspirin during the period in question and supplied information on such U.S. imports. Ten of the 14 firms imported the subject merchandise from China; at least two of these also imported bulk aspirin either from Argentina or Mexico. One firm imported bulk aspirin only from Argentina, one only from Poland, and one only from Spain. Five of the 13 firms that imported product from any source are either directly or indirectly owned by a foreign company. One such firm, Jilin USA, is owned by the Chinese producer Jilin Pharmaceutical Co., Ltd., which estimates that its exports alone account for approximately *** percent of all Chinese exports of bulk aspirin to the United States.[1]

Rhodia is one of the 14 firms that imported bulk aspirin during the period for which information was requested. All such imports ***. Rhodia explains that it imported the *** product for two reasons: (1) *** and (2) ***.[2] The volume of Rhodia's U.S. imports did not exceed *** percent of its domestic production in any year during the period examined.

U.S. IMPORTS

U.S. imports of bulk aspirin enter the United States under HTS subheading 2918.22.10 (aspirin crystal) or subheading 3003.90.00 (bulk medicament mixtures). Subheading 3003.90.00 includes mixtures other than aspirin and therefore cannot be used to establish an accurate count of U.S. imports. Furthermore, because the sum of the data for U.S. imports from China as reported in the Commission's importer questionnaires is well below official Chinese export data, Chinese export statistics are relied upon as the best measure of the volume of U.S. imports from China. Official import statistics under subheading 2918.22.10 are relied upon for U.S. imports from all other sources.[3]

Data on U.S. imports of bulk aspirin are presented in table IV-1. As shown in the table, total U.S. imports from all sources rose steadily in all periods, nearly doubling in terms of quantity and value from 1997 to 1999. The quantity and value of U.S. imports from China rose by 53.5 percent and 69.1 percent, respectively, between 1997 and 1999. Unit values of U.S. imports from China were significantly below those for U.S. imports from all other sources.

APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption of bulk aspirin are shown in table IV-2. Led by decreases in U.S. producer's U.S. shipments, apparent consumption quantity decreased by *** percent between 1997 and 1999. Apparent consumption value decreased as well, by *** percent between 1997 and 1999.

U.S. MARKET SHARES

The U.S. producer's share of the domestic bulk aspirin market declined steadily between 1997 and 1999. The U.S. producer's market share based on quantity fell from *** percent in 1997 to *** percent in 1999, a drop of *** percentage points (table IV-3). On the basis of value, the U.S. producer's

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[1] Jilin's foreign producers' questionnaire response, p. 5.

[2] Rhodia's importers' questionnaire response, p. 5.

[3] Import statistics may be somewhat understated because aspirin starch is included in the basket HTS subheading 3003.90.00.

IV-1

Table IV-1
Bulk aspirin: U.S. imports, by sources, 1997-99

Source	Calendar year		
	1997	1998	1999
	Quantity (*1,000 pounds*)		
China[1]	2,632	3,586	4,039
Other sources[2]	2,068	2,825	4,899
Total	4,700	6,411	8,938
	Value (*1,000 dollars*)[3]		
China[4]	3,132	4,196	5,210
Other sources[2]	4,160	5,684	9,231
Total	7,292	9,880	14,441
	Unit value (*per pound*)		
China[5]	$1.19	$1.17	$1.29
Other sources[2]	2.01	2.01	1.88
Average	1.55	1.54	1.62
	Share of quantity (*percent*)		
China	56.0	55.9	45.2
Other sources	44.0	44.1	54.8
Total	100.0	100.0	100.0
	Share of value (*percent*)		
China	43.0	42.5	36.1
Other sources	57.0	57.5	63.9
Total	100.0	100.0	100.0

[1] Based on official Chinese export statistics under HTS subheading 2918.22.10 as published in *The World Trade Atlas* and as shown in petitioner's prehearing brief at exhibit 5.
[2] Compiled from the official statistics of the U.S. Department of Commerce for HTS subheading 2918.22.10 as shown in petitioner's prehearing brief at exhibit 6.
[3] Landed, duty-paid.
[4] Calculated by multiplying the Chinese export statistics quantities by the Chinese import unit values calculated from importer questionnaire responses.
[5] Calculated from importer questionnaire responses.

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

Source: Compiled from data published in *The World Trade Atlas*, from official statistics of the U.S. Department of Commerce, and from data submitted in response to Commission questionnaires.

IV-2

Table IV-2
Bulk aspirin: U.S. producer's U.S. shipments, U.S. import shipments, by sources, and apparent U.S. consumption, 1997-99

Item	Calendar year		
	1997	1998	1999
	Quantity (*1,000 pounds*)		
U.S. producer's U.S. shipments	***	***	***
U.S. shipments of imports from-- China[1]	2,632	3,586	4,039
All other sources[2]	2,068	2,825	4,899
Total	4,700	6,411	8,938
Apparent U.S. consumption	***	***	***
	Value (*1,000 dollars*)		
U.S. producer's U.S. shipments	***	***	***
U.S. shipments of imports from-- China[3]	3,764	4,877	5,493
All other sources[4]	4,653	6,921	9,259
Total	8,417	11,798	14,752
Apparent U.S. consumption	***	***	***

[1] Based on official Chinese export statistics under HTS subheading 2918.22.10 as published in *The World Trade Atlas* and as shown in petitioner's prehearing brief at exhibit 5.
[2] Compiled from the official statistics of the U.S. Department of Commerce for HTS subheading 2918.22.10 as shown in petitioner's prehearing brief at exhibit 6.
[3] Calculated by multiplying the Chinese export statistics quantities by the Chinese import shipment unit values calculated from importer questionnaire responses.
[4] Calculated by multiplying the quantity of "all other" imports compiled from the official statistics of the U.S. Department of Commerce by the "all other" import shipment unit values calculated from importer questionnaire responses.

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

Source: Compiled from data published in *The World Trade Atlas*, from official statistics of the U.S. Department of Commerce, and from data submitted in response to Commission questionnaires.

Table IV-3
Bulk aspirin: Apparent U.S. consumption and market shares, 1997-99

* * * * * * *

market share fell by *** percentage points between 1997 and 1999. China's market share on the basis of quantity increased from *** percent in 1997 to *** percent in 1998 and to *** percent in 1999. On the basis of value, China's market share rose from *** percent in 1997 to *** percent in 1998 and to *** percent in 1999. Market shares for U.S. imports from sources other than China rose steadily in all periods, more than doubling from 1997 to 1999 on the basis of both quantity and value.

IV-3

PART V: PRICING AND RELATED DATA

FACTORS AFFECTING PRICING

The most important factors in determining the price of bulk aspirin, both in crystalline and compound aspirin starch forms, are its production costs, transportation costs, tariffs, and, as always, the competitive environment.

Raw Material Inputs

The two important material inputs into the production of bulk aspirin are salicylic acid and acetic anhydride. These two products account for approximately *** percent of the cost of aspirin production, whether the salicylic acid is produced in-house or purchased.[1] In addition, corn starch is the most common additive used to produce the aspirin/starch compound. Although the cost of the starch itself adds only *** percent to the cost of production, the extra processing required to form the compound increases the cost of production for Rhodia by just over *** percent.[2]

U.S. Transportation Costs

All aspirin is packaged in drums, and inland shipping takes place via truck. The U.S. producer and most importers reported that U.S. inland transportation costs are minimal. They account for between 1 and 5 percent of the total delivered price of bulk aspirin according to 4 out of 5 responding importers. The other responding importer reported that transportation costs account for 10 percent of total cost, and U.S. transportation costs for *** account for *** percent of the total delivered cost.[3] Ten purchasers responding to this question estimate inland transportation costs to range between 0.5 and 5.0 percent of the total cost of their purchases of bulk aspirin. Three purchasers put the figure at 6 to 10 percent. All importers and the domestic producer arrange for the product to be shipped. While Rhodia quotes all prices on a delivered basis, importers vary in their pricing practices. Three importers quote on a delivered basis, another either on a delivered or f.o.b. warehouse basis, and a fifth discusses pricing with the customer based on other quotes the customer has received.

U.S. Tariff Rates

Bulk acetylsalicylic acid is imported into the United States under two separate HTS classifications. Pure aspirin crystal is classified in HTS subheading 2918.22.10. Aspirin, as well as other medicines (most notably acetaminophen), in mixtures with other ingredients, but not put up in doses (tablets, powders, etc.) is classified in HTS subheading 3003.90.00. This subheading includes all aspirin-starch mixtures. The aspirin-starch mixtures imported under HTS subheading 3003.90.00 are duty-free, while pure aspirin crystal from China is subject to an 8.0 percent *ad valorem* tariff under normal trade relations (NTR) status. The final NTR staged rate is 6.5 percent *ad valorem*, which is scheduled to begin in 2004.

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[1] Petition, pp. 18-20.

[2] Ibid, p. 19.

[3] These importers may have included in their reporting the share of cost that is accounted for by overseas transportation rather than just inland transportation.

V-1

Exchange Rates

The Chinese yuan remained relatively steady compared to the U.S. dollar throughout 1997-99. The yuan had been slightly appreciating against the dollar from 8.295 yuan per dollar in the first quarter of 1997 to 8.278 yuan per dollar in the fourth quarter of 1998, but has remained around 8.278 yuan per dollar since the fourth quarter of 1998.[4]

PRICING PRACTICES

Bulk acetylsalicylic acid is sold both on a contract basis and in the spot market. Three importers reported that *** percent of their sales are on the spot market.[5] The remaining four of the seven responding importers noted that between *** and *** percent of their sales are on a contract basis.[6] Rhodia estimated that *** percent of its sales were on a contract basis. Suppliers quote prices according to product specifications given by the purchaser. Specifications may include the form of aspirin (pure crystal or aspirin starch), mesh size, color (in special cases), and other requirements.

Rhodia typically sells from its published price list ***.[7] ***. ***.

In contrast, only one responding importer uses a set price list. However, it will reduce its prices to meet a competitive situation.[8] Three of seven use transaction-by-transaction negotiations or discussions, while the remaining two have blanket orders for multiple shipments and one just adds a 10- to 15-percent margin.[9] The three negotiating importers offer discounts during the negotiation process. Further, both importers using multiple shipment contracts give quantity discounts based on the annual total volume sold.[10] Twenty-two of 25 purchasers noted that pricing is negotiable. Typical contracts fix both price and quantity and last an average of six months to one year, although one importer in the preliminary phase of the investigation responded that its contracts typically last for two years, while another reported that its contracts can be as short as three months.

PRICE DATA

The Commission requested the U.S. producer, importers, and purchasers[11] to provide quarterly quantity and value data between January 1997 and December 1999 for the following three products:

Product 1: 100-percent crystalline bulk acetylsalicylic acid, 20-mesh.

Product 2: 100-percent crystalline bulk acetylsalicylic acid, combined mesh 20/60.

Product 3: Compound bulk acetylsalicylic acid with 10-percent starch content (DC-90).

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[4] International Financial Statistics, March 2000.

[5] ***. Telephone conversation with *** of White & Case, April 18, 2000.

[6] ***.

[7] Telephone conversation with ***, June 1, 1999.

[8] ***.

[9] *** makes blanket orders for its main customers, while selling on the spot market for smaller customers.

[10] In the preliminary phase, *** responded that to qualify for a discount, the customer has to buy the product on a regular basis and meet a minimum quantity of 220,000 pounds.

[11] Purchaser price data are not presented here, due to the excellent response received from the U.S. producer and importers.

V-2

Rhodia and six importers provided usable pricing data for sales of the requested products, although not necessarily for all products or all quarters.[12] U.S. producer and importer weighted-average pricing data and margins of underselling during 1997-99 are presented in tables V-1 to V-3 and figures V-1 and V-2.

Pure crystal aspirin prices are reported in tables V-1 and V-2. Two pure crystal aspirin domestic products were used for comparison purposes: 20-mesh crystal and 40-mesh crystal.[13] No importers

Table V-1
Domestic producer's 20-mesh bulk crystal aspirin and imported combined mesh bulk crystal aspirin from China: Weighted-average delivered prices and quantities, and margins of underselling, by quarters, January 1997-December 1999

Period	United States		China		
	Price *(per pound)*	Quantity *(1,000 pounds)*	Price *(per pound)*	Quantity *(1,000 pounds)*	Margin *(percent)*
1997--					
January - March	$***	***	$1.46	350	***
April - June	***	***	1.38	372	***
July - September	***	***	1.30	387	***
October - December	***	***	1.37	396	***
1998--					
January - March	***	***	1.34	317	***
April - June	***	***	1.18	528	***
July - September	***	***	1.16	418	***
October - December	***	***	1.17	579	***
1999--					
January - March	***	***	1.20	492	***
April - June	***	***	1.21	433	***
July - September	***	***	1.24	341	***
October - December	***	***	1.20	372	***
Source: Compiled from data submitted in response to Commission questionnaires.					

[12] ***.

[13] Rhodia does not produce a combined mesh product (e.g., 20/60), since part of its production process involves the sifting of the crystals into different mesh sizes. The sifting process does not produce only crystals of one specific size, but rather a very tight range. When looking at differences across products, 20-mesh, 40-mesh, and 80-mesh can be considered to contain a spectrum of larger, medium, and smaller crystal sizes, respectively. Therefore, Rhodia reported data for its medium-sized (40-mesh) crystals to be the most similar product to the imported combined mesh product. However, data for 20-mesh crystals is also reported, given that there is still at least some interchangeability between it and the combined mesh product.

V-3

reported any pricing data for product 1.[14] They only import pure crystal aspirin in combined mesh form.[15] Therefore, the data reported in the tables use cross-product price comparisons, although both are 100 percent crystalline aspirin products. When looking at the price comparisons, one should keep in mind that the domestic product has gone through one more stage of preparation (sifting), and there is some value added in that process. The separated grain size allows high speed machines to run more efficiently.

Table V-2
Domestic producer's 40-mesh bulk crystal aspirin and imported combined mesh bulk crystal aspirin from China: Weighted-average delivered prices and quantities, and margins of underselling, by quarters, January 1997-December 1999

Period	United States		China		
	Price *(per pound)*	Quantity *(1,000 pounds)*	Price *(per pound)*	Quantity *(1,000 pounds)*	Margin *(percent)*
1997--					
January - March	$***	***	$1.46	350	***
April - June	***	***	1.38	372	***
July - September	***	***	1.30	387	***
October - December	***	***	1.37	396	***
1998--					
January - March	***	***	1.34	317	***
April - June	***	***	1.18	528	***
July - September	***	***	1.16	418	***
October - December	***	***	1.17	579	***
1999--					
January - March	***	***	1.20	492	***
April - June	***	***	1.21	433	***
July - September	***	***	1.24	341	***
October - December	***	***	1.20	372	***
Source: Compiled from data submitted in response to Commission questionnaires.					

[14] At the preliminary conference, David Zhao of Jilin USA noted that the Jilin Pharmaceuticals Co. in China does not have the technology to separate the crystals into different sizes, although it has tried.

[15] *** reported its closest product, 20/80 mesh pure crystal aspirin, for pricing data. *** labeled its imports as 20-mesh, but in a telephone conversation with *** on May 5, 2000, this was reported to be unsifted aspirin, although the particle size profile of crystal aspirin can be somewhat controlled by the way it is milled. Tables V-1 and V-2 report prices for both 20/60 and these combined mesh products.

Domestic crystal aspirin (20- or 40-mesh) ranged in price between $*** per pound and $*** per pound.[16] Pricing for domestic 20-mesh crystal aspirin suffered a sharp decline (of *** percent) in the first quarter of 1998. After three consecutive quarters of price increases, 20-mesh crystal saw another drop in price in the first quarter of 1999. The domestic producer reported *** for the second quarter of 1999, since Rhodia ***.[17] During the third and fourth quarters of 1999, prices stabilized at approximately the level they were in 1997.

The price of 40-mesh aspirin rose consistently from the first quarter of 1997 to the first quarter of 1998. It declined by *** percent in the second quarter and then recovered almost completely in the third quarter of 1998. The price of 40-mesh aspirin then declined consistently through the second quarter of 1999. It jumped *** percent in the third quarter of 1999 to $*** per pound, its highest price in the last three years, and maintained this price in the fourth quarter. The decreased prices in the second quarters of 1998 and 1999 reflect ***.

The price for imported crystal aspirin had been trending downward from 1997 through the third quarter of 1998, dropping from $1.46 per pound in the first quarter of 1997 to $1.16 per pound in the third quarter of 1998. As with domestic 40-mesh aspirin, the largest drop for imported crystal aspirin occurred in the second quarter of 1998, when its price fell by 12.2 percent. Since the third quarter of 1998, the price for imported crystal aspirin has generally trended upward, peaking in the third quarter of 1999 at $1.24 per pound and then settling back to $1.20 per pound in the fourth quarter.

Aspirin starch sold by the domestic producer has ranged between $*** per pound and $*** per pound over the past three years. The domestic producer saw a general decline in aspirin starch pricing throughout 1997. After the price rose during the first half of 1998, it fell by *** percent in the third quarter from the second quarter's price. From the third quarter of 1998 to the second quarter of 1999, the price increased consistently. The price fell again in the third quarter of 1999 by *** percent to $*** per pound, but rebounded *** percent to $*** per pound during the fourth quarter.

The price of imported aspirin starch mixtures remained relatively constant (between $1.47 and $1.54 per pound) through 1997 and 1998. Importers then saw a decline in the price for aspirin starch mixtures in the first three quarters of 1999 (between $1.40 and $1.42 per pound), but saw it rise back to $1.53 per pound in the fourth quarter.

Rhodia also sells an 80-mesh grade of bulk aspirin, for which it was able to ***. This grade was not available from China during the period of investigation, but ***.[18]

In every quarter since 1997, for every product, prices for Chinese bulk aspirin have been below those of the domestic producer. The margins of underselling over all products ranged from *** percent for aspirin starch in the third quarter of 1998 to *** percent in the second quarter of 1999, when comparing imported crystal aspirin to domestic 20-mesh aspirin.[19]

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[16] Excluding ***, the high was $*** per pound.

[17] Telephone conversation with petitioner's counsel, April 21, 2000.

[18] ***. Petitioner's posthearing answers to Commissioners' questions, pp. 10-11.

[19] Excluding the quarter in which ***, the highest margin of underselling is *** percent, which occurred in the fourth quarter of 1998, in comparing domestic 20-mesh crystal aspirin to imported combined mesh aspirin.

Table V-3
Bulk aspirin starch (DC-90): Weighted-average delivered prices and quantities reported by the U.S. producer and importers from China, and margins of underselling, by quarters, January 1997-December 1999

Period	United States		China		
	Price *(per pound)*	Quantity *(1,000 pounds)*	Price *(per pound)*	Quantity *(1,000 pounds)*	Margin *(percent)*
1997--					
January - March	$***	***	$1.53	170	***
April - June	***	***	1.54	200	***
July - September	***	***	1.50	292	***
October - December	***	***	1.47	295	***
1998--					
January - March	***	***	1.47	523	***
April - June	***	***	1.49	299	***
July - September	***	***	1.52	201	***
October - December	***	***	1.48	335	***
1999--					
January - March	***	***	1.42	332	***
April - June	***	***	1.40	524	***
July - September	***	***	1.41	468	***
October - December	***	***	1.53	406	***
Source: Compiled from data submitted in response to Commission questionnaires.					

Figure V-1
Weighted-average net delivered prices (per pound) of products 1 and 2 (100-percent pure crystalline aspirin, either single size mesh or combined mesh), by sources and by quarters, January 1997-December 1999

* * * * * * *

Figure V-2
Weighted-average net delivered prices (per pound) of product 3 (aspirin starch (DC-90)), by sources and by quarters, January 1997-December 1999

* * * * * * *

LOST SALES AND LOST REVENUES

The Commission requested Rhodia to report any instances of lost sales or revenues it experienced due to competition from imports of the subject product from China since January 1996. It

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reported 19 lost sales allegations totaling at least $*** and involving *** pounds and 4 lost revenue allegations totaling $*** and involving *** pounds. Of these, 7 lost sales allegations were confirmed with at least partial agreement, totaling $*** and *** pounds, and two lost revenue allegations were confirmed, totaling $*** and *** pounds.[20]

The Commission sent a brief survey to each of the purchasers named in the allegations, requesting their comments. The specifics of these allegations are shown in tables V-4 and V-5. A discussion of purchaser comments based on the allegations follows.

Table V-4
Bulk aspirin: U.S. producer's lost sales allegations

* * * * * * *

Table V-5
Bulk aspirin: U.S. producer's lost revenue allegations

* * * * * * *

- is a producer of generic aspirin tablets, along with other medicines like acetaminophen and ibuprofen, for stores like ***. *** agreed with *** included in the petition regarding aspirin crystal, noting that it could purchase somewhere around *** pounds over a year's time.[21] [22]

***-This firm failed to respond to the Commission's requests for information, despite repeated attempts to check on the allegations.

- produces aspirin tablets for retail over-the-counter markets (at stores like ***, etc.) that are reportedly identical or better in quality than Bayer, Bufferin, or Anacin, and also combination formulas like Excedrin, which combine aspirin and acetaminophen.[23] It buys aspirin in both starch and crystal forms. Currently, *** is its sole supplier of aspirin starch products. *** has used bulk aspirin from China and South America in the past. Aspirin starch is used as a directly fed material into its hoppers for tableting. It maintains the ability, however, to mix pure aspirin crystal with starch and use that as its feed stock. The crystal is also used to make combination products by mixing precisely specified dosages of aspirin with acetaminophen, caffeine, or other chemicals. Therefore, some of its purchases could be switched between aspirin starch and aspirin crystal, but it will always have to buy aspirin crystal for the combination formulations. *** agreed with the allegations of *** as provided in ***; however, it said that the *** should be for an amount closer to *** pounds.[24]

- has not approved Chinese material for production, as of June 1999. Therefore, it has not purchased any aspirin from China. Instead, it presently buys aspirin from ***. Rhodia lost ***'s business two years ago when its price was $*** per pound. *** was charging $*** per pound. Its

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[20] Of the *** pounds of confirmed lost sale allegations, *** pounds are attributable to sales lost in 1999. Lost sales to *** and *** account for *** and *** pounds, respectively. Petitioner's posthearing brief, p. 8.

[21] Fax from ***, June 8, 1999, and telephone conversation with ***, June 23, 1999.

[22] ***.

[23] Affidavit of ***, p. 1.

[24] Fax from ***, June 18, 1999, and telephone conversation with ***, May 19, 2000.

business has stayed with *** since that time. As of July 1999, it was evaluating Chinese material prior to ordering for production batches.[25]

- produces generic aspirin tablets. Its main market of aspirin buyers is at so-called "dollar" stores, such as ***. However, it does have some large, store-brand customers such as ***. Currently, all of its product is bought from China, and it claims to account for *** percent of all imports from China of bulk aspirin. It disagrees with the first *** claim that has been alleged, since it would buy from Mexico or Argentina if it did not buy from China. Specifically, if it had to buy its product from Rhodia, it would simply not buy any and have to go out of business due to unprofitability. *** has built its business on selling ***. This would not be possible at Rhodia's prices. Therefore, it does not buy any product from Rhodia.

*** appeared to agree, however, with the ***, though it is more due to the extenuating circumstances. For two years beginning in 1997, Rhodia had a contract ***.[26] *** had a customer (***) that was interested in buying tablets to label "Made in U.S.A.," so the contract was signed. The contract specified that if there were no "factory seconds" it would ship material that was up to Rhodia's standards for first quality. *** bought *** pounds of aspirin starch during the first year, but agreed to buy *** pounds the second year at *** request. *** was allegedly told that ***. After the two years expired, ***. Consequently, *** bought Chinese material for this customer instead.[27]

- agreed with the *** allegation contained in ***.[28]

- is a distributor that has more than ***. The petition originally contained one allegation of a ***. This *** allegation proved impossible to track down at both Rhodia and ***. Consequently, Rhodia claimed a different *** in its response to the Commission's questionnaire. *** could not confirm this allegation. It tried to get an account, but the account was not won by ***, so the aspirin was not needed. Further, *** could not confirm whether the test was for aspirin or for acetaminophen, and in either case, the amount was only ***.[29]

- has been buying imported aspirin since the company opened its doors in ***. It has purchased bulk aspirin from Turkey, Poland, Germany, and China. It has always purchased bulk aspirin at $*** per pound. It has never been approached by any domestic company that produces bulk aspirin, presumably because the domestic companies were "fully aware" of the price competition they were facing. Hence, *** disagrees with the allegation of ***.[30]

***-The original petition claimed a *** for aspirin starch. The initial faxed response from *** indicated that it disagreed with the allegation since it has never bought bulk acetylsalicylic acid in the *** format for "technical reasons," and that it would only purchase *** pounds rather than the alleged ***. Rhodia has, upon further investigation, changed its allegation from ***. *** has since agreed with the allegation for *** aspirin, but in the quantity of *** pounds. Rhodia's questionnaire response contained *** allegation. This allegation was agreed to, although the sale was only for *** pounds.[31]

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[25] Fax from ***, June 8, 1999.

[26] Affidavit of ***, p. 2.

[27] Telephone conversations with ***, June 11, 1999 and June 23, 1999.

[28] *** was not listed among the top customers of Rhodia in 1998. Both *** and *** have reported that they supply *** with bulk aspirin. Petitioner's counsel has verified that ***. Hence, Rhodia and the Chinese imports do not share this customer. Telephone conversation with ***, May 19, 2000.

[29] Telephone conversation with ***, May 23, 2000.

[30] Telephone conversation with and fax from ***, June 16, 1999.

[31] Faxes from ***, June 3, 1999 and April 17, 2000.

- is *** purchaser of bulk aspirin.[32] It is a producer of roughly *** different pharmaceutical products.[33] ***. The contract that was held until *** stated that ***. Citing price pressure from the Chinese product, Rhodia ***. ***. This is what Rhodia is claiming as ***.[34]

*** disagreed with this claim for ***, claiming that the price reduction was part of contract negotiations on many items, not just aspirin. ***.[35] *** noted that it receives many quotes for Chinese aspirin, both solicited and unsolicited. None can be acted upon until the product is certified. However, *** stated that the "potential threat of future 'accepted quotes for imported product' may have played a role." Although *** could not corroborate the ***, it must be kept in mind that the person "***."[36] ***, however, did agree with ***.

*** disagreed with the *** allegation, noting that it already had a purchase order for *** of aspirin from China. The necessity to purchase Chinese aspirin occurred because ***.

- agreed with the *** allegation provided by Rhodia, stating that it had to buy the lower priced imported product even though the quality is not as good as the domestic material.[37]

- disagreed with the *** allegation, noting that it never even asked for a quote on this product.[38]

- disagreed with the *** allegation contained in the ***. It has not received any domestic quotes for bulk aspirin, nor has it made any purchases of bulk aspirin, in 2000.[39]

- produces tablets for the private label market, including ***. Rhodia sells only *** to ***. *** denied Rhodia's *** allegation. It stated that the $*** per pound price was not currently offered by Rhodia. Further, it has not purchased production quantities from China as of yet. Its representatives have, however, confirmed that it is now in the process of qualifying material from ***.[40] [41]

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[32] Affidavit of ***, p. 5.

[33] Telephone conversation with ***, June 23, 1999.

[34] Fax from ***, June 4, 1999.

[35] Fax from ***, June 7, 1999 and petition, p. 47.

[36] Fax from ***, June 7, 1999.

[37] Telephone conversation with ***, April 19, 2000.

[38] Telephone conversation with ***, April 19, 2000.

[39] Telephone conversation with ***, April 17, 2000.

[40] Affidavit of ***, p. 4.

[41] Fax from ***, June 23, 1999.

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PART VI: FINANCIAL CONDITION OF THE U.S. PRODUCER

BACKGROUND

Rhodia, the sole U.S. producer of bulk aspirin, provided usable financial data on its bulk aspirin operations at its St. Louis, MO plant.[1] Although Rhodia also produces a pharmaceutical intermediate, methyl salicylate, at the St. Louis, MO plant, that production takes place in a separate facility and production line, and uses a different work force.[2]

Rhone-Poulenc acquired Monsanto's analgesics business, including the bulk aspirin plant in St. Louis, MO, in 1989, and certain assets of the Dow Chemical Co., including its ***, in 1995.[3] Prior to its Initial Public Offering (IPO) in June 1998, Rhodia was the U.S. subsidiary of Rhodia S.A., which was approximately ***-percent owned by Rhone-Poulenc. In 1999, Rhone Poulenc divested its remaining interest in Rhodia S.A., which became a separate public company in France. Rhodia S.A. still owns the non-publicly owned portion of Rhodia. Rhodia is a worldwide company and its North American business operations are conducted through its five divisions. Its Fine Organics Division, which includes aspirin, accounts for approximately *** of its sales.

OPERATIONS ON BULK ASPIRIN

The results of Rhodia's bulk aspirin operations are presented in table VI-1. Because of the recent changes in ownership, and restructuring expenses (including absorbing Dow's bulk aspirin business and incurring expenses in anticipation of the loss of two of its customers), the results of operations may not be comparable from period to period.

Table VI-1
Results of Rhodia's operations producing bulk aspirin, fiscal years 1997-99

* * * * * * *

Rhodia sells bulk aspirin primarily in two grades, crystal and starch. Crystal sells for *** than starch.[4] Rhodia's production of the crystal grade of bulk aspirin accounted for *** percent of its total production of bulk aspirin, by quantity, during 1997-99, and its U.S. commercial shipments of crystal accounted for *** percent, by quantity and value, of its total U.S. commercial shipments of bulk aspirin during 1997-99.[5] Rhodia sold *** amounts of an off-specification grade bulk aspirin to one customer, ***, in 1997.[6]

Net sales quantities and net sales values declined *** between 1997 and 1999, but *** were unchanged. On an operating income basis, the company was ***, and incurred a *** in both 1998 and 1999. The company had a *** cash flow in 1997 and 1999 and a *** cash flow in 1998. Sales and

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[1] Results of the staff verification of Rhodia's questionnaire response have been incorporated into this report.

[2] Benoit J. Cossart, Business Director, North American Zone, Rhodia, Inc., conference transcript, p. 34.

[3] ***.

[4] A summary of crystal and starch sales (before adjustments) was submitted for the record.

[5] Calculated from data provided in Rhodia's producers' questionnaire response, revised p. 5, submitted through counsel on April 28, 2000.

[6] Rhodia stated that *** its 1997 sales were *** and that sales made in 1998 and 1999 ***. It stated that it sold at ***. See petitioner's prehearing brief, p. 57.

VI-1

production increased between 1997 and 1998 as the company's St. Louis product gained acceptance among former customers of Dow, but Rhodia reduced production in 1998 in response to decreased sales, and to ***.[7] The *** decline in unit sales values between 1997 and 1998 was due to a ***. The *** increase in unit sales values from 1998 to 1999 was due to a ***. Also, Rhodia sold a relatively greater amount of *** in 1999 than it did in 1998.

Variable and fixed costs of production relate differently to production or sales volume.[8] During the periods investigated, the costs of raw materials (a category of variable cost) and their unit values declined; total direct labor costs (usually a variable cost) irregularly declined while direct labor unit values were relatively stable;[9] total "other factory costs" (primarily consisting of fixed costs) and their unit values increased (table VI-1). Petitioner explained these different trends by pointing out that the total dollar amount of "other factory costs" was the same in each period, but that their unit costs increased because of the decrease in volume.[10] During the hearing, Rhodia officials also stated that the company was encountering difficulties because its sales were no longer "covering" its fixed costs, attributed, in part, to imports from China.[11]

Rhodia's operating results include certain expenses that were incurred during the periods investigated. For example, Rhodia's payments of ***, included in the cost of goods sold, ended in 1999 when Rhodia became an independent company. Rhodia incurred additional expenses as a result of absorbing Dow's bulk aspirin business (which had increased overhead fixed costs), the relocation of the corporation's worldwide aspirin business to the United States, as well as other charges related to a plant restructuring plan. This plan was implemented in 1998 ***.[12] Implementation efforts included ***. A summary of these expenses during 1997-99, is shown in the following tabulation, in thousands of dollars:

* * * * * * *

[7] Letter from Stewart and Stewart, June 23, 1999, response to question 5.

[8] "Fixed costs" refers to those total plant costs or to an operating expense as a class that does not vary with changes in the volume of business; i.e., the absolute value of the cost tends to remain constant, although the unit cost may change with changes in the volume of activity. Examples of fixed costs include interest on company bonds or debt, rent, property taxes, most factory overhead, and depreciation, as well as most general and administrative expenses. Fixed costs are contrasted with variable costs, which vary directly with changes in sales, production volume, or other measures of business activity; as opposed to unit fixed costs, unit variable costs tend to remain constant despite changes in the level of activity. Variable costs typically include raw materials, direct labor, and some factory overhead costs as well as some selling, general, and administrative expenses.

[9] In many manufacturing plants currently, "factory labor" has become more like a fixed cost than a variable cost primarily because of automation. Because of *** at Rhodia, the "stability" in unit labor costs reflects the company's reduced output.

[10] Testimony of Mr. Cannon of Stewart and Stewart and Mr. Kramer of Rhodia, pp. 123-124, hearing transcript (closed session).

[11] Testimony of Herman Mihalich, Vice-President and General Manager of Rhodia's Fine Organics Division, p. 9, and Walt Kramer, plant manager for Rhodia's St. Louis aspirin production plant, pp. 19-20, hearing transcript (open session). Rhodia attributed *** of the total decrease in volume of *** between 1997 and 1999 to ***. See petitioner's prehearing brief, table 5, p. 52.

[12] *** switched to purchasing from *** two years ago. Petitioner's prehearing brief, p. 61. *** switched to purchasing from its ***. See petitioner's posthearing brief, "Responses to Commission Questions," p. 18. These trends also are discussed in Part V of the report.

VI-2

Rhodia's net sales to *** and seven companies that Rhodia identified as purchasing Chinese bulk aspirin are shown in table VI-2.[13] These *** companies collectively accounted for 84.4 to 87.6 percent of its total sales by volume, and 83.4 to 86.7 percent by value, during 1997-99. As noted earlier, in 1998, *** decided to source its supplies of bulk aspirin from *** and *** began to source from its affiliate in ***. Consequently, the value of Rhodia's sales to *** fell by *** percent and *** percent during 1997-99, respectively. The volume and value of Rhodia's sales to the other companies also fell, by *** percent and *** percent during 1997-99, respectively, *** than the overall decline in Rhodia's sales during the period. Rhodia's sales to *** declined by *** percent by quantity and by *** percent by value during 1997-99.[14] However, the value of Rhodia's sales to *** increased by *** percent, although the volume of its sales to this company declined by *** percent.

Table VI-2
Rhodia's net sales of bulk aspirin, by major customers, fiscal years 1997-99

* * * * * * *

Changes in Rhodia's operating income are further evidenced by the variance analysis that shows the effects of price and volume changes on Rhodia's net sales of bulk aspirin, and of costs and volume changes on Rhodia's total costs (table VI-3). This analysis shows that the decline in operating income of $*** between 1997 and 1999 (composed of a decrease of $*** between 1997 and 1998 and an increase of $*** between 1998 and 1999) was due to unfavorable cost/expense and volume variances that offset a favorable price variance. Between 1997 and 1998, price, cost, and volume variances were unfavorable; between 1998 and 1999 the increase of operating income is attributable to favorable price and volume variances that compensated for an unfavorable cost/expense variance.

Table VI-3
Variance analysis for Rhodia's bulk aspirin operations, fiscal years 1997-99

* * * * * * *

CAPITAL EXPENDITURES, RESEARCH AND DEVELOPMENT EXPENSES, AND INVESTMENT IN PRODUCTIVE FACILITIES

Rhodia's capital expenditures, research and development ("R&D") expenses, and the original cost and book value of property, plant, and equipment used in the production of bulk aspirin are shown in table VI-4. The increase in original cost and book value is due to capital expenditures that Rhodia made during the periods investigated.

Table VI-4
Value of assets, capital expenditures, and research and development expenses of Rhodia's bulk aspirin operations, fiscal years 1997-99

* * * * * * *

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[13] Data in this table are compiled from Rhodia's sales records contained in exhibit 2 in petitioner's posthearing brief. Net sales reported in this exhibit are ***. There appear to be ***. The companies were identified in petitioner's prehearing brief, table 5, p. 52.

[14] *** accounted for approximately *** percent of Rhodia's total sales volume in 1999. Petitioner highlights the potential impact by stating that, if it ***. Rhodia's contract with ***. Discussion with ***. VI-3

CAPITAL AND INVESTMENT

Rhodia's comments regarding any actual or potential negative effects of imports of bulk aspirin from China on the firm's growth, investment, and ability to raise capital, and/or development and production efforts (including efforts to develop a derivative or more advanced version of the product) are presented in appendix E.

VI-4

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V and information on the effects of imports of the subject merchandise on the U.S. producer's existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" dumping in third-country markets; and any other threat indicators, if applicable, follows.

THE INDUSTRY IN CHINA

The petition identified three firms and one export company in China that are believed to sell bulk aspirin for export. These are Jilin Pharmaceutical Co., Ltd. (Jilin); Mudanjiang Shuanglong Chemical & Pharmaceutical Co.; Shandong Xinhua Pharmaceutical Group Corp. (Shandong); and China Jiangsu International Economic Technical Cooperation Corp. At the Commission's request, the American Embassy in Beijing verified the existence of these four firms. ***.[1] Commission foreign producer questionnaires were either faxed or mailed to each of the firms mentioned above. Only two, Jilin and Shandong, responded to the Commission's request for information.[2] The information presented below on the industry in China is based on questionnaire responses submitted by Jilin and Shandong, as well as information presented in the petition, information supplied by the American Embassy in Beijing, and information supplied by ***.

According to data provided by ***, the Chinese bulk aspirin industry's total production capacity remained at approximately *** million pounds during 1997 and 1998, while Chinese bulk aspirin production increased by about *** percent, from *** million pounds to *** million pounds. Based on these figures, Chinese total industry capacity utilization for bulk aspirin increased by *** percent from *** percent to *** percent from 1997 to 1998, as shown in table VII-1.[3]

Table VII-1
Bulk aspirin: Chinese production capacity, production, and capacity utilization, 1997-99

* * * * * * *

According to official Chinese export statistics, the Chinese bulk aspirin total export shipment quantity increased by 16.2 percent from 14.3 million pounds in 1997 to 16.6 million pounds in 1999, while corresponding Chinese export shipment value increased by 0.4 percent. The average unit value of Chinese bulk aspirin export shipments fell by 13 cents from 1997 to 1999 (table VII-2). The quantity and value of Chinese bulk aspirin export shipments to the United States rose by 53.4 percent and 35.9 percent, respectively, from 1997 to 1999. The average unit value of export shipments to the United

[1] Facsimile response from ***, March 23, 2000.

[2] A questionnaire was sent by mail to Mudanjiang but was returned to the Commission as undeliverable. ***. The Commission also sent questionnaires to China Jiangsu and Nanjing by facsimile but the firms did not respond.

[3] Total Chinese bulk aspirin industry data for 1999 are not available. Facsimile submissions, ***, ***, March 24, 2000 and May 15, 2000.

Table VII-2
Bulk aspirin: Chinese exports, by principal markets, 1997-99

Market	Calendar year		
	1997	1998	1999
	Quantity (*1,000 pounds*)		
United States	2,632	3,586	4,039
Germany	3,026	1,868	3,571
Netherlands	2,475	2,301	1,717
Russia	733	767	1,604
All others	5,414	6,310	5,660
Total	14,280	14,832	16,591
	Value (*1,000 dollars*)[1]		
United States	2,806	3,532	3,813
Germany	2,909	1,643	2,955
Netherlands	2,961	2,522	1,935
Russia	872	750	1,401
All others	5,344	6,215	4,843
Total	14,892	14,662	14,947
	Unit value (*per pound*)		
United States	$1.07	$0.98	$0.94
Germany	0.96	0.88	0.83
Netherlands	1.20	1.10	1.13
Russia	1.19	0.98	0.87
All others	0.99	0.98	0.86
Average	1.04	0.99	0.90

[1] F.o.b. values.

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

Source: Compiled from official Chinese Customs export statistics under HTS subheading 2918.22.10 as published in *The World Trade Atlas* and as shown in petitioner's prehearing brief at exhibit 5. No aspirin starch percentage allocation from HTS subheading 3003.90.00 is included.

VII-2

States fell by 13 cents per pound during the period.[4] The Commission has no knowledge of Chinese dumping of bulk aspirin in third country markets.

Shandong and Jilin are believed to be the *** producers of aspirin in China.[5] Shandong, established in 1943, produces a broad range of chemical, petroleum, and pharmaceutical products. The company is believed to employ more than 7,000 workers.[6] Although Shandong estimates that it alone accounts for about *** percent of all aspirin production in China, aspirin reportedly represents only about *** percent of the company's annual sales. Shandong reportedly operates on an ***. The company's bulk aspirin operations ran at just over *** percent of capacity in 1997 and 1998 and at *** percent in 1999. Shandong's bulk aspirin capacity increased by *** percent between 1997 and 1999 and is projected to remain the same through 2001.[7]

Jilin is the parent company to the U.S. importer Jilin (USA). Established in 1962, the company also produces a broad range of chemical and pharmaceutical products. The company estimates that bulk aspirin represented *** percent of its overall sales in its most recent fiscal year. It also estimates that it accounts for about *** percent of all bulk aspirin produced in China. Jilin reported no change in its production capacity between 1997 and 1999 while operating at between *** percent and *** percent of capacity during that period.[8]

Data on the combined bulk aspirin operations of Jilin and Shandong are shown in table VII-3. The data show that, between 1997 and 1999, the combined production capacity of the two firms increased by *** percent, production rose by *** percent, total exports increased by *** percent, and exports to the United States ***. Inventory volumes were significant between 1997 and 1999, as the ratio of inventories to production trended downward, fluctuating between *** percent and *** percent during the period.

Table VII-3
Bulk aspirin: Chinese production capacity, production, shipments, and inventories, 1997-99 and projected 2000-01

* * * * * * *

U.S. INVENTORIES OF PRODUCT FROM CHINA

U.S. importers of bulk aspirin from China maintained irregularly increasing levels of inventories of the imported Chinese product during the period for which data were gathered. The ratio of inventories to imports fluctuated upward over the period. As shown in table VII-4, the ratio of inventories to imports stood at 18.6 percent in 1999 compared with 13.8 percent in 1997. The ratio of inventories to U.S. shipments of imports fluctuated similarly, increasing by 7.1 percentage points over the period.

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[4] E-commerce may soon be a factor in the Chinese export market for bulk aspirin. China Information Highway Corp. (Capinfo) signed an agreement with Pharmarket E-Commerce (Shenzhen) Co. Ltd. in Tianjin to jointly promote development of the country's e-commerce in the pharmaceutical industry. According to the agreement, Capinfo will help the Shenzhen company perfect its pharmaceutical e-commerce solutions and support its electronic trading of pharmaceuticals with on-line payment, legal advice, and market expansion. Extensive use of the Shenzhen company website, *www.chinapharmarket.com/english/,* is expected.

[5] ***.

[6] Correspondence dated June 18, 1999, from Nancy Xu, commercial assistant, American Embassy, Beijing.

[7] ***.

[8] ***.

VII-3

Table VII-4
Bulk aspirin: U.S. importers' end-of-period inventories of imports from China, 1997-99

Item	Calendar year		
	1997	1998	1999
End-of-period inventories (*1,000 pounds*)	311	309	699
Ratio to imports (*percent*)	13.8	12.2	18.6
Ratio to U.S. shipments of imports (*percent*)	14.4	12.2	21.5
Source: Compiled from data submitted in response to Commission questionnaires.			

VII-4

APPENDIX A

FEDERAL REGISTER NOTICES

A-1

SUMMARY: The following described public lands in Las Vegas, Clark County, Nevada were segregated on August 21, 1995 for exchange purposes under serial number N–60073, on December 01, 1996 for administrative purposes under serial number N–61855. The segregation on the subject lands will be terminated upon publication of this notice in the **Federal Register**.

The lands have been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The Clark County School District proposes to use these lands for two elementary school sites.

Mount Diablo Meridian, Nevada

Case file No.	Legal description	Acres
N–62870	T. 22 S., R. 61 E., section 32: N½NW¼SW¼NW¼, SW¼NW¼NW¼	15
N–62869	T. 22 S., R. 60 E., section 36: SE¼NE¼NW¼SW¼, SW¼NW¼NE½SW¼, NE¼SE¼NW¼SW¼, NW¼SW¼NE¼SW¼, N½SE¼SE¼NW¼SW¼, N½SW¼SW¼NE¼SW¼.	12.5

Containing a total of 27.5 acres, more or less.

The land is not required for any federal purpose. The leases/conveyances are consistent with current Bureau planning for this area and would be in the public interest. The leases/patents, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and each will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

And will be subject to:

1. Easements in favor of Clark County for roads, public utilities and flood control purposes in accordance with the Clark County Transportation Plan.

2. All valid and existing rights, which are identified in the respective case file.

The lands have been segregated from all forms of appropriation under the Southern Nevada Public Lands Management Act (P.L. 105–263).

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the Field Manager, Las Vegas Field Office, 4765 Vegas Drive, Las Vegas, Nevada 89108.

Classification Comments

Interested parties may submit comments involving the suitability of the land for elementary school sites. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the lands for the development of two elementary schools.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: January 14, 2000.

Cheryl A. Ruffridge,

Assistant Field Manager, Las Vegas, NV.

[FR Doc. 00–2228 Filed 2–3–00; 8:45 am]

BILLING CODE 1430–HC–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–828 (Final)]

Bulk Acetylsalicylic Acid (Aspirin) From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–828 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China of bulk acetylsalicylic acid (aspirin), provided for in subheadings 2918.22.10 and 3003.90.00 of the Harmonized Tariff Schedule of the United States.[1]

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

EFFECTIVE DATE: January 3, 2000.

FOR FURTHER INFORMATION CONTACT: Cynthia Trainor (202–205–3354), 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

[1] For purposes of this investigation, Commerce has defined the subject merchandise as "bulk acetylsalicylic acid, commonly referred to as bulk aspirin, whether or not in pharmaceutical or compound form, not put up in dosage form (tablet, capsule, powders or similar form for direct human consumption)."

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. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of bulk acetylsalicylic acid (aspirin) from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on May 28, 1999, by Rhodia, Inc., Cranbury, NJ.

Participation in the Investigation and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

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 the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on May 5, 2000, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on May 18, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 10, 2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 15, 2000, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is May 12, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is May 25, 2000; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 25, 2000. On June 15, 2000, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before June 19, 2000, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

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

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: February 1, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–2525 Filed 2–3–00; 8:45 am]

BILLING CODE 7020–02–U

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–377 (Review)]

Internal Combustion Industrial Forklift Trucks From Japan

AGENCY: United States International Trade Commission.

ACTION: Cancellation of the hearing and revision of the schedule of a full five-year review concerning the antidumping duty order on internal combustion industrial forklift trucks from Japan.

EFFECTIVE DATE: January 28, 2000.

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise (202–708–5408), 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. General information concerning the Commission may also be obtained by

in the preliminary determination of sales at less than fair value published in the **Federal Register**. This suspension of liquidation will remain in effect until further notice. The margin in the preliminary determination is as follows: Nova Hut—32.26 percent.

Final Critical Circumstances Determination

We will make final critical circumstances determinations when we issue our final determination in the less-than-fair-value investigation, which is due to be made no later than June 19, 2000.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination.

This notice is published pursuant to section 777(i) of the Act.

Dated: May 17, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–13097 Filed 5–24–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–853]

Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China

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

SUMMARY: The Department of Commerce is conducting an antidumping duty investigation of Bulk Aspirin from the People's Republic of China. We determine that sales have been made at less than fair value. The estimated dumping margins are shown in the Continuation of Suspension of Liquidation section of this notice.

EFFECTIVE DATE: May 25, 2000.

FOR FURTHER INFORMATION CONTACT: Rosa Jeong, Ryan Langan or Blanche Ziv, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3853, 482–1279, or 482–4207, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

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"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations refer to the regulations codified at 19 CFR part 351 (1998).

Case History

Since the preliminary determination (*see* 65 FR 116 (January 3, 2000) ("*Preliminary Determination*")), the following events have occurred:

On December 28, 1999, one of the respondents, Shandong Xinhua Pharmaceutical Factory ("Shandong"), requested a postponement of the final determination and, on January 4, 2000, requested an extension of provisional measures. On January 20, 2000, we published in the **Federal Register** a notice of postponement of the final determination and extension of provisional measures (65 FR 3204).

Supplemental information regarding surrogate values was submitted on February 14, 2000, by the petitioner and respondents.

In February and March 2000, we conducted verification of the questionnaire responses submitted by Shandong and Jilin Pharmaceutical Import and Export Corporation ("Jilin"). We issued reports on our findings of these verifications on April 5, 2000.

The petitioner and respondents filed case briefs and rebuttal briefs on April 12 and April 19, 2000, respectively. At the request of the petitioner and respondents, the Department held a public hearing on April 25, 2000.

We also received a case brief from Dastech International, Inc. ("Dastech"), an interested party in this investigation. After reviewing Dastech's comments, we determined that the information contained in Dastech's brief constituted factual information that was filed on an untimely basis as set forth in section 351.301 of the Department's regulations. Therefore, pursuant to section 351.302(d) of the Department's regulations, we removed Dastech's submission from the record, and did not consider the comments for the final determination. *See* "Rejection of Interested Party's Brief" Memorandum to Richard W. Moreland, Deputy Assistant Secretary, Import Administration, dated May 17, 2000.

Scope of the Investigation

For purposes of this investigation, the product covered is bulk acetylsalicylic acid, commonly referred to as bulk aspirin, whether or not in pharmaceutical or compound form, not put up in dosage form (tablet, capsule, powders or similar form for direct human consumption). Bulk aspirin may be imported in two forms, as pure ortho-acetylsalicylic acid or as mixed ortho-acetylsalicylic acid. Pure ortho-acetylsalicylic acid can be either in crystal form or granulated into a fine powder (pharmaceutical form). This product has the chemical formula $C_9H_8O_4$. It is defined by the official monograph of the United States Pharmacopoeia ("USP") 23. It is classified under the Harmonized Tariff Schedule of the United States ("HTSUS") subheading 2918.22.1000.

Mixed ortho-acetylsalicylic acid consists of ortho-acetylsalicylic acid combined with other inactive substances such as starch, lactose, cellulose, or coloring materials and/or other active substances. The presence of other active substances must be in concentrations less than that specified for particular nonprescription drug combinations of aspirin and active substances as published in the *Handbook of Nonprescription Drugs*, eighth edition, American Pharmaceutical Association. This product is classified under HTSUS subheading 3003.90.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of this investigation ("POI") is October 1, 1998, through March 31, 1999.

Nonmarket Economy Country and Market-Oriented Industry Status

The Department has treated the People's Republic of China ("PRC") as a nonmarket economy ("NME") country in all past antidumping investigations. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255 (December 31, 1998) ("*Mushrooms*"). Under section 771(18)(C) of the Act, this NME designation remains in effect until it is revoked by the Department.

The respondents in this investigation have not requested a revocation of the PRC's NME status and no further information has been provided that would lead to such a revocation. Therefore, we have continued to treat the PRC as an NME in this investigation.

Furthermore, no interested party has requested that the bulk aspirin industry in the PRC be treated as a market-oriented industry and no further information has been provided that would lead to such a determination. Therefore, we have not treated the bulk

aspirin industry in the PRC as a market-oriented industry in this investigation.

Separate Rates

All responding companies have requested separate, company-specific antidumping duty rates. In our *Preliminary Determination*, we preliminarily found that all responding companies had met the criteria for the application of separate antidumping duty rates. *See* 65 FR at 3204. At verification, we found no discrepancies with the information provided in the questionnaire responses of responding companies. We have not received any other information since the *Preliminary Determination* which would warrant reconsideration of our separate rates determinations with respect to these companies. We, therefore, determine that the responding companies in this investigation should be assigned individual dumping margins.

PRC-Wide Rate

As stated in the preliminary determination, information on the record of this investigation indicates that there are numerous producers/exporters of the subject merchandise in the PRC in addition to the companies participating in this investigation. U.S. import statistics show that the responding companies did not account for all imports of bulk aspirin into the United States from the PRC. Given this discrepancy, it appears that not all PRC exporters of bulk aspirin responded to our questionnaire. Accordingly, we are applying a single antidumping deposit rate ("the PRC-wide rate") to all bulk aspirin exporters in the PRC except those specifically identified in the "Continuation of Suspension of Liquidation" section of this notice.

Use of Facts Available

As explained in the preliminary determination, the PRC-wide antidumping rate is based on adverse facts available, in accordance with section 776 of the Act. Section 776(a)(2) of the Act provides that "if an interested party or any other person— (A) withholds information that has been requested by the administering authority or the Commission under this title, (B) fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding under this title, or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title." Use of facts available is warranted in this case because the producers/exporters other than those under investigation have failed to respond to the Department's questionnaire.

Section 776(b) of the Act provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. The producers/exporters that decided not to respond in any form to the Department's questionnaire, failed to act to the best of their ability in this investigation. Further, absent a verifiable response from these firms, we must presume government control of these PRC companies. Thus, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted and has assigned them a common, PRC-wide rate based on adverse inferences.

In accordance with our standard practice, as adverse facts available, we are assigning to the PRC-wide entity (*i.e.*, those companies not receiving a separate rate), which did not cooperate in the investigation, the higher of: (1) the highest margin stated in the notice of initiation; or (2) the highest margin calculated for any respondent in this investigation. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Japan*, 63 FR 40434 (July 29, 1998). In this case, the adverse facts available margin is 144.02 percent, the margin from the petition, which is higher than the margin calculated for any respondent in this investigation.

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on "secondary information," such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 103–316 (1994) ("SAA"), states that "corroborate" means to determine that the information used has probative value. *See* SAA at 870. As discussed in the *Preliminary Determination*, we determine that the calculations set forth in the petition have probative value.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the May 17, 2000, Decision Memorandum which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the Decision Memorandum. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B–099 of the Department. In addition, a complete version of the Decision Memorandum can be accessed directly on the internet at www.ita.doc.gov/import admin/records/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made certain changes in the margin calculations. We have also corrected certain programming and clerical errors in our *Preliminary Determination*, where applicable. Any programming or clerical errors are discussed in the relevant sections of the Decision Memorandum or in the company-specific final determination calculation memoranda dated May 17, 2000.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by respondents for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by respondents.

Continuation of Suspension of Liquidation

In accordance with section 735(c) of the Act, we are directing the U.S. Customs Service ("Customs") to continue to suspend liquidation of all imports of the subject merchandise from the PRC, except for merchandise both produced and exported by Jilin (which had a zero margin at the *Preliminary Determination*), that are entered, or withdrawn from warehouse, for consumption on or after January 3, 2000, the date of publication of the *Preliminary Determination* in the **Federal Register**. With respect to Jilin, Customs shall suspend liquidation of all imports of the subject merchandise from the PRC, produced and exported by Jilin that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Customs shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount

by which the NV exceeds the EP or CEP, as appropriate, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Shandong Xinhua Pharmaceutical Factory	42.77
Jilin Pharmaceutical Co., Ltd./. Jilin Pharmaceutical Import and Export Corporation	4.72
PRC-wide Rate	144.02

The PRC-wide rate applies to all entries of the subject merchandise except for entries from exporters that are identified individually above.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: May 17, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Adminstration.

Appendix

List of Comments in the Issues and Decision Memorandum

Comment 1: Valuation of Phenol
Comment 2: Valuation of Caustic Soda
Comment 3: Valuation of Carbon Dioxide
Comment 4: Valuation of Overhead, Selling, General, Administrative Expenses and Profit
Comment 5: Adjustments to Surrogate Ratios
Comment 6: Valuation of Electricity
Comment 7: Valuation of Water
Comment 8: Valuation of Ocean Freight
Comment 9: Returned Merchandise
Comment 10: Separate Rates
Comment 11: Shandong's Use of Technical-Grade Salicylic Acid
Comment 12: Jilin's Raw Material Consumption
Comment 13: Jilin's By-Product Offset
Comment 14: Jilin's Inland Freight Costs for Materials
Comment 15: Jilin's Multiple Shipments

[FR Doc. 00–13095 Filed 5–24–00; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–839, A–583–833]

Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber From the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber From the Republic of Korea and Taiwan

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

EFFECTIVE DATE: May 25, 2000.

FOR FURTHER INFORMATION CONTACT: Craig Matney (Republic of Korea) or Cynthia Thirumalai (Taiwan), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1778 or (202) 482–4087, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations are to the regulations codified at 19 CFR part 351 (1998).

Scope of Orders

The product covered by these orders is certain polyester staple fiber ("PSF"). Certain polyester staple fiber is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to these orders may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) classified under the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheading 5503.20.00.20 is specifically excluded from these orders. Also specifically excluded from these orders are polyester staple fibers of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting). In addition, low-melt PSF is excluded from these orders. Low-melt PSF is defined as a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner core.

The merchandise subject to these orders is classified in the HTSUS at subheadings 5503.20.00.40 and 5503.20.00.60. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of these orders is dispositive.

Amended Final Determination

In accordance with section 735(a) of the Act, on March 30, 2000, the Department published the final determination of the antidumping duty investigation of certain PSF from the Republic of Korea ("Korea"), in which we determined that U.S. sales of PSF from Korea were made at less than normal value (65 FR 16880 ("*Korea Final Determination*")). On March 31 and April 4, 2000, we received ministerial error allegations, timely filed pursuant to § 351.224(c)(2) of the Department's regulations, from the petitioners E.I. DuPont de Nemours, Inc.;[1] Arteva Specialities S.a.r.l.; d/b/a KoSa; Wellman, Inc.; and Intercontinental Polymers, Inc. (hereinafter collectively referred to as "the petitioners") regarding the calculations for Geum Poong Corporation ("Geum Poong") and Samyang Corporation ("Samyang"), respectively. On April 5, 2000, Sam Young Synthetics Co. ("Sam Young") and Geum Poong timely filed ministerial allegations, and Geum Poong also commented on the petitioners' allegations. On April 6, 2000, Samyang filed a rebuttal to the petitioners' ministerial error allegations. We received comments from the petitioners concerning the respondents' clerical error allegations on April 10, 2000.

We have determined in accordance with section 735(e) of the Act that ministerial errors were made in our final margin calculations. For a detailed

[1] E.I. DuPont de Nemours, Inc. is not a petitioner in the Taiwan case.

APPENDIX B

HEARING WITNESSES

B-1

CALENDAR OF PUBLIC HEARINGS

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

Subject:	Bulk Acetylsalicylic Acid (Aspirin) from China
Inv. No.:	731-TA-828 (Final)
Date and Time:	May 18, 2000 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room, 500 E Street, SW, Washington, DC.

In Support of the Imposition of Antidumping Duties:

Stewart and Stewart
Washington, D.C.
on behalf of

Rhodia, Incorporated

Herman Mihalich, Vice President and General Manager, Fine Organics Division

Benoit Cossart, Business Director, North America, Pharmaceutical Ingredients Enterprise

Walt Kramer, Manager, St. Louis Aspirin Plant

Mike Sadler, Senior Sales Executive, Pharmaceutical Ingredients Enterprise

Lucia Berry, Marketing Manager, North America, Pharmaceutical Ingredients Enterprise

Richard L. Koch, International Customer Manager, Pharmaceutical Ingredients Enterprise

B-3

In Support of the Imposition of Antidumping Duties–Cont'd:

William N. Farran, III, Assistant General Counsel

James R. Cannon, Jr.	)
Patrick J. McDonough	)
Amy A. Karpel	)–OF COUNSEL
Rebecca L. Woodings	)

B-4

APPENDIX C

SUMMARY DATA

C-1

Table C-1
Bulk aspirin: Summary data concerning the U.S. market, 1997-99

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

	Reported data			Period changes		
Item	1997	1998	1999	1997-99	1997-98	1998-99
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. shipments of imports from:						
China:						
Quantity	2,632	3,586	4,039	53.5	36.2	12.6
Value	3,764	4,877	5,493	45.9	29.6	12.6
Unit value	$1.43	$1.36	$1.36	-4.9	-4.9	-0.0
Ending inventory quantity	311	309	699	124.3	-0.8	126.0
Other sources:						
Quantity	2,068	2,825	4,899	136.9	36.6	73.4
Value	4,653	6,921	9,259	99.0	48.7	33.8
Unit value	$2.25	$2.45	$1.89	-16.0	8.9	-22.9
Ending inventory quantity	284	293	383	35.0	3.2	30.7
All sources:						
Quantity	4,700	6,411	8,938	90.2	36.4	39.4
Value	8,417	11,798	14,752	75.3	40.2	25.0
Unit value	$1.79	$1.84	$1.65	-7.8	2.8	-10.3
Ending inventory quantity	595	602	1,082	81.7	1.1	79.6

Table continued on next page.

C-3

Table C-1--Continued
Bulk aspirin: Summary data concerning the U.S. market, 1997-99

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

	Reported data			Period changes		
Item	1997	1998	1999	1997-99	1997-98	1998-99
U.S. producers':						
Average capacity quantity	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***
U.S. shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***
Production workers	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***
Wages paid ($1,000s)	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***
Productivity (pounds per hour)	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***
Net sales:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***

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

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires.

C-4

APPENDIX D

COMPAS PRESENTATION

D-1

ASSUMPTIONS

The COMPAS model[1] is a supply and demand model that assumes that domestic and imported products are less than perfect substitutes. Such models, also known as Armington models, are relatively standard in applied trade policy analysis and are used extensively for the analysis of trade policy changes both in partial and general equilibrium. Based on the discussion contained in Part II of this report, the staff selects a range of estimates that represent price-supply, price-demand, and product-substitution relationships (i.e., supply elasticity, demand elasticity, and substitution elasticity) in the U.S. bulk aspirin market. The model uses these estimates with data on market shares, Commerce's estimated margins of dumping, transportation costs, and current tariffs to analyze the likely effect of unfair pricing of subject imports on the U.S. domestic like product industry. Due to the large difference in dumping margins found by Commerce among cooperating producers and those in the "all other" classification, a weighted-average tariff was used in the analysis, using 1999 value data as the weights. Likewise, since bulk aspirin enters the United States under two separate HTS classifications, a weighted-average U.S. tariff rate was employed.

FINDINGS[2]

Estimated effects of the LTFV imports on the U.S. bulk aspirin industry are as follows: 2.2 percent to 14.1 percent reduction in revenue, 0.7 percent to 9.7 percent reduction in output, and 0.9 percent to 9.3 percent reduction in price. More detailed effects of the dumping and the full range of scenarios are shown in table D-1.

Table D-1
The estimated effects of LTFV pricing of imports from China

* * * * * * *

[1] COMPAS version 1.4 (dumping, 6/1/93).

[2] Estimates are based on 1999 data. Commerce's period of investigation for the antidumping duty investigation was October 1998 through March 1999.

D-3

APPENDIX E

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

E-1

The Commission requested Rhodia to describe any actual or potential negative effects of imports of bulk aspirin from China on its growth, investment, ability to raise capital, and/or its development efforts (including efforts to develop a derivative or more advanced version of the product). Its response is as follows:

Actual Negative Effects

***.

Anticipated Negative Effects

***.

E-3