

# **POTASSIUM CHLORIDE FROM ISRAEL AND SPAIN**

**Determinations of the Commission in  
Investigations Nos. 303-TA-15 and  
701-TA-213 (Final) Under the  
Tariff Act of 1930, Together  
With the Information Obtained  
in the Investigations**

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.—Information which would reveal the confidential operations of individual concerns may not be published and, therefore, has been deleted from this report.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



UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.

Investigation Nos. 303-TA-15 and 701-TA-213 (Final)

POTASSIUM CHLORIDE FROM ISRAEL AND SPAIN

Determinations

On the basis of the record 1/ developed in investigation No. 303-TA-15 (Final), the Commission determines, 2/ pursuant to section 303(a) of the Tariff Act of 1930 (19 U.S.C. § 1303), that an industry in the United States is not materially injured or threatened with material injury, nor is the establishment of an industry in the United States materially retarded, by reason of imports from Israel of potassium chloride, provided for in item 480.50 of the Tariff Schedules of the United States (TSUS), upon which the Department of Commerce has found bounties or grants are being provided.

In addition, on the basis of the record 1/ developed in investigation No. 701-TA-213 (Final), the Commission determines, 3/ pursuant to section 705(b)(1) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)(1)), that an industry in the United States is not materially injured or threatened with material injury, nor is the establishment of an industry in the United States materially retarded, by reason of imports from Spain of potassium chloride, provided for in item 480.50 of the TSUS, upon which the Department of Commerce has found subsidies are being provided.

Background

On June 29, 1984, the U.S. Department of Commerce published in the Federal Register (49 F.R. 26776) its preliminary determination that there is

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1/ The "record" is defined in section 207.2(i) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 207.2(i)).

2/ Commissioner Eckes dissenting and Chairwoman Stern not participating.

3/ Chairwoman Stern not participating.

reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930 are being provided to manufacturers, producers, or exporters in Israel of potassium chloride. At the same time, Commerce also determined that there is a reasonable basis to believe or suspect that subsidies within the meaning of section 701 of the Tariff Act of 1930 are being provided to manufacturers, producers, or exporters in Spain of potassium chloride.

Accordingly, effective June 29, 1984, the Commission instituted these final investigations under the provisions of the Tariff Act of 1930 to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of such imports of potassium chloride into the United States. Notice of the institution of the Commission's investigations 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 July 25, 1984 (49 F.R. 30025). The hearing was held in Washington, DC, on September 18, 1984, and all persons who requested the opportunity were permitted to appear in person or through counsel. The Commission's determinations in these investigations were made in an open "Government in the Sunshine" meeting held on October 22, 1984.



## VIEWS OF THE COMMISSION

On the basis of the information collected in these investigations, we determine that an industry in the United States is not materially injured or threatened with material injury, nor is the establishment of an industry in the United States materially retarded 1/, by reason of imports of potassium chloride from Israel and Spain which the Department of Commerce has determined to be subsidized. 2/ Our negative determination in both investigations is based upon the lack of a causal nexus between the condition of the industry and the subsidized imports from Israel and Spain. 3/ 4/

Domestic industry

The statutory framework under which the Commission conducts countervailing duty investigations requires it first to determine the domestic industry against which to assess the impact of unfairly traded imports. Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as "the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 5/ "Like product" is in turn defined as "a product which is like, or in the absence of like, most similar

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1/ Material retardation is not an issue in this investigation and will not be discussed further.

2/ Chairwoman Stern did not participate in these determinations.

3/ Commissioner Rohr has reached his determination on the basis of a cumulative analysis of imports from Israel and Spain.

4/ Commissioner Eckes joins these views only for discussion of the domestic industry and the condition of the domestic industry. See his "Additional Views" regarding the causal analysis regarding material injury by reason of imports from Israel and Spain.

5/ 19 U.S.C. § 1677(4)(A).

in characteristics and uses with the article subject to an investigation. . . ." 6/

Both the imported and domestic product in these investigations is potassium chloride (KCl), also known as muriate of potash. In the preliminary phase of these investigations, we defined the like product as potassium chloride, and the domestic industry as composed of all domestic producers of potassium chloride. No party has objected to these determinations or argued in favor of a different conclusion on the issues of like product and domestic industry. We therefore adopt the conclusions reached in the preliminary phase of these investigations as our determinations in these final investigations.

Condition of the domestic industry

Apparent U.S. consumption of potassium chloride decreased by 18.8 percent from 1981 to 1982, and then recovered in 1983 to nearly the 1981 level. 7/ Data for the interim period January-June 1984 show a continued increase in domestic consumption. 8/ Domestic production declined steadily from 3.2 million short tons in 1981 to 2.1 million short tons in 1983, a decline of 35.9 percent. 9/ Data for the most recent period, however, show an increase in domestic production of 10 percent over the corresponding period of 1983. 10/ Domestic capacity remained fairly steady during the period under investigation 11/, but capacity utilization declined by approximately 36 percent between 1981 and 1983. 12/ Again, data for the interim period

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6/ 19 U.S.C. § 1677(10).

7/ Report of the Commission (Report) at A-17.

8/ Id.

9/ Id.

10/ Id.

11/ Id. at A-15.

12/ Id.

January-June 1984 show an increase in capacity utilization over the corresponding period of 1983. 13/

U.S. producers' domestic shipments fell 9 percent between 1981 and 1982, from 2.1 million short tons to 1.9 million short tons, and declined a further 7 percent to 1.7 million short tons from 1982 to 1983. 14/ During the period January-June 1984, domestic shipments increased by 7 percent over the corresponding period of 1983. 15/ Domestic producers' inventories increased from 25.9 percent of shipments in 1981 to 28.1 percent of shipments in 1982, and then decreased to 23.9 percent of shipments in 1983. 16/ On an annualized basis, inventory levels during the interim period January-June 1984 declined by 17.5 percent from the corresponding period of 1983. 17/ Employment in the domestic industry declined by 37.6 percent from 1981 to 1983, and data for the most recent period shows a 2.5 percent decline from the corresponding period of 1983. 18/

U.S. producers' net sales of potassium chloride fell by 25.7 percent between 1981 and 1982, and by a further 20.3 percent from 1982 to 1983. 19/ Data for the interim period January-June 1984 show an increase of 28.8 percent over the corresponding period of 1983. 20/ U.S. producers' operating profit in 1981 changed to losses in 1982 and 1983. 21/ U.S. producers have recorded

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13/ Id.

14/ Id. at A-17.

15/ Id.

16/ Id. at A-18. U.S. producers instituted cuts in production which resulted in these reductions of inventories. Id.

17/ Id.

18/ Id. at A-19.

19/ Id. at A-22.

20/ Id.

21/ Id.

an operating profit during the interim period January-June 1984 as compared with an operating loss during the corresponding period of 1983. 22/

Despite its improved performance during the interim 1984 period, the domestic potassium chloride industry as a whole exhibited signs of material injury during much of the period under investigation. 23/

No material injury by reason of subsidized imports

Under section 705(b) of the Tariff Act of 1930, as amended, the Commission is required to determine whether an industry in the United States is materially injured or threatened with material injury by reason of imports of merchandise with respect to which the Department of Commerce has determined that subsidies are granted. 24/ In reaching its decision as to whether material injury is by reason of the imports under investigation, the Commission must consider, among other factors, the volume of imports, the effect of imports on prices in the United States for the like product, and the impact of such imports on the relevant domestic industry. Congress has also instructed the Commission to consider factors indicating that the injury is not by reason of the subject imports. 25/ The legislative history of the Act is clear, moreover, that the Commission must satisfy itself that "in light of all the information presented, there is a sufficient causal link between the

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22/ Id.

23/ Commissioner Eckes determines that this industry is experiencing material injury.

24/ 19 U.S.C. § 1671d(b)(1).

25/ "Of course, in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors." H.R. Rep. No. 317, 96th Cong., 1st Sess. 47 (1979).

subsidization and the requisite injury." 26/ On the basis of the data developed in this investigation, we conclude that imports from Israel and Spain are not a cause of material injury to the domestic industry. 27/ 28/ 29/

We have considered a number of factors and conditions of trade in the potassium chloride industry which lead us to the conclusion that imports of potassium chloride from Israel and Spain have not caused material injury to the domestic industry. The dominant position of Canadian imports in the U.S. market is of great significance. Imports of potassium chloride from Canada have accounted for at least 70 percent of domestic consumption during each year of the period under investigation. Even in the Southeastern region,

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26/ S. Rep. No. 249, 96th Cong., 1st Sess. 58 (1979). See also, H.R. Rep. No. 317, 96th Cong., 1st Sess. 47 (1979).

27/ Commissioner Rohr has reached his determinations in these investigations on the basis of a cumulative analysis. However, he agrees with the reasons stated herein for reaching a negative conclusion, and therefore joins in these views. Vice Chairman Liebeler and Commissioner Lodwick have reached their determinations in these investigations on a case-by-case basis.

28/ Commissioner Lodwick has reached his determinations in these investigations on a country-by-country basis. He notes, among other factors, that Spain imports minimal volumes into the U.S., sells almost exclusively to a single customer, exports only standard grade material to the U.S. which, though used extensively in Florida, is increasingly less attractive than granular grade as a direct application fertilizer, has made no capital investment in facilities in the U.S., and has a diverse customer base with only a small share of shipments going to the U.S. Conversely, Israel has much greater ties to the U.S. market. Israel sells under long-term contract to a variety of customers in the South and East, is affiliated with extensive capital investment in warehousing in the U.S., and sells granular as well as standard grade potassium chloride. In addition, although Israel also has a diverse customer base, the U.S. is a primary export market. Commissioner Lodwick further notes that he would still have reached negative determinations if he had cumulated.

29/ Vice Chairman Liebeler has reached her determinations in these investigations on a country-by-country basis. She views coordinated action among producing nations under consideration as a necessary condition for cumulation. Because there is no evidence of coordinated action by the exporters or importers of potassium chloride from Israel and Spain, Vice Chairman Liebeler declines to cumulate imports from these two countries. In addition Vice Chairman Liebeler agrees with Commissioner Lodwick's analysis, supra, note 28. See Certain Cold Rolled Carbon Steel Sheet from Brazil, Inv. No. 731-TA-154 (Final), USITC Pub. 1599 (1984) at 8, n. 24.

which the domestic industry argues is its natural, best market, Canadian imports have by far the largest market share. 30/ In such a situation, imports from Israel and Spain, which have one-tenth the market share of Canadian imports nationwide, do not have the ability to affect market conditions or prices. Moreover, between 1981 and 1982, when the imports under investigation increased to their highest level, as a share of domestic consumption, imports from Canada declined commensurately. 31/ At the same time, however, the nationwide market share of the domestic industry increased to its highest level since 1979, despite dramatically declining consumption. 32/

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30/ Petitioners urged us to concentrate our analysis on the Southeastern region in determining whether material injury to the domestic industry exists, and whether imports are the cause of that injury. Petitioners concede that the statutory criteria for a regional industry are not met in these investigations. See 19 U.S.C. § 1677(4)(C). In the absence of a regional industry, we conclude that we must examine the domestic industry on a nationwide basis in determining whether material injury exists. We have, however, considered events in the Southeastern region in determining whether a sufficient causal nexus exists between imports and the injury to the industry. The majority of both Israeli and Spanish imports of potassium chloride are shipped to Florida and Eastern and Gulf Coastal States. It is true that imports from Israel and Spain as a share of consumption in this area have been greater than in the United States as a whole. However, the greatest increase in import market share in this area occurred between 1981 and 1982; imports from Israel have since then remained steady although imports from Spain increased marginally. Report at A-26. While the domestic industry lost market share in this area in 1982, its market share nationwide increased.

31/ Id. at A-25. Canada's market share in the Southeast also declined in 1982, although by less than the increase in market share of imports from Israel and Spain. Id. at A-26.

32/ U.S. consumption of potassium chloride is dependent upon the demand for fertilizer. During a time when cash receipts of farmers are low, they may reduce costs by decreasing their purchases of fertilizer. Potassium chloride, which is retained in the soil for 2 to 3 years, may be the hardest hit in such a situation. However, application of potassium chloride must be resumed eventually to maintain the quality and quantity of crops. In 1982, demand for fertilizer was severely depressed by weak farm conditions. In 1983, nearly 40 percent of total U.S. farmland was idled, largely due to Government-sponsored acreage reduction, paid diversion, and the Payment-in-Kind (PIK) program. Id. at A-14.

Potassium chloride reserves are located in only 16 countries. According to the Bureau of Mines, Canada and the U.S.S.R. possess the largest reserves, accounting for 74 percent and 16 percent of all reserves, respectively. Reserves in the United States are dwarfed by comparison, accounting for only 0.5 percent of worldwide reserves. U.S. capacity for the production of potassium chloride has declined steadily over the past 20 years. U.S. production capacity will continue to decrease as the potassium chloride reserves are exhausted. 33/ U.S. consumption is forecast to grow by 25 percent or more from 1981 to 1990. 34/ The domestic industry's share of the U.S. potassium chloride market has been decreasing since the early 1960s. 35/ It is thus clear to us that the U.S. market for potassium chloride, already dominated by imports from Canada, will become increasingly dependent on imports, and the domestic industry's market share will continue to decrease.

Another significant factor in our determination is the high cost of transporting potassium chloride to customers. Transportation costs from New Mexico, where 85 percent of U.S. potassium chloride is produced, can be 50 percent or more of the delivered price of the product. By contrast, ocean shipping rates for potassium chloride imported from Israel and Spain are substantially lower, as are inland freight costs from the ports of entry to the customers, who are located largely in Eastern and Gulf Coastal states. Because of the variety of means of transporting potassium chloride and the enormous variation in costs, it has been impossible for us to arrive at a

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33/ Id. at A-16. According to the Bureau of Mines, the reserves held by the Potash Co. of America and Texasgulf may be depleted in the early 1990s. Reserves held by AMAX may be depleted by the year 2000. The other producers, according to the Bureau of Mines, "appear to have sufficient reserves to operate past the year 2000." Id.

34/ Id. at A-14.

35/ Id. at A-17.

precise calculation of transportation cost advantages and disadvantages. Petitioners argued that the domestic industry enjoys a freight advantage over the dominant Canadian imports in the Southeastern region. Our investigation of delivered pricing and transportation costs leads us to conclude that petitioners have overstated this advantage. To some specific customers in some specific areas, depending on the means of transport, the domestic industry may enjoy a freight advantage. However, by the same reasoning, to some specific customers, in some parts of the Southeastern United States, imports from Israel and Spain enjoy a freight advantage over the domestic industry. Thus, it appears likely that at least some, if not all, of the difference in price between the domestic product and the imported product is the result of transportation cost differentials. This conclusion is supported by the fact that in Midwestern and Central states, the domestic product tends to undersell the imports from Israel. 36/

One additional factor which we have found to be significant in explaining the condition of the domestic industry is the dramatic decline in export sales. A significant share of U.S. potassium chloride has traditionally been exported from Western and Gulf Coastal states to the overseas potassium chloride market, where the United States enjoys a freight advantage over the Canadian potassium chloride industry. 37/ Export sales declined dramatically between 1980 and 1983, from 39 percent of U.S. producers' sales, to 21 percent of sales. Economic problems in overseas markets, and decreased worldwide demand for potassium chloride have contributed to this decline in export

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36/ There were no reported sales of potassium chloride from Spain in this area during the period under investigation.

37/ Report at A-16.



sales, which accounts for approximately 75 percent of the decrease in U.S. producers' total shipments. 38/

### Israel

Imports of potassium chloride from Israel increased by 37.3 percent between 1981 to 1982, from 450,000 short tons to 618,000 short tons. 39/ In 1983, however, imports of potassium chloride from Israel declined to 549,000 short tons, a decline of 11.2 percent. 40/ During the interim period January-June 1984, imports of potassium chloride from Israel declined by 6.8 percent from the level during the corresponding period of 1983. 41/ Although imports of potassium chloride from Israel as a share of domestic consumption increased from 1981 to 1982, from 4 percent to 5 percent, this increase was not at the expense of domestic production, which itself increased as a share of consumption from 20 percent in 1981 to 22 percent in 1982. 42/ Since 1982, imports from Israel have not increased as a share of domestic consumption.

To put the effect of the volume of imports from Israel on the domestic industry into sharper perspective, we note that the 22 percent share of domestic consumption accounted for by the domestic industry in 1982 was equal to that in 1979, a year of historic highs in the U.S. potassium chloride market, and higher than for any other year since 1976. The domestic industry's market share declined only in 1983 and the interim period January-June 1984. Imports from Israel declined absolutely during 1983, and

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38/ Id.

39/ Id. at A-24.

40/ Id.

41/ Id.

42/ Id. at A-25.

were lower during the period January-June 1984 than for the corresponding period of 1983.

Although imports of potassium chloride from Israel undersold domestic potassium chloride during most of the period under consideration in Florida and the Eastern and Gulf Coastal states, we note the following explanatory factors. First, Israeli potassium chloride is marketed on a long-term contract basis, with prices set by a formula tied to producers' prices in Carlsbad, New Mexico and Saskatchewan, Canada. Second, on a significant number of occasions during the past year, purchasers of the Israeli material invoked "meet or release" clauses in their contracts, which required the importer of potassium chloride from Israel to either meet a competitor's lower price or release the purchaser from its contract. According to information submitted by counsel for the Israeli respondent, the vast majority of the competitive offers that were met during the past year involved sales of potassium chloride from Canada. <sup>43/</sup> This clearly implies that Israel is not the price leader in the U.S. market. Third, Canada has a dominant market share in all areas of the United States, and Israeli prices have either remained the same or increased relative to Canadian prices. Fourth, prices in the Southeast have either remained the same or increased relative to prices in other areas, even though non-Canadian imports are concentrated in the Southeast, and recent consumption trends have been weaker in the Southeast than nationwide. Finally, due to the importance of transportation costs, suppliers can have considerable cost advantages depending on proximity to customers and availability of water and rail transportation. These factors

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<sup>43/</sup> Transcript of Hearing at 152; Report at A-33.

lead us to conclude that imports from Israel did not have a suppressive or depressive effect on potassium chloride prices.

### Spain

Imports of potassium chloride from Spain are even less significant, in any quantitative measure, than imports from Israel. Imports from Spain have at no time during the period under investigation exceeded 1 percent of domestic consumption. During the most recent period, January-June 1984, imports of potassium chloride from Spain have declined to less than 0.5 percent. Spanish potassium chloride is imported by a single exclusive importer, and the majority is sold to a single customer. 44/ Although Spanish potassium chloride undersold the domestic product during most of the periods for which information is available, with such a small market share, in a market dominated by imports from Canada, imports from Spain do not have the ability to affect the overall market price of potassium chloride.

### No threat of material injury

In order to conclude that subsidized imports constitute a threat of material injury to the domestic industry, the Commission must find that the threat is real and imminent, and not based on a mere possibility that injury might occur at some remote future date. 45/

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44/ This customer informed the Commission that U.S. producers had not solicited its business during the past two years. Exhibit 11 to Spanish Respondents Post-Administrative Conference Memorandum. Recent reports indicate that the importer has ceased to purchase potassium chloride from Spain. The Journal of Commerce, September 13, 1984.

45/ Alberta Gas Chemicals, Inc. v. United States, 515 F. Supp. 780 (Ct. Int'l Trade 1981). The Trade and Tariff Act of 1984, H.R. 3398, codifies the "real and imminent" standard for determinations of threat of material injury. Section 612(a)(2)(B)(ii). The new Act, which has not yet become law, also codifies the factors to be considered by the Commission in making threat determinations. The factors listed are essentially those which the Commission considers under current practice. Therefore, our analysis of this issue satisfies the requirements of the new Act.

Although market penetration of imports from both Israel and Spain increased slightly from 1981 to 1982, market penetration of imports from Israel decreased thereafter, while market penetration of imports from Spain remained steady until the most recent period, which showed a decline in imports from Spain. Given the recent increasing trend in domestic consumption, it is not likely that this level of imports will cause injury to the domestic industry in the near future. Moreover, prices in the U.S. potassium chloride market rallied somewhat during late 1983 and the interim 1984 period, although they have not reached their previous levels. Importers' inventories have not increased significantly, thus there is little likelihood that a significant additional amount of potassium chloride previously imported from Israel or Spain will enter the United States market. Production capacity in both Israel and Spain has been relatively steady during the period under investigation, and capacity utilization is high. There is no indication that either country intends to divert shipments to the United States in preference to other markets; the United States' share of shipments from Israel has declined during the period under investigation, while the United States' share of shipments from Spain is very small, and is projected to decrease in 1984. Moreover, due in part to the transportation cost factor, it does not appear likely that imports from either Israel or Spain will expand significantly into other regions of the United States from their present concentration in the Eastern and Gulf Coastal states. 46/ We therefore conclude that imports of

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46/ As noted above, imports from Israel tended to oversell both the domestic product and imports from Canada in areas outside the Eastern and Gulf Coastal states. No sales of potassium chloride from Spain were reported outside the Eastern and Gulf Coastal states. In addition, potassium chloride from Spain is all standard grade, which is apparently less suitable for direct application fertilizer.

potassium chloride from Israel and Spain do not constitute a real threat of imminent material injury to the domestic industry.

## Additional Views of Commissioner Eckes

From my standpoint, the record of this investigation contains substantial evidence connecting subsidized imports from Israel to the material injury experienced by the domestic industry. 1/

First, increases in imports from Israel and the highest levels of those imports coincide with the period in which the performance of the domestic industry plunged to large operating deficits, and sharply reduced economic activity. 2/ Imports from Israel increased dramatically from 450,000 tons in 1981 to 618,000 tons in 1982, almost double the levels imported in 1980. These imports then declined in 1983 to 549,000 tons, and declined again slightly for the period January-June 1984, when that six-month period is compared to the same data for 1983. Importantly, in 1982 at the very time subsidized Israeli imports were increasing, the domestic industry's performance turned sharply downward--with U.S. production and consumption declining almost 20 percent. Domestic shipments declined throughout the period 1981 to 1983. Finally, the domestic industry's profitability deteriorated. Net operating profits for the industry which were in excess of 10 percent in 1981 turned to operating losses in 1982. Indeed, half of the domestic producers reported losses in 1982, and they continued to experience these losses until after the middle of 1983.

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1/ Information referred to in this opinion is contained in the confidential version of the Commission report; data obtained from other sources are cited where appropriate.

2/ The period for which Commerce measured benefits in determining the net bounty or grant being provided was April 1, 1982, through March 31, 1983. 16

Second, Israel has used subsidized exports to maintain and expand its market share in the United States. Israeli imports were 4 percent of U.S. consumption in 1981, rising to 5 percent in 1982. As U.S. consumption began to recover in 1983 to historical levels, Israel maintained its market share. This continued during 1983 through mid-1984. 3/

Third, in my judgment a review of Commission pricing data shows that Israeli underpricing has depressed domestic prices for potassium chloride. Much of the pricing data is necessarily confidential, but the Commission has sound data on average delivered prices reported by purchasers in Eastern and Gulf Coastal states, where four-fifths of Israeli shipments are sold. 4/ These data reveal Israeli underpricing in 7 of the 8 quarters for which comparisons are possible through the period from 1982 to June 1983. Moreover, these underselling margins are significant--averaging more than 10 percent for the year 1983. The only overselling occurred during the most recent quarter, April-June 1984, a period which followed the filing of this petition.

The pricing data also show that Israeli prices trended lower than domestic prices in 1983, before turning upward late in that year. Finally, lost sales information indicate that the domestic industry did lose some sales because of lower priced Israeli imports. The Commission also has information that price considerations were important to purchasing decisions.

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3/ Importers' inventories of the product from Israel in the U.S. increased markedly from 1982 to 1983, with virtually all of that increase occurring in the last half of 1983. End-of-period inventories continued at that level through June 1984.

4/ Delivered prices supplied by purchasers have consistently been relied upon by the Commission as the most reliable indicator of the impact of imports on domestic pricing; such prices measure the actual prices reported as paid by purchasers, as opposed to f.o.b. price data, which provide a measure of net revenues received by the producers or importers. As such, f.o.b. data are generally more useful for signaling price trends only.

Thus, it is clear that the volume and penetration trends of imports from Israel, together with conclusive evidence of underselling, have caused material injury to the domestic industry. This industry is just beginning to recover to historical levels of economic performance; while the industry was in its lowest period of decline, these imports increased their share of consumption and have continued to maintain that share as consumption trends turned sharply upward. Without a doubt, Canada is an important supplier of this product and also a price leader. But, that is not dispositive of the question raised before this agency by the statute. Subsidized imports from Israel have caused injury that "is not inconsequential, immaterial, or unimportant" to the domestic industry.

Imports from Spain have been historically small, both in terms of volume and import penetration. During the period covered by this investigation, imports reached 58,000 tons in 1983, which accounted for only 1 percent of U.S. consumption. Virtually all of the imported products from Spain is sold in the Southeastern region, most of it in Florida to a single customer. Imports from Spain did undersell the domestic product during 1982 on a delivered price basis; no comparisons were possible for 1983. Despite the evidence of underselling, these imports, in light of the volume trends, are not a cause of material injury to the domestic industry.



## INFORMATION OBTAINED IN THE INVESTIGATIONS

## Introduction

On March 30, 1984, counsel for AMAX Chemical, Inc., and Kerr-McGee Chemical Corp. filed petitions with the U.S. International Trade Commission and the U.S. Department of Commerce alleging that an industry in the United States is materially injured, and is threatened with material injury, by reason of imports of potassium chloride from Israel and Spain upon which bounties or grants are alleged to be paid and by reason of imports of potassium chloride from Israel, Spain, East Germany, and the U.S.S.R., which are allegedly being sold at less than fair value (LTFV). Accordingly, the Commission instituted preliminary countervailing duty and antidumping investigations under the applicable provisions of the Tariff Act of 1930 to determine whether there was a reasonable indication that an industry in the United States was materially injured, or was threatened with material injury, or the establishment of an industry in the United States was materially retarded, by reason of imports of such merchandise into the United States. 1/

On May 14, 1984, the Commission determined, 2/ on the basis of information developed during the course of its preliminary investigations, that there was a reasonable indication that an industry in the United States was materially injured by reason of allegedly subsidized imports of potassium chloride from Israel and Spain and by reason of allegedly LTFV imports of potassium chloride from Israel, Spain, East Germany, and the U.S.S.R. Consequently, the Department of Commerce continued its investigations into the nature and extent of the allegedly subsidized and LTFV imports of potassium chloride from the cited countries.

On June 29, 1984, Commerce issued preliminary affirmative determinations in its countervailing duty cases involving imports of potassium chloride from Israel and Spain. Accordingly, the Commission instituted final investigations under the provisions of the Tariff Act of 1930 to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of such imports of potassium chloride into the United States. 3/ Notice of the institution of the Commission's investigations

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1/ At the same time the cited petitions were filed, counsel for the petitioners filed countervailing duty petitions with Commerce concerning imports of potassium chloride from East Germany and the U.S.S.R. Inasmuch as these countries are not signatories to the GATT, the Commission was not required to make injury determinations. Commerce initiated countervailing duty investigations on potassium chloride from East Germany and the U.S.S.R., but subsequently rescinded its investigations and dismissed the petitions (49 F.R. 23428, June 6, 1984).

2/ Commissioners Stern and Liebler not participating.

3/ Israel is not a "country under the Agreement" within the meaning of section 701(b) of the Tariff Act of 1930 (the Act); therefore, section 303 of the Act applies to the investigation concerning imports of potassium chloride from that country. Inasmuch as such merchandise enters the United States duty-free and the international obligations of the United States so require, an injury determination must be made by the Commission.

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 July 25, 1984 (49 F.R. 30025). The hearing was held in Washington, DC, on September 18, 1984. 1/

Commerce published its final affirmative subsidy determinations concerning potassium chloride from Israel and Spain in the Federal Register of September 14 and 17, 1984, respectively. 2/ The Commission's briefing and votes in these investigations were held on October 22, 1984. The Commission is scheduled to notify Commerce of its final determinations by October 29, 1984.

On September 12, 1984, Commerce published in the Federal Register (49 F.R. 35845) its preliminary determinations that potassium chloride from East Germany, Spain, and the U.S.S.R. is being, or is likely to be, sold in the United States at LTFV. At the same time, Commerce preliminarily determined that potassium chloride from Israel is not being, nor is it likely to be, sold in the United States at LTFV. 3/ Commerce is scheduled to make its final antidumping determinations by November 20, 1984.

The information contained in this report was derived both from data gathered during the Commission's preliminary countervailing and antidumping investigations and from questionnaires returned during these final countervailing duty investigations by U.S. producers, importers, and purchasers. Certain data concerning potassium chloride imported from East Germany and the U.S.S.R. are also included in this report. 4/

#### Other Investigations Concerning Potassium Chloride

In November 1969, the Commission determined that an industry in the United States was being injured by reason of imports of potassium chloride from Canada that were being or were likely to be sold at LTFV. The Department of the Treasury published a finding of dumping in the Federal Register of December 19, 1969. By 1981, all Canadian producers and exporters, except

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1/ A copy of the Commission's notice of investigation and a list of witnesses appearing at the hearing are presented in app. A.

2/ Copies of Commerce's final determinations are presented in app. B.

3/ In its preliminary determinations, Commerce found weighted-average LTFV margins of 112.17 percent on imports from East Germany, 43.65 percent on imports from Spain, and 187.03 percent on imports from the U.S.S.R. The weighted-average margin on sales of potassium chloride from Israel was 0.08 percent, which was deemed to be de minimis by Commerce. The period investigated by Commerce in all its antidumping investigations was Oct. 1, 1983, through Mar. 31, 1984.

4/ Petitioners urged the Commission to cumulate the market shares of Israel, Spain, East Germany, and the U.S.S.R. in all statistical analyses. (See post-hearing brief of petitioners, Sept. 26, 1984, p. 4.) Information on potassium chloride operations in East Germany and the U.S.S.R. and the channels of distribution used in marketing such merchandise in the United States were presented in the preliminary investigations.

Texasgulf, Inc., had been excluded by Treasury from the dumping finding. These companies were excluded from the dumping finding after Treasury determined that sales of these firms had not been at LTFV and it received assurances from each firm that future sales of potassium chloride to the United States would not be made at LTFV. In April 1981, pursuant to a petition filed by Texasgulf, the Commission determined that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports of potassium chloride from Canada, if the dumping order were to be modified or revoked. <sup>1/</sup> Accordingly, in June 1981, Commerce published a notice in the Federal Register revoking the dumping order. The revocation of the dumping order, however, does not affect the assurances that had been given by the Canadian producers not to sell potassium chloride for export to the United States at LTFV.

### The Product

#### Description and uses

Potassium chloride (KCl), also known as muriate of potash, is the chief source of potassium fertilizer applied to fields in the United States. Approximately 94 percent of the potassium chloride consumed in the United States is used in fertilizer; the rest is used to make chemical compounds essential to the manufacture of glass, matches, soaps, medicines, detergents, insecticides, chinaware, solid rocket fuel, and animal feed.

Potash refers to a number of potassium salts used as fertilizers. Potassium chloride, the product under investigation, accounts for approximately 97 percent of all potash fertilizers consumed in the United States and worldwide. For chloride-sensitive crops, a sulfate of potash (either potassium sulfate or potassium magnesium sulfate) is used.

Potassium is one of the three key chemical elements essential for plant growth; the other two are nitrogen and phosphorus. Potassium aids in the synthesis of starch and sugar, stiffens straw in cereal grains, promotes root growth, and enables the plant to better withstand disease and adverse conditions of climate. About 85 percent of the potassium applied to fields in the United States is in the form of potash; the remainder of the potassium nutrient added to the soil is in the form of cereal straw and manure.

Potassium chloride is produced in a number of grades. The major grades and their uses are shown in table 1.

The granular, coarse, and standard grades are approximately 95 percent pure and may contain a minute amount of iron, which gives the product a pink tint. These grades, which differ from one another only in particle size, are suitable for blending with other solid fertilizers for application to the fields. To insure a homogeneous mixture of solid fertilizer, particles of nearly equal sizes must be blended together. These three grades are not used in liquid fertilizers because the trace of iron-bearing clay in the product tends to clog the farm machinery used to spray the fields. However, a fourth

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<sup>1/</sup> Potassium Chloride From Canada: Determination of the Commission in Investigation No. 751-TA-3 . . ., USITC Publication 1137, April 1981.

Table 1.—Potassium chloride: U.S. consumption, 1/  
by uses and by grades, 1983

(In percent)

Grade	Agricultural use	Industrial use	Total
Granular	30.1	—	30.1
Coarse	47.2	—	47.2
Standard <u>2/</u>	7.8	3.8	11.5
Soluble	8.9	2.2	11.1
Total	94.0	6.0	100.0

1/ Data are for U.S. and Canadian producers' shipments, which accounted for 92 percent of U.S. consumption in 1983.

2/ Includes chemical grade. Industrial use of chemical grade accounted for about 1.8 percent of U.S. potassium chloride consumption in 1979.

Source: Derived from statistics published by the Potash & Phosphate Institute.

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

grade, the soluble grade, is approximately 98 percent pure, contains less iron-bearing clays, and is consequently suitable for use in liquid fertilizer. The chemical grade of potassium chloride is even more highly refined; it is used in the manufacture of chemicals for use primarily in the chemical and ceramic industries. In addition, small quantities of standard and soluble grades of potassium chloride are used for other industrial purposes.

Importers of potassium chloride from Israel, East Germany, and the U.S.S.R. sell standard and granular grades of potassium chloride in the United States; potassium chloride from Spain is all of the standard grade. The U.S.-produced grades are identical to the imported grades under investigation.

The industry usually expresses the potassium content of potassium chloride in terms of  $K_2O$  (potassium oxide). Commercial potassium chloride is generally about 60 percent  $K_2O$ . Thus, 1,000 short tons of potassium chloride product is the equivalent of 600 short tons  $K_2O$ . In this report, in order to estimate quantities of potassium chloride, data originally expressed in terms of  $K_2O$  content have been divided by 0.6.

#### Production process

Most potassium chloride in the United States exists in underground deposits; 85 percent is exploited by conventional shaft-mining techniques. Solution mining, another method of extracting potassium chloride from bedded deposits, is especially suited to deposits that are 4,000 feet or more underground or that are too irregular to permit economical shaft mining. In this method, water is injected through wells into the deposit to dissolve the salts, and the resulting brine solution containing potassium chloride is

withdrawn from nearby wells. One mine owned by Texasgulf in Utah is operated through this technique; it accounted for \*\*\* percent of U.S. production in 1983.

A third production method, extraction from surface and subsurface brines, is used in the United States at the Bonneville salt flats in Utah and in Searles Lake in California. The two mines owned by Kaiser and Kerr-McGee that produce potassium chloride by this method accounted for \*\*\* percent of U.S. production in 1983.

After recovery, all ore is processed into marketable grades of potassium chloride at minesite. The process involves several steps, which may include evaporation of brines, flotation, and solution and crystallization. The product is dried and sized and is then ready for sale. Figure 1 illustrates a typical production process.

#### U.S. tariff treatment

Imports of potassium chloride are classified under item 480.50 of the Tariff Schedules of the United States. These imports have been free of duty since 1930.

#### Nature and Extent of the Subsidies

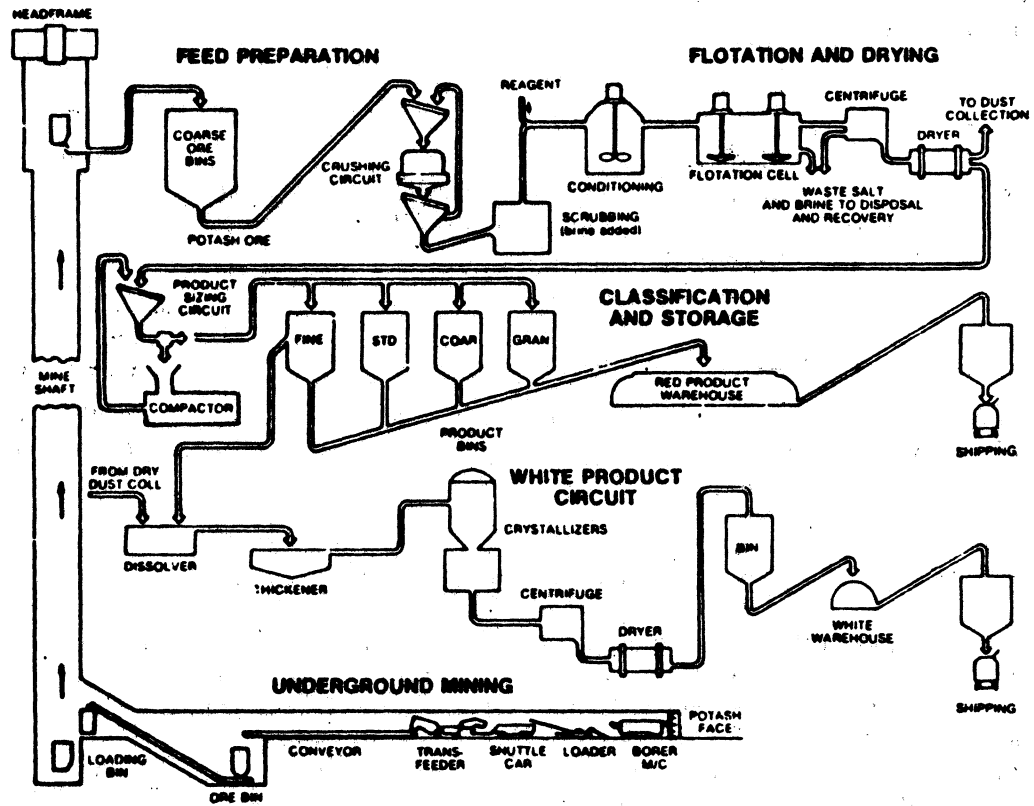
The Department of Commerce published its final countervailing duty determinations concerning potassium chloride from Israel and Spain in the Federal Register of September 14, 1984 (Israel), and September 17, 1984 (Spain), respectively. The programs that were found to confer countervailable benefits to manufacturers, producers, or exporters of potassium chloride in those countries are discussed in the following sections.

#### Israel

The net bounty or grant being provided to manufacturers, producers, or exporters of potassium chloride in Israel was 3.64 percent ad valorem. The only known Israeli producer of potassium chloride is the Dead Sea Works, Ltd. The period for which Commerce measured benefits was April 1, 1982, through March 31, 1983.

Commerce determined that the following programs confer benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930: Investment grants under the Encouragement of Capital Investment Law 5719-1959 (ECIL); and export credit funds. The stated purposes of the ECIL are to attract capital to Israel in order to develop its productive capacity, improve its balance of payments, absorb immigration, and offset the economic disadvantages in Israel's development areas. Investment grants are given as a share of the investment; the share varies according to the location of a project. Because ECIL investment grants are limited to companies located in specific regions, Commerce determined that grants benefiting the production of potassium chloride of the grades marketable by the Dead Sea Works in the United States confer countervailable bounties or grants (in the amount of 1.18 percent ad valorem). A-5

Figure 1.--Flow chart of the potassium chloride production process.



Source: Texasgulf Inc.

During the period of Commerce's review, the Bank of Israel provided short-term financing to the Dead Sea Works through three export credit funds: the Export Production Fund (for working capital loans); the Export Shipments Fund (for accounts receivable); and the Imports-for-Exports Fund (to finance imported materials used for export production). The net countervailable benefits of these three funds were 1.966 percent, 0.41 percent, and 0.083 percent ad valorem, respectively.

### Spain

The net subsidy being provided to manufacturers, producers, or exporters of potassium chloride in Spain was 7.88 percent ad valorem on exports prior to July 11, 1984, and 6.90 percent ad valorem on exports on or after July 11, 1984. The only known firm in Spain that produces potassium chloride for export to the United States is Minas de Potasa de Suria, S.A. <sup>1/</sup> The period for which Commerce measured benefits was calendar year 1983.

Commerce determined that the following programs confer benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930: Short-term preferential loans (provided under the Privileged Circuit Exporter Credits Program as working capital loans and export credits); and "excessive" rebates of indirect taxes on exports under the Desgravacion Fiscal a la Exportacion (DFE).

During the period of Commerce's review, it found that the Spanish producer/exporter of potassium chloride benefited from working capital loans and short-term export credit programs in the net countervailable amounts of 0.48 percent and 1.56 percent ad valorem, respectively. The DFE rebate conferred an ad valorem subsidy of 5.84 percent on exports prior to July 11, 1984, and 4.86 percent on exports on or after July 11, 1984..

### U.S. Producers

The names and production locations of each of the eight U.S. firms that have produced potassium chloride in recent years are presented in table 2. There are six production sites in New Mexico, two in Utah, and one in California. New Mexico accounted for 85 percent of U.S. production in 1983.

Three of the eight firms listed in table 2 ceased production of potassium chloride in the United States during 1982 or 1983. In its form 10-K for 1982 filed with the Securities and Exchange Commission, Freeport-McMoRan Inc. stated—

In February 1982 National Potash Company ("National") a wholly owned subsidiary, ceased mining potassium ores at its properties located near Carlsbad, New Mexico, as a result of increased costs of production, adverse marketing conditions and greater foreign competition, particularly from mines located in Saskatchewan, Canada.

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<sup>1/</sup> Two other firms also produce potassium chloride in Spain.

Table 2.--Potassium chloride: U.S. producers' plant locations, types of operations, years production began, shares of 1983 U.S. production, and parent firms 1/

Firm and location	Type of operation	Year production began	Share of 1983 U.S. production	Parent
			Percent	
Kerr-McGee Chemical Corp.:				Kerr-McGee Corp.
Carlsbad, NM.	: Shaft mine	: 1965	: ***	
Trona, CA.	: Brine wells	: 1917	: ***	
AMAX Chemical Corp.,	: Shaft mine	: 1952	: ***	AMAX, Inc.
Carlsbad, NM.				
Potash Co. of America,	: -----do-----	: 1934	: ***	Ideal Basic Industries, Inc.
Carlsbad, NM.				
National Potash Co.,	: -----do-----	: <u>2/</u> 1957	: ***	Freeport McMoran Inc.
Carlsbad, NM.				
Mississippi Chemical Corp.,	: -----do-----	: <u>3/</u> 1931	: ***	
Carlsbad, NM.				
Texasgulf Chemicals Co.,	: Solution mine	: 1964	: ***	Societe Nationale Elf Aquitaine
Moab, UT.				
International Minerals & Chemical Corp.,	: Shaft mine	: 1940	: ***	
Carlsbad, NM.				
Kaiser Aluminum & Chemical Corp.,	: Near-surface brines.	: <u>5/</u> 1933	: ***	Kaiser Industries Corp.
Wendover, UT.				

1/ 1 mine owned by Duval Corp., which opened in 1951, closed in May 1978 because of exhausted reserves.  
2/ 1 mine closed in 1970 because of exhausted reserves and the other closed in February 1982 because of market conditions.

3/ Mine closed in January 1983 because of market conditions.

4/ \*\*\*.

5/ Operations ceased in October 1983 because of flooding.

Source: Compiled from information obtained in response to questionnaires of the U.S. International Trade Commission and the U.S. Bureau of Mines.



In January 1983, Mississippi Chemical closed its Carlsbad, NM, plant. In a letter received by the Commission, the company stated—

\* \* \* \* \*

Kaiser closed its Utah operations in October 1983 because of flooding in the brine collection areas. Kaiser \*\*\*. The three firms that are closed accounted for \*\*\* percent of U.S. capacity to produce potassium chloride in 1983.

The Potash Co. of America and International Minerals & Chemical Corp. own three potassium chloride mines in Saskatchewan, Canada. These mines, according to the Tennessee Valley Authority, have a total rated annual capacity of 6.2 million short tons KCl. In addition, the Potash Co. of America, on January 1, 1984, opened a mine in New Brunswick, Canada. The New Brunswick mine, constructed at a cost of \$185 million, will have the capacity to produce 700,000 short tons of potassium chloride by yearend 1984. The new mine is favorably located to sell the product to the New England, Atlantic, and Gulf Coast States. Texasgulf \*\*\*. Denison Potocan Potash Co. is also excavating in New Brunswick, Canada, with production scheduled for 1985.

Potassium chloride is generally shipped by the producers in bulk (train-carload, barge, or truckload) to farmers' cooperatives, bulk blenders, and other fertilizer companies. These companies have extensive fertilizer outlets that sell the product to distributors and directly to farmers. Three U.S. producers of potassium chloride, International Minerals & Chemical, Mississippi Chemical, and Kaiser, are also large U.S. fertilizer producers and distributors.

#### The Foreign Producers

##### Israel

The Dead Sea Works is the sole producer and exporter of potassium chloride in Israel. The firm extracts potassium chloride from evaporation ponds located near the Dead Sea.

Israel's capacity to produce potassium chloride \*\*\* from \*\*\* short tons KCl in 1981 to an estimated \*\*\* short tons in 1984, or by \*\*\* percent (table 3). During the period, Israel's production \*\*\* by \*\*\* percent, from \*\*\* short tons KCl in 1981 to a projected \*\*\* short tons in 1984. About \*\*\* percent of Israel's productive capacity was utilized during 1981-83.

Israel's domestic demand for fertilizer is low, accounting for only \*\*\* percent of the Dead Sea Works' potassium chloride shipments during 1981-84. The United States is Israel's \*\*\* market, accounting for an average of \*\*\* percent of total shipments during 1981-84.

Table 3.—Potassium chloride: Israel's production, capacity, and shipments, 1981-83 actual, and 1984 projected

Item	1981	1982	1983	1984
Production—1,000 short tons KCl—	***	***	***	***
Capacity—do—	***	***	***	***
Capacity utilization—percent—	***	***	***	***
Shipments to:				
Israel—1,000 short tons KCl—	***	***	***	***
United States—do—	***	***	***	***
Europe—do—	***	***	***	***
Asia—do—	***	***	***	***
Africa—do—	***	***	***	***
South America—do—	***	***	***	***
Oceania—do—	***	***	***	***
Total—do—	***	***	***	***
Shipments to the United States as a share of total shipments percent—	***	***	***	***

1/ Less than 500 short tons.

Source: Compiled from data submitted by counsel for the Dead Sea Works.

### Spain

The three Spanish producers of potassium chloride, Minas de Potasa de Suria, S.A. (Suria); Union Explosivos Rio Tinto, S.A.; and Potasas de Navarra, S.A., operate four mines. Only one producer, Suria, exports potassium chloride to the United States.

Spanish capacity to produce potassium chloride \*\*\* from \*\*\* short tons KCl in 1981 to \*\*\* short tons in 1983, but it is projected to \*\*\* in 1984 (table 4). The Spanish potassium chloride operations ran at virtually full capacity during the period.

Shipments to the home market accounted for almost \*\*\* of total Spanish shipments of potassium chloride during 1981-84. Export shipments to the United States accounted for \*\*\* percent of total shipments during 1981-84.

### The Importers

#### Israel

H.J. Baker & Bro., Inc., is the U.S. sales representative of the Dead Sea Works. The company negotiates the contracts between the Dead Sea Works and its \*\*\* customers in the United States. It acts \*\*\*.

Table 4.—Potassium chloride: Spain's production, capacity, and shipments, 1981-83 actual, and 1984 projected

Item	1981	1982	1983	1984
Production—1,000 short tons KCl—	***	***	***	***
Capacity—do—	***	***	***	***
Capacity utilization—percent—	***	***	***	***
Shipments to:				
Spain—1,000 short tons KCl—	***	***	***	***
United States—do—	***	***	***	***
Western Europe—do—	***	***	***	***
Latin America—do—	***	***	***	***
Far East—do—	***	***	***	***
Africa—do—	***	***	***	***
Total—do—	***	***	***	***
Shipments to the United States as a share of total shipments percent—	***	***	***	***

Source: Compiled from data submitted by counsel for Comercial de Potasa, S.A.

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

The Dead Sea Works \*\*\*.

Each customer \*\*\*.

### Spain

Potash Import & Chemical Corp., a subsidiary of a Swiss firm, is the sole U.S. importer of potassium chloride from Spain. The company had \*\*\* customers in 1981-83—Independent Ag., Inc., in Fort Pierce, FL, and \*\*\*.

### Importers' inventories

U.S. importers of potassium chloride from Israel, Spain, East Germany, and the U.S.S.R. hold the product in inventory in warehouses in the Southeast and Midwest. H.J. Baker, the importer of the product from Israel, operates \*\*\* warehouses located in the Southeast. All of the H.J. Baker warehouses \*\*\*. Potash Import & Chemical Corp., the importer of the Spanish product, \*\*\*. Information concerning the quantities of imported potassium chloride held in inventory during 1981-83 and January-June 1984 is presented in table 5.

Table 5.—Potassium chloride: Importers' end-of-period inventories and shipments of the product imported from Israel, Spain, East Germany, and the U.S.S.R., 1981-83, January-June 1983, and January-June 1984

Origin	1981	1982	1983	January-June—	
				1983	1984
Inventory (1,000 short tons KCl)					
Israel	***	***	***	***	***
Spain	***	***	***	***	***
East Germany	***	***	***	1/	1/
U.S.S.R.	***	***	***	1/	1/
Shipments (1,000 short tons KCl)					
Israel	***	***	***	***	***
Spain	***	***	***	***	***
East Germany	***	***	***	1/	1/
U.S.S.R.	***	***	***	1/	1/
As a share of shipments (percent)					
Israel	***	***	***	2/ ***	2/ ***
Spain	***	***	***	2/ ***	2/ ***
East Germany	***	***	***	1/	1/
U.S.S.R.	***	***	***	1/	1/

1/ Not available.

2/ Annualized.

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

#### World Potash Reserves and Production Capacity

Potash reserves are located in only 16 countries. According to the Bureau of Mines, Canada and the U.S.S.R. possess the largest potash reserves in the world, accounting for 74 percent and 16 percent of all reserves, respectively (table 6). East Germany and Spain account for 4.2 percent and 0.3 percent, respectively, of all reserves. Reserves in the United States account for only 0.5 percent of worldwide reserves. The Bureau of Mines has no estimate for reserves in Israel.

In 1984, according to the Tennessee Valley Authority, the countries with the largest capacities to produce potash were the U.S.S.R., accounting for 34 percent of total capacity; Canada, with 26 percent; East Germany, with 10 percent; and West Germany, with 9 percent. The United States, with the fifth largest capacity, accounts for 6 percent of total capacity. Israel and Spain

Table 6.—Potash: World reserves and capacity, by countries, 1984

Country	Reserves		Capacity	
	Quantity	Share of quantity	Quantity	Share of quantity
	Million short tons KCl	Percent	Million short tons KCl	Percent
U.S.S.R.	5,511	15.8	21	33.5
Canada	25,721	73.7	16	26.1
East Germany	1,470	4.2	6	10.1
West Germany	919	2.6	6	8.8
United States	184	0.5	4	6.5
France	92	.3	4	6.3
Israel	<u>1/</u>	—	2	2.9
Spain	110	.3	1	1.8
Other	900	2.6	3	4.0
Total	34,906	100.0	63	100.0

1/ No estimate from the Bureau of Mines is available.

Source: Reserves data, the Bureau of Mines; capacity data, the Tennessee Valley Authority.

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

account for 3 percent and 2 percent of worldwide capacity, respectively. According to the Tennessee Valley Authority, world capacity to produce potassium chloride will increase by 3.6 percent from 1984 to 1985.

#### The U.S. Market

U.S. consumption of potassium chloride fell from a record 12.1 million short tons in 1979 to 8.4 million short tons in 1982, representing a decrease of 31 percent. Consumption then increased to 10.2 million short tons in 1983, as shown in the following tabulation (in thousands of short tons KCl):

	<u>Quantity</u>
1979	12,133
1980	10,862
1981	10,292
1982	8,358
1983	10,218
January—June	
1983	4,973
1984	5,808

Canada is the largest supplier of potassium chloride in the U.S. market, accounting for about 74 percent of total U.S. consumption during 1981-83. The Canadian share of the U.S. market is expected to increase as U.S. demand increases and its reserves are depleted.

U.S. consumption of potassium chloride is dependent upon the demand for fertilizer. In 1982, such demand was depressed by weak farm conditions. In 1983, demand was reduced by Government-sponsored acreage reduction, paid diversion, and the Payment-In-Kind (PIK) programs. Nearly 800 million acres, 40 percent of total U.S. farmland, were idled during the year.

During times when the cash receipts of farmers are low, they may reduce costs by decreasing their fertilizer purchases. Thus, purchases of potassium chloride, which may be retained in the soil for 2 to 3 years after application, are frequently decreased. However, in the long run, application of potassium chloride must be resumed to maintain the quantity and quality of the crops.

The Bureau of Mines and FERTECON, an independent British fertilizer research organization, have developed projections for future U.S. consumption of potassium chloride. Their projections, which are nearly the same, forecast U.S. consumption to grow 29 percent and 25 percent, respectively, from 1981 to 1990. <sup>1/</sup>

Eight midwestern farming States account for about 62 percent of U.S. consumption of potassium chloride, as shown in the following tabulation (in percent):

<u>State</u>	<u>Share of consumption</u>
Illinois.....	15
Iowa.....	10
Indiana.....	8
Ohio.....	8
Minnesota.....	7
Wisconsin.....	5
Missouri.....	5
Michigan.....	4
Total.....	62

#### Consideration of Material Injury

The information presented in this section of the report was obtained from data published by the Potash & Phosphate Institute and from responses to questionnaires of the Commission in connection with these investigations and its 1981 investigation on potassium chloride from Canada (No. 751-TA-3). All U.S. producers completed the questionnaire in the investigations. All firms, except \*\*\*, were able to complete all sections of the questionnaire. \*\*\*.

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<sup>1/</sup> James P. Searls, Potash, Bureau of Mines, Mineral Commodity Profiles, 1983, p. 8, and FERTECON, Potash; A Global Study of Supply, Demand, and Price Trends, Fertilizer Economic Studies Ltd., January 1983, p. 96.

\*\*\* U.S. producers, \*\*\*, are purchasers of potassium chloride imported from Israel. If data concerning these \*\*\* producers, which accounted for \*\*\* percent of U.S. production during 1981-83, were excluded from information presented in this section, the overall trends would remain the same.

#### U.S. capacity, production, and shipments

Data on U.S. producers' productive capacity are presented in table 7. U.S. capacity to produce potassium chloride decreased from 3,837 short tons KCl in 1980 to \*\*\* short tons in 1983, or by \*\*\* percent. This decrease in capacity does not take into account the closing of the Kaiser, Mississippi Chemical, and National Potash Co. facilities in 1982 and 1983. As of early October 1984, these plants had been closed 11 months, 20 months, and 32 months, respectively. These idled plants accounted for \*\*\* percent of total U.S. productive capacity in 1983.

Table 7.—Potassium chloride: U.S. production capacity, production, and capacity utilization, 1976-83, January-June 1983, and January-June 1984

Period	Capacity	Production	Capacity utilization
	1,000 short tons KCl		Percent
1976	3,495	3,353	96
1977	3,503	3,248	93
1978	3,657	3,485	95
1979	3,688	3,438	93
1980	<u>1/</u> 3,837	<u>1/</u> 3,460	90
1981	***	***	92
1982	***	***	80
1983	***	***	59
January-June			
1983	***	***	65
1984	***	***	71

1/ Estimated by multiplying January-November 1980 data by 12/11.

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

Note.—Production data collected by the U.S. International Trade Commission may vary from data collected from other sources because the Commission adjusted some of the data that were reported by fiscal rather than by calendar year.

Ideally, U.S. producers operate their potassium chloride facilities 24 hours a day, 7 days a week, with the plants closing only for ordinary maintenance work. Thus, the nine U.S. facilities could theoretically operate a maximum of 3,285 days a year. In 1981, the plants were closed \*\*\* days for ordinary maintenance. In 1983, U.S. producers closed their potassium chloride operations a total of \*\*\* days, up from \*\*\* days in 1981. Of the total number

of days closed in 1983, U.S. producers reported that they closed their plants \*\*\* days because of inventory buildups. Mississippi Chemical and National Potash Co., each of which was closed for most of 1983, accounted for \*\*\* of the days closed in that year.

If a potash mine is closed for several months, the roofs in the underground mining areas subside. According to the Bureau of Mines, the remaining economic ore reserve in the mine, as a consequence, "may be lost forever . . . and the remaining reserves will not support the startup cost and any capital investment" necessary to reopen the mine. In addition, according to the petitioner, the surface equipment in a beneficiation plant that is not in use deteriorates rapidly. Thus, according to the petitioner, it is also uneconomical to repair such a plant which has been closed for a long time.

U.S. producers' production capacity will continue to decrease as the potash reserves are exhausted. According to the Bureau of Mines, the reserves held by the Potash Co. of America and Texasgulf may be depleted in the early 1990's. Reserves held by AMAX may be depleted by the year 2000. The other producers, according to the Bureau of Mines, "appear to have sufficient reserves to operate past the year 2000."

Data on U.S. production and shipments of potassium chloride are presented in table 8. U.S. production of potassium chloride decreased steadily from 3.4 million short tons KCl in 1980 to 2.1 million short tons in 1983, representing a decrease of 39 percent. With the decrease in production, utilization of U.S. producers' potassium chloride facilities decreased from more than 90 percent in 1976-81 to 59 percent during 1983 (table 7).

U.S. producers' shipments followed the same trend as production, decreasing by 33 percent from 1980 to 1983. U.S. producers' domestic shipments fell from 2.0 million short tons KCl in 1980 to 1.7 million short tons in 1983, or by 14 percent. U.S. producers' export shipments fell by 63 percent during the period.

According to the Bureau of Mines, the United States enjoys a freight advantage over Canada in the overseas potassium chloride markets. A significant share of U.S.-produced potassium chloride is exported from west coast and gulf coast ports to Central and South America, New Zealand, and Japan, as shown in the following tabulation:

	<u>U.S. exports as a share of sales</u> (percent)
1976-----	38
1977-----	41
1978-----	37
1979-----	28
1980-----	39
1981-----	28
1982-----	30
1983-----	21
January-June---	
1983-----	21
1984-----	25



Table 8.—Potassium chloride: U.S. production, producers' shipments, and apparent consumption, 1962-83, January-June 1983, and January-June 1984

Period	U.S. production	Producers' shipments			Apparent consumption	Domestic sales as a share of consumption Percent
		Domestic	Export	Total		
1,000 short tons KCl						
1962	xxx	xxx	xxx	xxx	xxx	xxx
1963	xxx	xxx	xxx	xxx	xxx	xxx
1964	xxx	xxx	xxx	xxx	xxx	xxx
1965	xxx	xxx	xxx	xxx	xxx	xxx
1966	xxx	xxx	xxx	xxx	xxx	xxx
1967	xxx	xxx	xxx	xxx	xxx	xxx
1968	xxx	xxx	xxx	xxx	xxx	xxx
1969	xxx	xxx	xxx	xxx	xxx	xxx
1970	xxx	xxx	xxx	xxx	xxx	xxx
1971	xxx	xxx	xxx	xxx	xxx	xxx
1972	xxx	xxx	xxx	xxx	xxx	xxx
1973	xxx	xxx	xxx	xxx	xxx	xxx
1974	3,617	2,545	1,058	3,603	9,690	26
1975	3,572	1,837	1,110	2,947	7,968	23
1976	3,418	2,173	1,348	3,521	9,648	23
1977	3,365	2,090	1,432	3,521	10,295	20
1978	3,408	2,185	1,272	3,457	10,833	20
1979	3,363	2,615	995	3,610	12,133	22
1980	3,375	2,017	1,292	3,308	10,862	19
1981	3,231	2,063	786	2,848	10,292	20
1982	2,710	1,875	808	2,683	8,358	22
1983	2,072	1,742	477	2,218	10,218	17
Jan.-June						
1983	1,090	895	236	1,131	4,973	18
1984	1,196	958	323	1,281	5,808	17

Source: Data for 1962-73, Stanford Research Institute; data since 1973, the Potash & Phosphate Institute.

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

About 75 percent of the decrease in U.S. producers' total shipments from 1980 to 1983 can be attributed to the decrease in export shipments. Economic problems in Brazil, a large importer of potassium chloride, and decreased worldwide demand for potassium chloride contributed to the decline in U.S. producers' offshore sales.

U.S. producers' inventories

Sales of potassium chloride are seasonal and producers build up inventories in order to have adequate supplies available during the spring and fall. Data on U.S. producers' yearend inventories of potassium chloride are presented in table 9. These inventories increased sharply from 342,000 short tons KCl in 1980 to 753,000 short tons in 1982, and then decreased to 530,000 short tons by yearend 1983. U.S. producers were able to obtain these reductions in inventories by cutting back on production. Inventories as a share of total annual shipments increased from 10 percent in 1980 to 26 percent in 1981 and remained at roughly that level through 1983.

Table 9.—Potassium chloride: U.S. producers' end-of-period inventories, as of Dec. 31 of 1976-83, June 30, 1983, and June 30, 1984

Date	Quantity 1,000 short tons KCl	Ratio of inventories to U.S. producers' shipments Percent
December 31—		
1976—	738	21.0
1977—	720	20.4
1978—	618	17.9
1979—	325	9.0
1980—	342	10.3
1981—	738	25.9
1982—	753	28.1
1983—	530	23.9
June 30—		
1983—	631	<sup>1/</sup> 27.9
1984—	363	<sup>1/</sup> 14.2

<sup>1/</sup> Annualized.

Source: Potash & Phosphate Institute.

Prior to 1979, virtually all U.S. producers' potassium chloride inventories were held at minesite. Since then, U.S. producers have opened 11 warehouses throughout the United States. These warehouses permit more timely delivery to the customer. No data on U.S. producers' offsite warehouse inventories are available prior to 1984. On February 29, 1984, 179,000 short tons KCl, or 15 percent of U.S. producers' total inventories, were held in offsite warehouses. In comparison, Canadian producers held 1.2 million short tons KCl, or 50 percent of their total stocks, in offsite warehouses located primarily in the United States.

Information concerning plant closures due to inventory buildup was included in the section on capacity. U.S. producers, however, have also opted to let their inventories increase in the short term rather than to close their plants and incur the costs associated with shutdowns.

### Employment and wages

The average number of workers engaged in the production of potassium chloride in the United States decreased steadily from 1,961 in 1981 to 1,224 in 1983, or by 38 percent (table 10). Hours worked by and wages and total compensation paid to such employees followed similar trends. Workers engaged in the production of potassium chloride are largely union members; their average hourly wages increased from \$10.97 in 1981 to \$13.36 during 1983.

Labor productivity, as measured by output per worker hour, increased irregularly from 0.793 ton per hour worked in 1981 to 0.839 ton per hour worked in 1983. Unit labor costs also increased during the period, from \$15.40 per ton in 1981 to \$18.75 per ton in 1983, or by 22 percent.

### Financial experience of U.S. producers

Eight producers, accounting for virtually all U.S. production of potassium chloride in 1983, provided usable income-and-loss data relative to both their overall establishment operations and their operations producing potassium chloride alone. Six of these firms provided data for the interim periods ending June 30, 1983, and June 30, 1984. In the aggregate, U.S. producers experienced declining sales and increasing losses from their potassium chloride operations during 1982 and 1983. However, net sales were up during interim 1984, and the industry operated profitably during that period.

Overall establishment operations.—The income-and-loss experience of eight U.S. producers on the overall operations of their establishments within which potassium chloride is produced is shown in table 11 for 1981-83, interim 1983, and interim 1984. Net sales declined annually from \$358 million to \$237 million, or by 34 percent, during 1981-83. Net sales rose to \$101 million during interim 1984, up 17 percent from the \$86 million in net sales reported for the corresponding period of 1983. The eight producers earned an aggregate operating income of \$49 million, or 13.7 percent of net sales, during 1981, but sustained operating losses of \$2.9 million, or 1.1 percent of net sales, and \$7.1 million, or 3.0 percent of net sales, in 1982 and 1983, respectively. The six reporting producers earned an operating income of \$11.8 million, or 11.6 percent of net sales, during interim 1984, compared with an operating loss of \$8.1 million, or 9.4 percent of net sales, during the corresponding period of 1983.

Potassium chloride operations.—The income-and-loss experience of the eight U.S. producers on their operations producing potassium chloride is shown in table 12. Net sales declined annually from \$219 million to \$130 million, or by 41 percent, during 1981-83. Net sales were \$77 million during interim 1984, up 29 percent from the \$60 million in net sales reported for the corresponding period of 1983. The eight producers earned an aggregate operating income of \$32 million, or 14.5 percent of net sales, in 1981. In 1982 and 1983, they sustained operating losses of \$13 million, or 8.2 percent of net sales, and \$24 million, or 18.4 percent of net sales, respectively. The six reporting producers earned an operating income of \$4 million, or 5.8 percent of net sales, during interim 1984, compared with an operating loss of \$10 million, or 16.6 percent of net sales, during the corresponding period of 1983.

Table 10.—Potassium chloride: Employment and wage data for production and related workers, 1981-83, January-June 1983, and January-June 1984

Item	1981	1982	1983	January-June—	
				1983	1984
Average employment of production and related workers:					
Number	1,961	1,721	1,224	1,271	1,239
Percentage change	<u>1/</u>	-12.2	-28.9	<u>1/</u>	-2.5
Hours paid for production and related workers: <u>2/</u>					
Number—thousands	4,195	3,515	2,482	1,265	1,256
Percentage change	<u>1/</u>	-16.2	-29.4	<u>1/</u>	-0.7
Wages paid to production and related workers:					
Value—1,000 dollars	46,030	42,854	33,170	15,781	16,193
Percentage change	<u>1/</u>	-6.9	-22.6	<u>1/</u>	2.6
Total compensation paid to production and related workers: <u>3/</u>					
Value—1,000 dollars	51,264	49,548	39,058	21,851	22,343
Percentage change	<u>1/</u>	-3.3	-21.2	<u>1/</u>	2.3
Hourly wages paid:					
Value—per worker hour	\$10.97	\$12.19	\$13.36	\$12.48	\$12.89
Percentage change	<u>1/</u>	11.1	9.6	<u>1/</u>	3.3
Labor productivity: <u>4/</u>					
Quantity					
tons per worker hour	0.793	0.792	0.839	0.862	0.952
Percentage change	<u>1/</u>	-0.1	5.9	<u>1/</u>	10.4
Unit labor costs: <u>5/</u>					
Value—per ton	\$15.40	\$17.79	\$18.75	\$20.05	\$18.68
Percentage change	<u>1/</u>	15.5	5.4	<u>1/</u>	-6.8

1/ Not available.

2/ Includes hours worked plus hours of paid leave time.

3/ Includes wages and contributions to Social Security and other employee benefits.

4/ Production per hour worked.

5/ Total compensation paid per ton produced.

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

Table 11.—Income and loss experience of 8 U.S. producers on the overall operations of their establishments within which potassium chloride is produced, 1981-83, interim 1983, and interim 1984 <sup>1/</sup>

Item	1981	1982	1983	Interim period to June 30—	
				1983	1984
Net sales—1,000 dollars—	358,110	268,057	237,299	86,116	101,177
Cost of goods sold—do—	287,286	251,323	229,181	89,034	85,407
Gross income or (loss)—1,000 dollars—	70,824	16,735	8,118	(2,918)	15,770
General, selling, and admin- istrative expenses 1,000 dollars—	21,864	19,627	15,198	5,138	4,016
Operating income or (loss) 1,000 dollars—	48,960	(2,892)	(7,080)	(8,056)	11,754
Other income or expense:					
Interest expense—do—	1,533	2,862	1,961	1,006	390
Other income or (expense), net—1,000 dollars—	(521)	321	2,923	588	58
Total other income or (expense), net 1,000 dollars—	(2,054)	(2,541)	962	(418)	(332)
Net income or (loss) before income taxes—do—	46,906	(5,433)	(6,118)	(8,474)	11,422
Depreciation and amor- tization expense—do—	19,307	21,802	20,472	8,459	7,333
Cash flow from operations 1,000 dollars—	66,213	16,369	14,354	(15)	18,755
Ratio to net sales of—					
Gross income or (loss) percent—	19.8	6.2	3.4	(3.4)	15.6
Operating income or (loss)—do—	13.7	(1.1)	(3.0)	(9.4)	11.6
Net income or (loss) before income taxes percent—	13.1	(2.0)	(2.6)	(9.8)	11.3
Cost of goods sold—do—	80.2	93.8	96.6	103.4	84.4
General, selling, and administrative expenses percent—	6.1	7.3	6.4	6.0	4.0
Number of firms reporting—					
Gross losses—	1	4	5	5	0
Operating losses—	1	6	6	5	1
Net losses before income taxes—	1	6	6	1	1

<sup>1/</sup> Interim data for 1983 and 1984 were supplied by 6 firms.

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

Table 12.—Income and loss experience of 8 U.S. producers on their operations producing potassium chloride, 1981-83, interim 1983, and interim 1984 1/

Item	1981	1982	1983	Interim period to June 30—	
				1983	1984
Net sales—1,000 dollars—	219,460	163,039	130,016	59,661	76,852
Cost of goods sold—do—	171,487	162,192	144,411	65,217	69,179
Gross income or (loss)—1,000 dollars—	47,973	847	(14,395)	(5,556)	7,672
General, selling, and admin- istrative expenses 1,000 dollars—	16,181	14,183	9,536	4,343	3,218
Operating income or (loss) 1,000 dollars—	31,792	(13,336)	(23,931)	(9,899)	4,455
Other income or expense:					
Interest expense—do—	1,509	2,769	1,839	949	312
Other income or (expense), net—1,000 dollars—	(388)	487	2,608	696	163
Total other income or (expense), net 1,000 dollars—	(1,897)	(2,282)	769	(253)	(149)
Net income or (loss) before income taxes—do—	29,895	(15,618)	(23,162)	(10,152)	4,306
Depreciation and amor- tization expense—do—	17,755	20,163	18,604	8,373	7,247
Cash flow from operations 1,000 dollars—	47,650	4,545	(4,558)	(1,779)	11,553
Ratio to net sales—					
Gross income or (loss) percent—	21.9	0.5	(11.1)	(9.3)	10.0
Operating income or (loss)—do—	14.5	(8.2)	(18.4)	(16.6)	5.8
Net income or (loss) before income taxes percent—	13.6	(9.6)	(17.8)	(17.0)	5.6
Cost of goods sold—do—	78.1	99.5	111.1	109.3	90.0
General, selling, and administrative expenses percent—	7.4	8.7	7.3	7.3	4.2
Number of firms reporting—					
Gross losses—	1	4	6	6	2
Operating losses—	1	5	8	6	2
Net losses before income taxes—	1	6	7	7	2

1/ Interim data for 1983 and 1984 were supplied by 6 firms.

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

Net income or loss before income taxes followed the same trend as operating income or loss during the reporting period, ranging from a profit equivalent to 13.6 percent of net sales in 1981 to a loss equivalent to 17.8 percent of sales in 1983. The eight firms reported positive cash flows of \$48 million and \$5 million in 1981 and 1982, respectively, but sustained a negative cash flow of \$5 million in 1983. The six reporting firms had a positive cash flow of \$12 million in interim 1984, compared with a negative cash flow of \$2 million in the corresponding period of 1983.

### Consideration of Threat of Material Injury

In its examination of the question of threat of material injury to an industry in the United States, the Commission may take into consideration such factors as the rate of increase of the subsidized and/or LTFV imports, the rate of increase of U.S. market penetration by such imports, the quantity of such imports held in inventory in the United States, and the capacity of producers in the subject countries to generate exports (including the availability of export markets other than the United States).

Projections of U.S. consumption of potassium chloride are presented in the section of this report concerning the U.S. market. Trends in imports and U.S. market penetration are discussed in the section of this report that addresses the causal relationship between the alleged material injury and the subsidized imports. Information regarding the capacity of the foreign producers to generate exports is discussed in the section of this report that covers the foreign industries. Information on importers' inventories is presented in the section on importers.

### Consideration of the Causal Relationship Between Subsidized Imports and Material Injury or Threat Thereof

#### U.S. imports

U.S. imports of potassium chloride decreased from 8.6 million short tons KCl in 1981 to 7.2 million short tons in 1982; imports then increased to 7.9 million short tons in 1983 (table 13). Canada is the largest supplier of potassium chloride, accounting for 89 percent of total imports in 1983. Israel is the second largest supplier, accounting for 7 percent of total imports; followed by East Germany, 2 percent; the U.S.S.R., 1 percent; and Spain, 1 percent.

Israel.—Imports of potassium chloride from Israel increased from 450,000 short tons KCl in 1981 to 618,000 short tons in 1982, or by 37 percent. Imports then decreased to 549,000 short tons in 1983, or 22 percent higher than the level of imports in 1981. Imports from Israel, as a share of U.S. consumption, increased from 4 percent in 1981 to 5 percent in 1982 and 1983, as shown in table 14.

Spain.—Imports from Spain more than doubled from 24,000 short tons KCl in 1981 to 58,000 short tons in 1983. These imports accounted for less than 0.5 percent of U.S. consumption in 1981 and 1 percent of consumption in 1982 and 1983.

Table 13.—Potassium chloride: U.S. imports for consumption, by principal sources, 1976–83, January–June 1983, and January–June 1984

Source	1976	1977	1978	1979	1980	1981	1982	1983	Jan.—June—	
									1983	1984
Quantity (1,000 short tons)										
Israel	94	225	366	304	344	450	618	549	278	259
Spain	22	56	33	23	12	24	55	58	36	11
East Germany	44	10	20	61	54	55	46	135	86	102
U.S.S.R. <sup>1/</sup>	0	23	32	13	42	0	66	68	34	102
Canada	7,280	7,882	7,915	8,848	8,424	8,052	6,310	6,989	3,368	4,043
All other	35	9	22	27	31	20	59	76	40	10
Total	7,475	8,205	8,390	9,275	8,907	8,601	7,154	7,875	3,842	4,527
Percent of total quantity										
Israel	1	3	4	3	4	5	9	7	7	6
Spain	<u>2/</u>	1	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>	1	1	1	<u>2/</u>
East Germany	1	<u>2/</u>	<u>2/</u>	1	1	1	1	2	2	2
U.S.S.R. <sup>1/</sup>	0	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>	0	1	1	1	2
Canada	97	96	94	95	95	94	88	89	88	89
All other	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>	1	1	1	<u>2/</u>
Total	100	100	100	100	100	100	100	100	100	100
Value (million dollars)										
Israel	4	8	18	21	32	45	57	41	23	21
Spain	1	3	1	1	1	2	4	3	2	1
East Germany	2	<u>3/</u>	1	3	4	4	3	9	6	7
U.S.S.R. <sup>1/</sup>	0	1	1	1	2	0	5	4	2	7
Canada	323	345	359	482	588	677	515	485	247	299
All other	2	<u>3/</u>	2	2	3	2	5	6	2	1
Total	332	358	382	510	629	730	588	548	282	336

<sup>1/</sup> Includes Latvia.

<sup>2/</sup> Less than 0.5 percent.

<sup>3/</sup> Less than \$500,000.

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

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



Table 14.—Potassium chloride: U.S. imports and U.S. producers' shipments, as a share of consumption, by principal sources, 1981-83, January-June 1983, and January-June 1984

(In percent)

Source	1981	1982	1983	January-June—	
				1983	1984
U.S. imports from—					
Israel—	4	5	5	6	5
Spain—	1/	1	1	1	1/
East Germany—	1	1	2	2	2
U.S.S.R.—	0	1	1	1	2
Canada—	75	70	75	71	74
All other—	1/	0	0	1	1/
Subtotal—	80	78	83	81	83
U.S. producers' shipments—	20	22	17	18	17
Total, all sources—	100	100	100	100	100

1/ Less than 0.5 percent.

Source: Potash & Phosphate Institute.

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

Future import penetration.—The Bureau of Mines and FERTECON project that the U.S. producers' share of the market will continue to decrease as mines are forced to close as reserves are depleted. By the year 2000, the Bureau of Mines projects that the U.S. producers' share of the market will decrease to 10 percent. The rest of the market will be supplied by imports.

The Southeast market.—The petitioners assert that the impact of imports from Israel, Spain, East Germany, and the U.S.S.R. is particularly acute in the Southeast market. This region includes the following States: Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia. Information concerning U.S. producers' and importers' shipments into this region is presented in tables 15 and 16.

Table 15.—Potassium chloride: U.S. importers' and producers' shipments to the Southeast region, <sup>1/</sup> by sources, 1981-83

Source	1981	1982	1983
Quantity (1,000 short tons KCl)			
Israel	***	***	***
Spain	***	***	***
East Germany	***	***	***
U.S.S.R.	***	***	***
Canada	***	***	***
United States	***	***	***
Total	2,798	2,328	2,417
Share of total quantity (percent)			
Israel	***	***	***
Spain	***	***	***
East Germany	***	***	***
U.S.S.R.	***	***	***
Canada	***	***	***
United States	***	***	***
Total	100	100	100

<sup>1/</sup> This region includes the States of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

<sup>2/</sup> Less than 0.5 percent.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from data published by the Potash & Phosphate Institute.

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

Table 16.—Potassium chloride: U.S. importers' and producers' shipments to the Southeast region as a share of their total shipments in the U.S. market, 1981-83

(In percent)			
Source	1981	1982	1983
Israel	***	***	***
Spain	***	***	***
East Germany	***	***	***
U.S.S.R.	***	***	***
Canada	***	***	***
United States	***	***	***
Total <u>1/</u>	27	28	24

1/ The Southeast region as a share of the total U.S. market.

Source: Derived from data submitted in response to questionnaires of the U.S. International Trade Commission and from data published by the Potash & Phosphate Institute.

#### Transportation costs

Transportation costs from Carlsbad to the Southeastern market can double the domestic f.o.b. price of potash. As reported by producers and purchasers, transportation costs ranged from \$25 to \$60 per ton, exceeding the f.o.b. minehead price in some cases. 1/ Most transportation costs were in the high end of the range. Some customers have been able to reduce transportation costs by increasing barge shipments and reducing rail shipments. Such shipments are generally made by rail to Houston and by barge to the final destination (table 17)

For importers of potash from Israel and Spain, U.S. transportation costs represent a much smaller proportion of delivered costs in the markets they serve, owing to the proximity of their customers to ports of entry or to river transportation. Reported costs ranged from less than \$2 to over \$17 per ton, depending on the mode of transportation. The lowest cost reported was \*\*\* per ton for \*\*\* barge shipments up the Mississippi (possibly at a low backhaul rate), and the highest was \*\*\* for a truck or rail shipment, or 2 and 17 percent of delivered price, respectively. The staff estimated delivered prices by obtaining transportation costs to the purchasers' locations from sellers and purchasers. Estimates of delivery costs range from \$2 per ton for intracity truck hauls to a high of \$12.60 for rail shipments from Brunswick, GA, to destinations within the State of Georgia.

The petitioners argue that, in comparison with the Saskatchewan producers, the U.S. producers enjoy a freight advantage in shipping potassium chloride to the Southeast region. Because of the freight advantage, the petitioners

1/ Some sales in the Texas panhandle were reported as being shipped by truck from Carlsbad at a cost of \*\*\* to \*\*\* per ton.

Table 17.—Transportation costs for the shipment of potash from U.S. and Canadian locations to selected destinations, as reported by purchasers and by U.S. producers, 1983-84

(In dollars per ton)

Destination	Carlsbad			Canadian border <u>1/</u>			Saskatchewan
	Rail <u>2/</u>	Rail/ barge <u>3/</u>	Truck	Rail	Barge	Truck	Rail <u>4/</u>
Texas panhandle—			12-15				
Houston—	30		25				
Brownsville—	45						
Iowa/Illinois—							44-50
Michigan/Indiana—						6-7	
Central Ohio—				6		11	61
Kentucky—	52	35-38			<u>5/</u> ***		38
East Coast States—		60-64					
Georgia—		<u>6/</u> 54-58					65
Gulf Coast States—	47-50	35-38					57-60

1/ Terminals or warehouses located at or near the border, where Canadian producers maintain large inventories of potash for subsequent shipment to U.S. customers.

2/ In general, single car rates (approximately 100 tons).

3/ Shipments are made by rail to Houston or other gulf ports and by barge to final destination.

4/ Single car rates. No rates were confirmed for unit train shipments.

5/ Shipments are made from the Minnesota terminal along the Mississippi and Ohio Rivers.

6/ A single customer reported freight costs of \*\*\* per ton to this area. Other customers and producers reported costs as shown.

Source: Compiled from questionnaires of the U.S. International Trade Commission and posthearing submissions by U.S. producers.

assert that in this region they face less competition from Saskatchewan and receive higher net prices (f.o.b. mine) compared with the net prices (f.o.b. mine) received from sales to other regions of the United States. The petitioners allege that subsidized and LTFV imports from Israel, Spain, East Germany, and the U.S.S.R. are gaining an increasing share of this heretofore profitable U.S. market.

Transportation costs of potassium chloride can be as much as \$68.00 per short ton from New Mexico to the Southeast market, or one-half or more of the total delivered price. In the Southeast market, the product is shipped to the customer by rail, barge, and truck. The Carlsbad, NM, producers have a transportation advantage over the Saskatchewan producers when shipping the product to this market by the traditional single traincar. In 1980, this single traincar advantage ranged from \$1.12 per short ton for shipments to Maryland to \$16.99 per short ton for shipments to Louisiana. In 1983, the single traincar advantage ranged from \$1.22 to \$12.74 per short ton, respectively. <sup>1/</sup> The petitioners assert that the vast bulk of the potassium chloride sold by North American producers to the Southeast market is shipped by single traincars. <sup>2/</sup>

As stated above, U.S. producers claim that the the cost of shipping potash from Saskatchewan to the Southeastern United States exceeds the cost of shipping from Carlsbad. Table 17 shows freight costs reported by U.S. producers and by purchasers of both U.S.- and Canadian-produced potash. The reported cost of freight from Saskatchewan to Georgia, on a single carload basis, is \$65 per ton, compared with \$54-\$58 per ton for freight from Carlsbad. Similarly, the cost of single carload shipments from Canada to the Gulf Coast States is generally about \$60 per ton, compared with \$50 per ton for an all-rail shipment and under \$40 per ton for a combination rail/barge shipment from Carlsbad.

Since 1980, railroads have quoted prices for unit train shipments of potassium chloride from Saskatchewan to the Southeast market. <sup>3/</sup> Each unit train has 70 cars to 100 cars. In 1983, according to information provided by counsel for the Dead Sea Works, Ltd. (DSW), the Israeli producer, use by the Saskatchewan producers of unit train freight rates provided them with a transportation advantage over the New Mexican producers in 9 of the 14 Southeast States. This advantage is said to range from \$0.06 per short ton for shipments to South Carolina to \$13.08 per short ton for shipments to Delaware. The use of the unit train freight rates by the Saskatchewan producers has left the U.S. producers with a transportation advantage in only three Southeast States. This advantage ranges from \$1.16 per short ton for shipments to Mississippi to \$1.93 per short ton for shipments to Tennessee. <sup>4/</sup>

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<sup>1/</sup> The petitions, app. A., p. 22.

<sup>2/</sup> Telephone conversation between the Commission's staff and counsel for the petitioners on May 1, 1984.

<sup>3/</sup> The Canadian producers also employ unit train rail transportation to terminals in locations such as St. Paul, MN, and Toledo, OH. Truck, rail, or barge can be used from these locations to competitively reach market areas along the Mississippi, Missouri, and Ohio river valleys.

<sup>4/</sup> Post conference brief on behalf of Dead Sea Works, Ltd., Apr. 26, 1984, app. 10.

According to counsel for DSW, the U.S. producers' transportation disadvantage in the Southeast market, which was occasioned by the inauguration of unit train freight rates, has contributed to their declining share of that market. However, counsel for the petitioners stated that only one unit train ever entered the Southeast market from Saskatchewan. This shipment of approximately 5,600 short tons was delivered in December 1983. 1/

In January 1984, the Potash Co. of America (PCA), which also operates a New Mexico mine, opened a potassium chloride mine in New Brunswick. This producer has shiploading facilities at the Port of St. John, New Brunswick. In its 1982 annual report *Ideal Basic*, the parent firm of the Potash Co. of America, states—

The proximity of the mine to deep water will give Potash Company of America a considerable freight advantage to certain markets shipped from other North American points and will widen Atlantic-rim market opportunities.

Counsel for DSW provided estimates of the cost of transporting potash from New Brunswick and from Vancouver to locations in the gulf coast region. DSW alleges that such shipments have become increasingly frequent since mid-1983, and will grow substantially as the PCA facility in New Brunswick reaches full production. The estimated costs of such shipments from New Brunswick to Pascagoula, MS, is \*\*\* per ton, including loading and unloading charges, \*\*\* below the reported cost of single carload rail shipments from Carlsbad. Similarly, the estimated cost of shipments by unit train from Saskatchewan to Vancouver and by sea to Mississippi is \*\*\*, or \*\*\* below the reported cost of shipments from Carlsbad. U.S. producers have increased combination rail/barge shipments to the Gulf Coast States at \$35-\$38 per ton, according to purchasers (table 17).

Potassium chloride imported from Israel, Spain, East Germany, and the U.S.S.R. is shipped by sea to ports in the Southeast United States. 2/ The ocean freight rates can be as low as \$15 per short ton for shipments from Israel and Spain. Once the product is landed in the United States it is then stored in a portside warehouse or is transferred to a Mississippi River barge. Inland freight costs for potash imported from Israel, Spain, East Germany, and the U.S.S.R. are much lower than U.S. producers' freight costs, as can be seen in tables 18-22 (which are discussed in the following section on prices).

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1/ Telephone conversation between the Commission's staff and counsel for the petitioners on May 1, 1984. Additional unit trains are believed to have entered the Georgia/Florida region in 1984. One purchaser reported that he purchases \*\*\* of Canadian potash in that region. He refused to elaborate on actual quantities purchased or on prices. (Telephone conversation between the Commission's staff and \*\*\*)

2/ A large share of the potassium chloride imported from the U.S.S.R. enters the Southeast market at New Orleans, LA, where it is transferred to Mississippi River barges. This potassium chloride is then sold to fertilizer concerns that have storage facilities along the river in the southeast and the midwest.

## Prices

Purchasers of potash in the United States range in size from large national fertilizer distributors to local dealers and farmer's cooperatives. The national distributors generally make centralized purchasing decisions and benefit from the purchasing power inherent in controlling the distribution of many hundred of thousands of tons of potash annually. These purchases, however, may be shipped to any location in the United States in lots as small as single truckloads (20-25 tons). The freight component of purchases by any one purchaser, therefore, may vary substantially from shipment to shipment. A typical customer of this type may have offices located in Chicago but will purchase potash for delivery to States west of the Mississippi, to the deep South, and to the Ohio and Tennessee River valleys.

U.S. producers sell most potash on a sale-by-sale basis, although some producers prefer to establish contracts with their largest customers. These contracts generally establish only guidelines regarding expected quantities to be purchased. Prices are negotiated at the beginning of the fertilizer year or, in some cases, more frequently, and are based on their published price lists. These price lists show an f.o.b. minehead price for each grade of potash. Freight costs are then added to the minehead price based on a single railcar rate from the mine to the final destination. Larger customers, however, are given discounts from the published price schedule. \*\*\* reports that this discount to national customers rarely exceeded 5 percent of the minehead price through mid-1982, but has since increased up to 10 percent, allegedly in response to foreign competition. In addition, the actual negotiated price is likely to reflect the lower costs of shipments larger than single carloads, including unit trains and barge shipments.

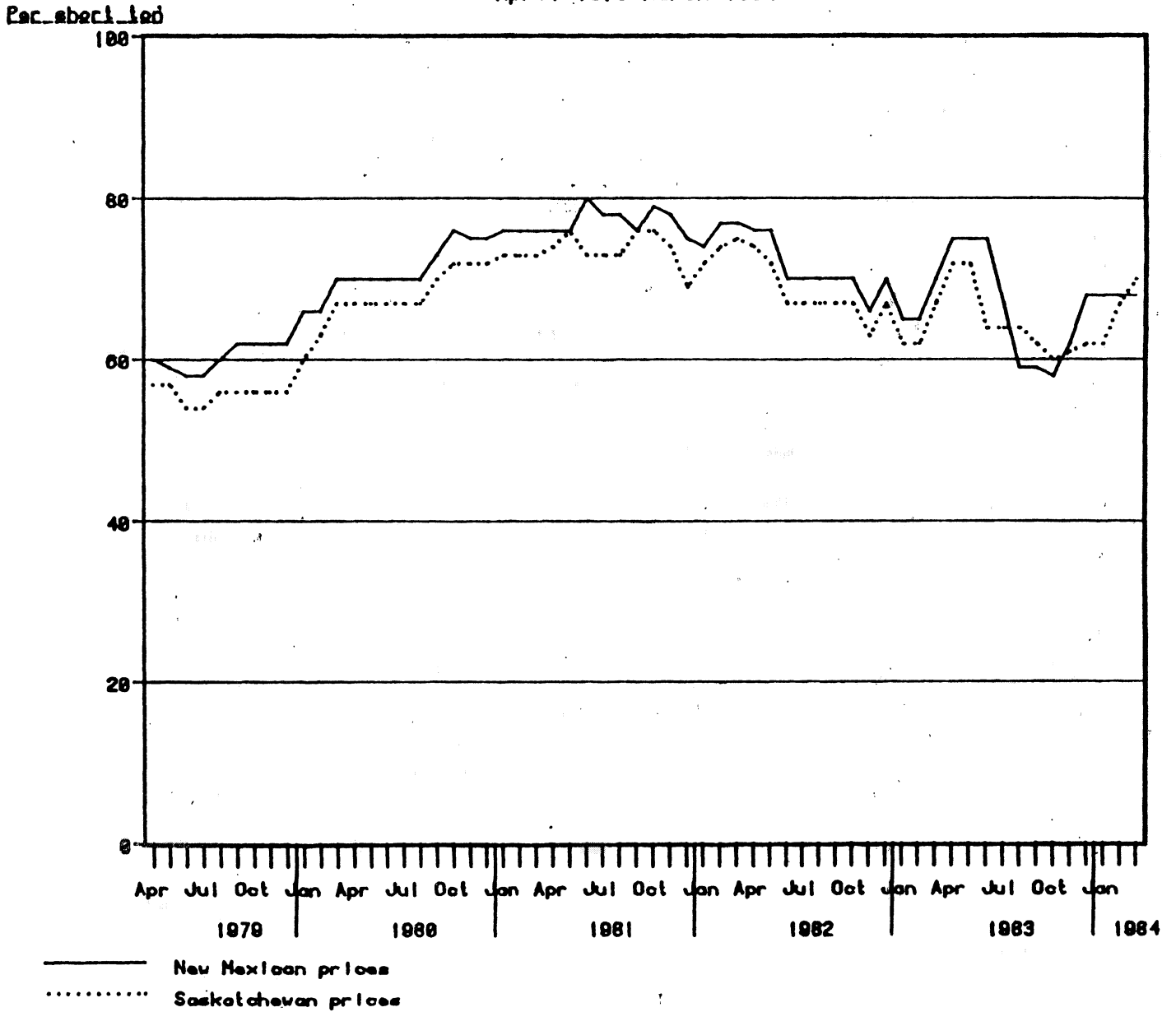
In the 1981 review investigation concerning potassium chloride imported from Canada, the Commission found that spot prices for U.S. and Canadian potash are closely correlated. <sup>1/</sup> Canada, the largest source of potash for the United States, accounted for 75 percent of apparent U.S. consumption in 1983. Several firms that produce in both the United States and Canada maintain price lists showing prices both f.o.b. U.S. mine and f.o.b. Canadian mine. These prices are generally set at the same level, and the producer may ship potash from either location unless the customer expresses a preference for one over the other. New Mexican and Saskatchewan f.o.b. minehead spot prices for course grade potash are shown in figure 2. The figure is based on data compiled on a weekly basis by Green Markets, a U.S. fertilizer publication. The publication's staff conducts telephone surveys to determine prices actually received rather than the often discounted list prices.

The major importer of Israeli potash, H.J. Baker, sells more than \*\*\* percent of its potash under contracts of 3 to 10 years. Counsel for DSW, the Israeli producer, testified that these contracts commit the customer to purchase specific quantities of potash over the term of the contract under a "take or pay" provision. DSW stated that a customer not taking delivery of the product is nevertheless obligated to pay for the undelivered quantity.

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<sup>1/</sup> Potassium Chloride from Canada: Determination of the Commission in Investigation No. 751-TA-2. . ., USITC Publication 1137, April 1981, p. A-36 to A-38.

FIGURE 2.--Coarse grade potassium chloride: New Mexican and Saskatchewan producers' prices, f.o.b. mine, by months, April 1979-March 1984



Source: Green Markets.



Furthermore, these contracts have a price formula to set the actual purchase price based on the price of U.S. and Canadian potash in the marketplace. The formula determines the price from the existing f.o.b. minehead price and subtracts from that any discount that the customer would normally obtain from the North American producer, thereby effectively meeting the U.S. offer price. In addition to that discount, DSW's counsel stated that Baker allows an additional discount of 2 to 10 percent of the U.S. f.o.b. price to offset the apparent risk in a binding long-term contract. The cost of freight to the customer's location from Carlsbad or Saskatchewan, whichever is lower, is then added to the discounted base price to determine the final delivered price to the customer. 1/

In addition to the established price formula, the DSW contracts generally contain a "meet or release" clause. This provision states that DSW will consider meeting any competitive offer from another source on a delivered price basis if the offer is for a quantity greater than 5,000 tons, and if the lower offer can be confirmed. In the event that DSW chooses not to meet the competitive offer, the customer may purchase the potash from the alternative source and is released from his obligation to purchase that quantity under the "take or pay" provision.

Counsel for DSW submitted information that the "meet or release" clause was invoked by \*\*\* of its U.S. customers from July 1983 to August 1984; such sales totaled \*\*\* tons. The competitive offer was met in instances accounting for \*\*\* tons and rejected in instances accounting for \*\*\* tons. DSW reported that all of the offers that it had met involved competition from Canadian potash. In one instance the competitive offer involved a sale of \*\*\* tons of U.S. produced potash, but DSW had refused to meet the offer and had released the customer from contractual obligations. 2/

The Commission requested U.S. producers and importers to provide price data for sales of each of the three agricultural grades of potash to the two largest customers in the Southeast market and to the two largest customers outside that marketing region. Only granular and standard grades are imported from Israel, and only standard grade is imported from Spain. Although the Commission requested price data on both an f.o.b. minehead (or port of entry) basis and on a delivered basis, most prices were provided by both producers and importers only on an f.o.b. basis. These data are discussed below.

F.o.b. price trends.—Until the 1980's, the Carlsbad producers generally sold potassium chloride only on an f.o.b. mine basis. Although they still sell the product on that basis, Carlsbad producers increasingly store potash in warehouses located in the Southeast and in other marketing regions. The subsequent sale may be on an f.o.b. warehouse basis or on a delivered basis. Sales by importers may be f.o.b. a terminal or warehouse, f.o.b. barge located on a major waterway, or on a delivered basis.

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1/ The customer is initially charged for actual freight from the nearest H.J. Baker shipping point, but is later reimbursed for the charge. A customer choosing to ship by truck may not be fully reimbursed if the trucking costs exceed the cost of shipping by rail.

2/ Posthearing submission in response to questions of the Commission and staff.

Usable information on f.o.b. prices was provided by five producers and two importers. Generally the f.o.b. prices received by U.S. producers for sales in the Southeast market for the two imported grades of potash followed the national trends shown in figure 2, declining in mid-1982 through early 1983 and increasing late in 1983 through the first half of 1984 (table 18). Prices reported by importers of both Israeli and Spanish potash on an f.o.b. basis also followed these general trends.

Delivered prices.—The actual costs of transporting potash to the final customer is a substantial portion of the total delivered cost, but such delivery costs are often unknown to producers. To evaluate price competition at the level of the purchaser, the Commission requested purchasers of potash to provide price data on both an f.o.b. and delivered basis for their purchases originating in the United States, Canada, Israel, Spain, the U.S.S.R., and East Germany. In many cases customers reported that their purchases of potash are too numerous to compile in an accurate fashion, often totaling many thousands of individual purchases from both U.S. and Canadian sources, as well as from sources subject to these investigations. These customers, as discussed above, frequently purchase for multiple locations, and often serve as brokers for other independent purchasers. Customers reported that they frequently are not aware of the actual f.o.b. mine price because both producers and importers now frequently warehouse potash in closer locations. Twenty-six customers were able to provide usable price data on a delivered price basis. These data, separated by State groupings within several geographic areas, are shown in tables 19-22.

Prices of granular and standard grade potassium chloride, on a delivered basis, followed the same trends as those found on an f.o.b. basis. This pattern is present in the data for all geographic areas, including those in which imports from Israel and Spain are not generally sold. <sup>1/</sup> Prices generally declined from 1982 through mid-1983, but climbed somewhat in late 1983 and early 1984. In most regions, however, prices at the end of the period had not regained their earlier levels on a delivered basis.

In the east coast and gulf coast markets, <sup>2/</sup> where U.S. producers have alleged the most serious price competition from the imports under investigation, the average delivered prices of U.S.-produced granular grade potash declined from \$123 per ton in January-March 1982 to \$112 per ton in July-September 1983 (table 20). Although prices increased to \$119 per ton in January-March 1984, they subsequently declined again to \$113 per ton in April-June 1984. Prices of imports from Israel declined from \*\*\* per ton in early 1982 to \*\*\* per ton in July-September 1983 before increasing to \*\*\* per ton in April-June 1984. The prices of these imports ranged from \*\*\* per ton (2.4 percent) to \*\*\* per ton (16.1 percent) below the prices reported for

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<sup>1/</sup> Although only moderate amounts of Israeli potash are sold in some of these areas, imports from the U.S.S.R. and East Germany are reportedly being sold along the Mississippi and Ohio River valleys. These imports are the subjects of separate investigations.

<sup>2/</sup> These data exclude sales in Florida, which is discussed separately. No prices were reported for imports from Spain that could be identified specifically as sales in this geographical area.

Table 18.—Potassium chloride: U.S. producers' and importers' f.o.b. prices to the Southeast market, 1/ by grades and by quarters, January 1982–June 1984.

(Per short ton KCl)

Period	Granular grade		Standard grade		
	U.S. producers	Israel	U.S. producers	Israel	Spain
1982:					
Jan.–Mar	\$66	***	\$59	***	***
Apr.–June	61	***	50	***	***
July–Sept	61	***	43	***	***
Oct.–Dec	60	***	41	***	***
1983:					
Jan.–Mar	50	***	40	***	***
Apr.–June	50	***	47	***	***
July–Sept	50	***	<u>2/</u>	***	***
Oct.–Dec	53	***	<u>2/</u>	***	***
1984:					
Jan.–Mar	52	***	54	***	***
Apr.–June	51	***	54	***	***

1/ Weighted-average prices to the largest 2 customers in the Southeast market (Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia). Prices are f.o.b. U.S. shipping point.

2/ No prices reported.

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

Table 19.—Average delivered prices of granular grade potash reported by purchasers in Arkansas, Illinois, Iowa, and Missouri, by quarters, January 1982-June 1984

Period	U.S.— produced	Imported from—		Israeli margin of under- selling or (overselling)	
		Canada	Israel 1/	Amount	Percent
Per short ton—					
1982:					
Jan.—Mar—	\$118	\$105	***	***	***
Apr.—June—	108	110	***	***	***
July—Sept—	96	101	***	***	***
Oct.—Dec—	98	99	***	***	***
1983:					
Jan.—Mar—	92	95	***	***	***
Apr.—June—	90	93	***	***	***
July—Sept—	80	84	***	***	***
Oct.—Dec—	87	91	***	***	***
1984:					
Jan.—Mar—	98	102	***	***	***
Apr.—June—	96	104	***	***	***

1/ Prices of potash from Israel are those reported by the importer for sales made in this geographical area. No purchases of Spanish potash were reported in this area.

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

Table 20.—Average delivered prices of granular grade potash reported by purchasers in Eastern and Gulf Coast States, 1/ by quarters, January 1982–June 1984

Period	U.S.— produced	Imported from—		Israeli margin of under- selling or (overselling)	
		Canada	Israel <u>2/</u>	Amount	Percent
Per short ton					
1982:					
Jan.—Mar—	\$123	\$128	***	***	***
Apr.—June—	123	109	***	***	***
July—Sept—	<u>3/</u>	117	***	<u>3/</u>	<u>3/</u>
Oct.—Dec—	<u>3/</u>	127	***	<u>3/</u>	<u>3/</u>
1983:					
Jan.—Mar—	118	115	***	***	***
Apr.—June—	119	105	***	***	***
July—Sept—	112	98	***	***	***
Oct.—Dec—	113	121	***	***	***
1984:					
Jan.—Mar—	119	122	***	***	***
Apr.—June—	113	130	***	***	***

1/ Includes the States of Alabama, Delaware, Georgia, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, and Virginia.

2/ Prices of potash from Israel are those reported by the importer for sales made in this geographical area. No purchases of Spanish potash were reported in this area.

3/ Not available.

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

Table 21.—Average delivered prices of standard grade potash reported by U.S. producers and by importers in Florida, <sup>1/</sup> by quarters, January 1982–June 1984

Period	U.S.— produced	Imported from—		Margins of underselling or (overselling)			
		Israel <sup>1/</sup>	Spain <sup>1/</sup>	Israel		Spain	
		Per ton		Per ton:	Percent	Per ton:	Percent
1982:							
Jan.—Mar	***	***	***	***	***	***	***
Apr.—June	***	***	***	***	***	***	***
July—Sept	***	***	***	***	***	***	***
Oct.—Dec	***	***	***	***	***	***	***
1983:							
Jan.—Mar	***	***	***	***	***	***	***
Apr.—June	<u>2/</u>	***	***	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>
July—Sept	<u>2/</u>	***	***	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>
Oct.—Dec	<u>2/</u>	***	***	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>
1984:							
Jan.—Mar	<u>2/</u>	***	***	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>
Apr.—June	<u>2/</u>	***	***	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>

<sup>1/</sup> F.o.b. prices of potash from Israel and Spain reported by the importers were adjusted by estimated inland freight costs. These charges range between \*\*\* and \*\*\* per ton, and were estimated by the single purchaser in these transactions to average \*\*\* per ton.

2/ Not available.

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

Table 22.—Average delivered prices of granular grade potash reported by purchasers in Texas and in Ohio/Kentucky, 1/ by quarters, January 1982–June 1984

(Per short ton)		
Period	Texas (U.S.—produced)	Ohio/Kentucky (Canadian)
1982:		
January–March	\$110	\$129
April–June	106	116
July–September	101	119
October–December	104	102
1983:		
January–March	100	97
April–June	101	110
July–September	92	85
October–December	93	93
1984:		
January–March	102	103
April–June	105	105

1/ Prices were reported for the Houston region of Texas, southcentral Ohio, and Louisville, KY. No purchasers reported prices for potash from Israel or Spain in these areas. The material sold in Ohio and Kentucky was reportedly trucked from a terminal in Toledo, OH, or shipped by barge from St. Paul, MN.

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

U.S.-produced potash during most of the period of the investigation. In April-June 1984, however, the delivered price reported for potash from Israel exceeded the U.S. price by \*\*\* per ton, or \*\*\* percent.

In Florida, importers reported prices for only one purchaser, accounting for \*\*\* percent of Israeli potash sales and for \*\*\* percent of Spanish potash sales in 1983. One domestic producer also reported sales (to a different customer) in this area during the period of the investigation. <sup>1/</sup> The delivered prices of the domestic product declined from \*\*\* per ton in January-March 1982 to \*\*\* per ton in January-March 1983 (table 21). The prices of the Israeli product, adjusted to reflect inland delivery costs, declined from \*\*\* per ton in January-March 1982 to \*\*\* per ton in October-December 1983, but recovered to \*\*\* per ton in April-June 1983. The prices reported for potash imported from Spain declined from \*\*\* per ton in January-March 1982 to \*\*\* per ton in October-December 1983, before recovering to \*\*\* per ton in April-June 1984. Both Israeli and Spanish potash consistently undersold the U.S.-produced product during the period for which U.S. producer prices are available, with the exception of January-March 1983. <sup>1/</sup> Margins of underselling for imports from Israel ranged from 4 to 10 percent; margins for Spain ranged from 5 to 11 percent.

In the geographic region served by the Mississippi and Missouri Rivers, including northern Arkansas, Illinois, Iowa, and Missouri, delivered prices for the U.S.-produced product declined from \$118 per ton in early 1982 to \$80 per ton in July-September 1983 (table 19). These prices then rose to \$96 per ton in April-June 1984. Prices reported by the Israeli importer for this region followed the same trend, declining from \*\*\* per ton to \*\*\* per ton, and then rising to \*\*\* per ton. In this region, however, the prices reported for the Israeli product were consistently higher than those for the domestic product.

Table 22 shows delivered prices of U.S.-produced potash sold in the Houston region and of Canadian potash sold in the south-central Ohio/Kentucky region. No prices were reported for imports from Israel or Spain in these areas. The data show that prices in these areas followed the same trends as prices elsewhere, and that the total delivered price was within the range of prices found in areas where import competition was reportedly more intense.

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<sup>1/</sup> Although no purchaser in Florida reported prices for Canadian potash, DSW provided testimony that Canadian potash has caused the low prices in the Florida market. DSW reports that a large long-term contract with \*\*\* was cancelled after repeated invocation of the meet-or-release clause owing to Canadian competition. \*\*\* confirmed that the contract had been cancelled and that it purchases unit-train shipments of Canadian potash. (Telephone conversation with \*\*\*)

<sup>2/</sup> The mode of transportation for each of the 1982 sales of U.S.-produced potash in Florida was rail. In the single sale of 1983, however, the potash was transported by rail to Houston and by barge to Tampa. It is likely that the delivered price reported for that sale, \*\*\* per ton, should also be adjusted by \*\*\* per ton for inland transportation, as were the prices of imports.



Exchange rates

Nominal and real exchange rates between the U.S. dollar, the Israeli shekel, and the Spanish peseta are shown in table 23. The nominal value of both currencies fell against the dollar, but the shekel's decline was sharper. By June 1984, it had lost 91 percent of its January 1982 value, whereas the peseta declined by 34 percent over the same period.

Table 23.—Nominal and real exchange-rate indexes between the U.S. dollar and the Spanish peseta and the Israeli shekel, by quarters, January 1982–June 1984

Period	(January–March 1982=100)			
	Spanish peseta		Israeli shekel	
	Nominal	Real	Nominal	Real
1982:				
January–March	100.0	100.0	100.0	100.0
April–June	95.5	97.6	81.6	100.9
July–September	90.2	93.4	64.7	103.9
October–December	84.3	89.2	55.8	108.6
1983:				
January–March	77.9	87.4	47.6	110.4
April–June	72.8	83.7	40.2	113.0
July–September	67.4	78.5	31.4	109.2
October–December	65.5	78.8	19.6	104.5
1984:				
January–March	65.6	81.3	13.4	104.3
April–June	66.2	83.2	9.1	103.1

Source: Compiled from official statistics of the International Monetary Fund.

The nominal exchange-rate indexes were adjusted to take differences in inflation rates into account. <sup>1/</sup> For the peseta, the trend was the same: The value declined, but by a smaller proportion—17 percent in real terms as opposed to 34 percent in nominal terms, as of April–June 1984. For the shekel, the trends differed. Israel's higher inflation rate relative to that of the United States appears to have largely offset the impact of declining nominal exchange rates during most of the period. Real exchange rates rose between October–December 1982 and April–June 1983. The trend was subsequently reversed, with real exchange rates moving slightly downward.

<sup>1/</sup> The nominal exchange-rate indexes are based on quarterly averages published by the International Monetary Fund in International Financial Statistics. Nominal exchange rates were adjusted on the basis of the Producer Price Index for the United States and Spain and the industrial price index for Israel.

Lost sales

In the Commission's preliminary investigations, 4 U.S. potassium chloride producers reported 22 specific cases of alleged lost sales to 20 purchasers of offshore imports since September 1982. <sup>1/</sup> Information concerning the quantity of the alleged lost sales was only provided by \*\*\* and \*\*\*; they amounted to 79,500 short tons. Data on the value of lost sales were incomplete. The producers asserted that these 22 allegations are merely a sampling of their total lost sales. They stated that their sales forces had not kept contemporaneous records concerning the loss of business to offshore imports. The allegations, which they had made, thus, were largely reconstructed from incomplete records and memory. In addition, \*\*\* reported aggregate lost sales of 80,000 short tons to over 100 customers since September 1982. Four other U.S. producers did not report any lost sales.

The allegations covered sales lost to imports from Israel, East Germany, and the U.S.S.R. There were no sales specified as having been lost to imports from Spain. \*\*\*

\* \* \* \* \*

The Commission's staff contacted 18 of the 20 purchasers named in the allegations, which accounted for 79,500 short tons of the alleged lost sales. Three of the purchasers declined to answer any questions over the phone, and a fourth declined to give specifics beyond saying it had purchased from all four offshore sources (Israel, Spain, East Germany, and the U.S.S.R.) in addition to Canada. Details of the information gathered from each of the purchasers concerning potassium chloride imported from Israel are as follows.

Purchaser No. 1.—\*\*\*. This lost sale allegation by \*\*\* involved the purchase of \*\*\* short tons from Israel and \*\*\*. \*\*\* reported that \*\*\* purchased potassium chloride from all four offshore sources and Canada. He further reported that price, availability, speed of delivery, and alternate sourcing were the most important reasons for buying imported potash and that he would have purchased the imported material even if the domestic product was offered at a comparable price.

Purchaser No. 2.—\*\*\*. These lost sales allegations by \*\*\* involved \*\*\* short tons, almost all of which was alleged to have been lost to imports from Israel. \*\*\* reported that he bought potash from Israel, East Germany, and Canada. \*\*\* purchases very little from U.S. producers because they have not been making offers. In addition, \*\*\*. He cited availability and speed of delivery as the primary reasons for buying imports and stated that freight rates are a significant factor in making domestic potash noncompetitive.

Purchaser No. 3.—\*\*\*. This lost sale allegation by \*\*\* involved \*\*\* short tons, unspecified as to foreign source. \*\*\* would not comment on the specific allegation over the phone; he cited price, availability, quality, speed of delivery, and alternate sources as reasons for buying imported potash.

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<sup>1/</sup> No additional specific lost sales allegations were made during these final investigations.

Purchaser No. 4.—\*\*\*. This lost sale allegation by \*\*\* involved \*\*\* short tons from Israel and \*\*\*. \*\*\* declined to provide specific information beyond stating that he purchases potash from all four offshore sources and Canada. He cited price, availability, and speed of delivery as reasons to buy imported potash.

Purchaser No. 5.—\*\*\*. This lost sale allegation by \*\*\* involved \*\*\* short tons from Israel. \*\*\* said \*\*\* buys imported potash from Canada and the four sources covered in the Commission's preliminary investigations. Most of \*\*\* purchases come from Israel, whereas most of the \*\*\* purchases come from Canada, where most of \*\*\*'s purchases originate. He stated that price and availability are the most important reasons to buy either domestic or imported material. He believes that it is important to have alternate sources. \*\*\* has a "meet or release" contract with Israel, and sometimes the requirement to buy the Israeli material was released in favor of less expensive spot offers from domestic producers.

Purchaser No. 6.—\*\*\*. This lost sale allegation involved \*\*\* short tons (valued by \*\*\* at \*\*\*) from Israel. \*\*\* said about \*\*\* percent of his potash requirements come from Canada. He purchases small quantities of potash from Israel; most of the rest of his purchases are from East Germany and the U.S.S.R. His domestic purchases are very small. He cited price and availability as the most important reasons for buying imports. He did not know of any situation in which he rejected a U.S. producer's offer for potash in favor of an offer to buy potash from the four countries cited in the Commission's preliminary investigations.

Purchaser No. 7.—\*\*\*. This lost sale allegation involved \*\*\* short tons (valued at \*\*\* by \*\*\*) from Israel. \*\*\* would not comment over the phone.

Purchaser No. 8.—\*\*\*. This lost sale allegation involved \*\*\* short tons (valued by \*\*\* at \*\*\*) from Israel. \*\*\* stated that he buys potash from Israel, the U.S.S.R., Canada, and domestic producers in about equal shares, and has not decreased domestic purchases. He claimed that the delivered price of imports is lower because of the effects of transportation charges.

Purchaser No. 9.—\*\*\*. This lost sale allegation involved \*\*\* short tons (valued by \*\*\* at \*\*\*) from Israel. \*\*\* stated that he purchases potash from Israel, East Germany, and Canada; domestic purchases are only \*\*\* percent of his total purchases. He quoted speed of delivery and convenience as reasons to buy imports. He claimed U.S. producers do not offer to sell potash to \*\*\*, and he would buy imported material even if the domestic product were offered at a comparable price.

Purchaser No. 10.—\*\*\*. This lost sale allegation involved \*\*\* short tons (valued by \*\*\* at \*\*\*) from Israel. \*\*\* stated that \*\*\* has reduced domestic purchases because of the greater speed of delivery for imports, which come from Israel. He claimed that to his location "rail service is lousy." He also indicated that imports have lower freight rates.

Purchaser No. 11.—\*\*\*. This lost sale allegation involved \*\*\* short tons (valued by \*\*\* at \*\*\*) from Israel. \*\*\* stated that \*\*\* purchases potash

from Israel and has decreased purchases from domestic sources. He stated that price is the bottom line and that the imported price is better. He said, however, that he would not have purchased imports if the domestic product was offered at a comparable price, and that domestic potash is better in quality.

Purchaser No. 12.—\*\*\*. This lost sale allegation involved \*\*\* short tons (valued by \*\*\* at \*\*\*) from Israel. \*\*\* said his domestic supplier (\*\*\*) was unable to supply potash when he needed it and, therefore, he purchased material from Israel and East Germany. He cited price, availability, and the speed of delivery as reasons for buying imports. He believes that the domestic material is a little better in quality than the material available from other sources, but he would buy whichever is available within 24 hours; that usually would be imported material in nearby warehouses.

Purchaser No. 13.—\*\*\*. This lost sales allegation by \*\*\* did not specify a quantity or value of the sale allegedly lost. \*\*\* said that he purchases about \*\*\* percent of his requirements from Israel, with the remainder coming from Canadian and U.S. sources. He believes convenience, followed by price, are the most important reasons to buy imports. He asserted that, because of the relative convenience of the imported product, he would buy imports even if domestic potash was priced comparably.

Purchaser No. 14.—\*\*\*. This lost sale allegation was made by \*\*\*. \*\*\* stated that price is his most important reason to buy imports. He purchased some Israeli potash in 1982, but found that it was dusty and needed extra treatment before it could be used in blending. He also bought potash from \*\*\* and \*\*\* in 1982 and bought potash only from Canada in 1983. He stated that he would buy the imported material even if the domestic product were comparably priced.

Purchaser No. 15.—\*\*\*. This lost sale allegation was made by \*\*\*. \*\*\* said that he buys most of his potash needs from Canada through \*\*\*. He buys about \*\*\* percent of his needs from Israel and East Germany through \*\*\*. He cited price and availability as the most important reasons to buy imports. He would probably buy domestic potash if it were priced comparably with the price of imports because he believes it is of better quality than the East Germany product. He considers it very important to have alternate sources of supply.

Purchaser No. 16.—\*\*\*. Lost sales allegations for this company were made by \*\*\*. \*\*\* did not want to comment on his potash purchases over the phone.

Purchaser No. 17.—\*\*\*. This lost sale allegation was made by \*\*\*. \*\*\* said that he buys about \*\*\* percent of his potash needs from Canada, about \*\*\* percent from domestic producers, and the rest from Israel and East Germany. He cited price as the most important reason to buy imports. He does not consider alternate sourcing to be important and would not buy domestic potash if it were offered at a price comparable to the price of imports, although he believes the quality of domestic potash is better. He stated that he once turned down an offer by \*\*\* for \*\*\* short tons and bought lower priced potash from East Germany instead.

Purchaser No. 18.—\*\*\*. This lost sale allegation was made by \*\*\*. \*\*\* said much of his potash comes from Canada. He considers price as the most important reason to buy imports. He believes there have been instances in which his firm rejected offers by various U.S. potash producers because of the lower prices offered for the product imported from East Germany and the U.S.S.R.

#### Lost revenues

In the Commission's preliminary investigations, 3 U.S. potash producers reported 13 specific cases of lost revenues, covering 12 companies, to offshore imports (from Israel, Spain, East Germany, and the U.S.S.R.) since September 1982. <sup>1/</sup> The total quantity involved was 186,203 short tons. Data on the value of the alleged lost revenues were incomplete, but lost revenues of \*\*\* (covering \*\*\* short tons) were claimed by \*\*\*. In addition, \*\*\* alleged one case of lost revenue but provided no specifics, and \*\*\* alleged that about \*\*\* tons of potash were sold since September 1982 "at prices which were depressed and lower than \*\*\* would perhaps otherwise have sold the product as a result of imports from the offshore sources named in the petition." There were no allegations specifying lost revenues because of offers of potash from Spain.

The Commission's staff contacted 10 of the 12 purchasers named in the allegations, which accounted for 134,711 short tons of the total amount alleged to have suffered lost revenues. Details of the information gathered from each of the five purchasers involving potassium chloride from Israel are as follows.

Purchaser No. 1.—\*\*\*. This lost revenue allegation involved \*\*\* short tons sold by \*\*\* for \*\*\* with alleged lost revenue of \*\*\*. The offshore quotation that was said to be met was from Israel. \*\*\* stated that his company gets 95 to 100 percent of its purchases of potash from domestic producers.

Purchaser No. 2.—\*\*\*. This lost revenue allegation involved \*\*\* short tons sold by \*\*\* for \*\*\*, with alleged lost revenue of \*\*\*. The offshore quotations that were said to be met came from Israel and the U.S.S.R. \*\*\* would not comment over the phone.

Purchaser No. 3.—\*\*\*. These lost revenue allegations involved \*\*\* short tons sold by \*\*\* for \*\*\*. \*\*\* did not want to discuss his purchases of potash over the phone. The alleged offshore quotations involved potassium chloride from Israel.

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<sup>1/</sup> No additional specific allegations of lost revenues resulting from competition with potassium chloride imported from Israel or Spain were submitted during these final investigations.

Purchase No. 4.—\*\*\*. \*\*\* alleged that because of a lower offer from Israel, it was forced to lower its price in order to obtain this sale of \*\*\* short tons of potash. The value of the sale totaled \*\*\*. He did not know of any instance in which the producers were forced to lower their prices in order to make a sale.

Purchaser No. 5.—\*\*\*. This lost revenue allegation involved \*\*\* short tons sold by \*\*\* for \*\*\*. \*\*\* stated that it was forced to lower its price because of a lower quotation from Israel. \*\*\* noted that the domestic producers may well have met the prices of the imported product several times; he was not, however, aware of specific instances in which this happened.

APPENDIX A

THE COMMISSION'S NOTICE OF INVESTIGATION AND LIST  
OF WITNESSES APPEARING AT THE HEARING

(Investigations Nos. 303-TA-15 (Final) and 701-TA-213 (Final))

### Potassium Chloride From Israel and Spain

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of final countervailing duty investigations and scheduling of a hearing to be held in connection with the investigations.

**EFFECTIVE DATE:** June 29, 1984.

#### SUMMARY:

#### Potassium Chloride From Israel

As a result of a preliminary affirmative determination by the U.S. Department of Commerce that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), are being provided to manufacturers, producers, or exporters in Israel of potassium chloride, provided for in item 480.50 of the Tariff Schedules of the United States (TSUS), the United States International Trade Commission hereby gives notice of the institution of investigation No. 303-TA-15 (Final) under section 303 of the Tariff Act of 1930 to determine whether an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final countervailing duty determination in this case on or before September 10, 1984, and the Commission will make its final injury determination by October 29, 1984.

#### Potassium Chloride From Spain

As a result of a preliminary affirmative determination by the U.S. Department of Commerce that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (19 U.S.C. 1671), are being provided to manufacturers, producers, or exporters in Spain of potassium chloride, provided for in TSUS item 480.50, the United States International Trade Commission hereby gives notice of the institution of investigation No. 701-TA-213 (Final)

under section 705 of the Tariff Act of 1930 (19 U.S.C. 167d) to determine whether an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final countervailing duty determination in this case on or before September 10, 1984, and the Commission will make its final injury determination by October 29, 1984.

**FOR FURTHER INFORMATION CONTACT:** Larry Johnson (202-523-0127), Office of Investigations, U.S. International Trade Commission.

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 14, 1984, The Commission determined, on the basis of the information developed during the course of its preliminary investigations, there was a reasonable indication that an industry in the United States was materially injured by reason of alleged subsidized imports of potassium chloride from Israel and Spain. The preliminary investigation was instituted in response to a petition filed on March 30, 1984, by counsel on behalf of AMAX Chemical, Inc., and Kerr-McGee Chemical Corp.

##### Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the *Federal Register*. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

#### Staff Report

A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on September 4, 1984, pursuant to § 201.21 of the Commission's rules (19 CFR 207.21).

#### Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on September 18, 1984, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20438. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on August 30, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., on September 10, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is September 14, 1984.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on September 28, 1984.

#### Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. 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 September 28, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.



Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of 201.6 of the Commission's rules (19 CFR 201.6).

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

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: July 19, 1984.

By order of the Commission.

Kenneth R. Mason,  
Secretary.

[FR Doc. 84-19228 Filed 7-24-84; 8:45 am]  
BILLING CODE 7020-02-0

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CALENDAR OF PUBLIC HEARING

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

Subject : Potassium Chloride from Israel  
and Spain

Inv. Nos. : 303-TA-15 (Final) and  
701-TA-213 (Final)

Date and time: September 18, 1984 - 10:00 a.m.

Sessions were held in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., in Washington.

Congressional appearances:

Honorable Pete V. Domenici, United States Senator, State  
of New Mexico

Honorable Jeff Bingaman, United States Senator, State  
of New Mexico

Honorable Walter Gerrells, Mayor, City of Carlsbad, New Mexico

DOMESTIC:

Drinker, Biddle & Reath--Counsel  
Washington, D.C.  
on behalf of

AMAX Chemical, Inc., and Kerr-McGee Corporation

Robert Oleviero, Senior Vice President-Operations, AMAX

J. Van Rogers, Retired--former head of Marketing, AMAX

Edward O'Connor, Vice President, Agricultural Division,  
Kerr-McGee

J. Hartney, Kerr-McGee

Charles Trozzo, Economic Consultant, Bushnell,  
Pearsall and Trozzo

Gary Hutbauer, Consultant, Chapman, Duff & Paul

W. N. Harrell Smith)  
James Gkonos )--OF COUNSEL

Miller & Chevalier--Counsel  
Washington, D.C.  
on behalf of

Ideal Basic Industries and the Potash Company  
of America

Donald Harrison--OF COUNSEL

IMPORTERS:

Kaplan, Russin & Vecchi--Counsel  
Washington, D.C.  
on behalf of

Dead Sea Works Ltd. of Israel

ICF Incorporated, Washington, D.C.

John G. Reilly, Principal

P. Lance Graef, Project Manager

Dick Wilkinson, Manager, Material Supply,  
Royster Company

Edward H. Sullivan, President & General Manager,  
Independent, AG

Julius Kaplan)  
Dennis James )--OF COUNSEL



APPENDIX B

THE DEPARTMENT OF COMMERCE'S FEDERAL REGISTER NOTICES

(C-608-401)

**Potassium Chloride From Israel; Final Affirmative Countervailing Duty Determination**

**AGENCY:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Notice of Final Affirmative Countervailing Duty Determination.

**SUMMARY:** We determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Israel of potassium chloride, as described in the "Scope of Investigation" section of this notice. The net bounty or grant is 3.64 percent *ad valorem*. Therefore, we have notified the International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to continue the suspension of liquidation ordered in the preliminary determination of all entries of potassium chloride from Israel which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond on this product in the amount equal to the net bounty or grant.

**EFFECTIVE DATE:** September 14, 1984.

**FOR FURTHER INFORMATION CONTACT:** John R. Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-4829.

**SUPPLEMENTARY INFORMATION:****Final Determination**

Based upon our investigation we determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Israel of potassium chloride. For purposes of this investigation, the following programs are found to confer bounties or grants:

- Investment Grants under the Encouragement of Capital Investment Law 5719-1959 (ECIL).
- Export Shipment Fund Under ECIL.
- Export Production Fund Under ECIL.
- Imports-for-Exports Fund under ECIL.

The bounty or grant is 3.64 percent *ad valorem*.

**Case History**

On March 23, 1984, we received a petition filed by AMAX Chemicals Inc., Lakeland, Florida, and Kerr-McGee Chemical Corporation, Oklahoma City, Oklahoma, on behalf of U.S. producers of potassium chloride who represent a major portion of that industry. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Israel of potassium chloride receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Act and that these imports are materially injuring or threatening to materially injure, a U.S. industry.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation and, on April 18, 1984, we initiated such an investigation (49 FR 18001).

Israel is not a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, section 303 of the Act applies to this investigation. Section 303(a)(2) of the Act requires an injury determination by the ITC, since the merchandise enters the United States duty-free and the international obligations of the United States so require.

We presented questionnaires concerning the allegations to the government of Israel and Dead Sea Works Ltd. (DSW), the only known Israeli producer of potassium chloride, in Washington, D.C., on April 23, 1984, and requested a response by May 23, 1984. In a letter dated May 2, 1984, DSW requested an extension until June 6 to submit its response. We granted an extension until May 29. On that date we received responses from the Israeli government and DSW. On May 17, 1984, we denied a government of Israel request that we consider this case extraordinarily complicated.

On June 25, 1984, we preliminarily determined that benefits that constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers and exporters in Israel of potassium chloride (49 FR 26776). At the request of the petitioners, we held a hearing on July 11, 1984 to allow the parties an opportunity to address the issues arising in the investigation.

**Scope of Investigation**

The product covered by this investigation is potassium chloride, currently provided for under item 480.5000 of the *Tariff Schedules of the United States Annotated*. The period for

which we are measuring benefits is April 1, 1982, through March 31, 1983.

**Analysis of Programs**

Based upon our analysis of the petition, the responses to our questionnaires, our verification, and the parties' comments we determine the following:

**I. Programs Determined to Confer Bounties or Grants**

We determine that bounties or grants are being provided to DSW under the following programs:

**A. ECIL Investment Grants**

The purpose of "The Encouragement of Capital Investments Law, 5719-1959 (ECIL)" is to attract capital to Israel with a view toward developing the productive capacity of the national economy, improving the balance of payments, absorbing immigration, and offsetting the economic disadvantages in Israel's development areas.

Investment grants are given as a percentage of the investment. The percentage varies according to the location of a project. "Approved projects" located in Zone A are entitled to receive a grant amounting to 30 percent of the total investment in fixed assets; "approved projects" in Zone B are entitled to receive a grant amounting to 15 percent of the total investment; and those in Zone C are not entitled to receive grants. Any company located in Zone A, regardless of the industry, is eligible for grants. Only projects that demonstrate economic viability are approved. After the Investment Center approves a project, it instructs a commercial bank to disburse the grant funds to the grant recipient.

DSW, which is located in Zone A, received various ECIL grants during the years 1972 through 1982 for the purposes of plant enlargement and the construction of dikes and canals used in the production of potassium chloride. DSW received additional ECIL grants in fiscal years 1979 through 1982 for the expansion of potassium chloride production under its Makleff Stage A and Stage B projects.

Because ECIL investment grants are limited to companies located in specific regions, we determine that grants benefiting the production of potassium chloride of the grades marketable by DSW in the United States confer countervailable bounties or grants. We have included in our calculations all grants for the construction of the high leach and flotation plants and the portions of those grants used to build the dikes, ponds, and canals that benefit

the hot leach and flotation plants. We have not considered as countervailable benefits those portions of the grants for the plant expansion, machinery, and equipment received for Stages A and B of the Makleff Project since DSW has provided convincing evidence that it is not selling, and cannot sell, potassium chloride produced by the Makleff "Cold Crystallization" process to the U.S. However, we have included in our calculations those portions of the Makleff grants used for the construction of dikes, evaporating ponds, and canals which benefit the hot leach and flotation plants. We have allocated the grants for all ponds, dikes canals based on the hot leach and flotation plants' percentage of potassium chloride production during the period of review. If in future administrative reviews we find that circumstances change and potassium chloride from the Makleff plant is sold to the United States, we will reevaluate this determination.

We calculated the countervailable benefit of these grants by using the grant methodology set out in the "Subsidies Appendix," 49 FR 18016 (April 26, 1984).

In determining the discount rate, we concluded that suitable company-specific long-term borrowing rates were not available. Consequently, we used the national average bond rate and the national average rate of return on equity. These numbers were based on Bank of Israel statistics. We allocated the grants over eleven years, which is the average asset depreciation range for assets used in the manufacture of chemicals, as determined by the 1977 Internal Revenue Service guidelines (Rev. Proc. 77-10). We then allocated the benefits during the period of review over the total sales (less the sales from the Makleff plant) by DSW during the period of review. We thus determined a bounty or grant in the amount of 1.18 percent *ad valorem* exists.

In January, 1984, the ECIL law was amended to include export performance requirements as one of its criteria for eligibility. Since this requirement was not in effect when the grants relevant to the period for which we are measuring benefits in this investigation were received, we have treated this program as a domestic bounty or grant.

#### B. Export Credit Funds

During the period of review the Bank of Israel provided short-term financing to DSW through three export credit funds: the Export Production Fund (for working capital loans), the Export Shipments Fund (for accounts receivable), and the Imports-for-Exports Fund (for financing of imported materials used for export production).

We calculated the countervailable benefit of these export credit funds using the short-term loan methodology set out in the "Subsidies Appendix," (49 FR 18016 (April 26, 1984)).

We find short-term export loans (one year or less) to be countervailable to the extent that they are given at rates less than those for comparable commercial loans. To determine the amount of the bounty or grant for short-term loans, we compare the terms of the loan at issue with a benchmark, that is, a comparable commercial loan. We included in our calculations all loans for which DSW paid interest during the review period. For our benchmark, we used the rates of the most appropriate national average commercial method of short-term financing. The benchmark used for each of the export funds is included in our description of each program.

##### 1. Export Production Fund.

Preferential financing is provided in Israeli shekels and in certain foreign currencies to exporters through the Export Production Fund (EPF) to finance the production process for items to be exported. The Bank of Israel manages this fund. Financial institutions which offer credit to exporters according to the terms established for this fund by the Bank of Israel may receive credit from the Bank of Israel for the financing which they provide.

During the period of review DSW received EPF loans in shekels at a quarterly interest rate of 10.5 percent. In our preliminary determination, we annualized the EPF quarterly interest rate of 10.5 percent and compared that number with our benchmark which was the effective annual cost of overdraft accounts published by the Bank of Israel.

We have changed our calculation to take into account the fact that DSW pays interest on its EPF loans at the end of each 3 months and not on an annualized basis. Accordingly, we are now using as the basis of our benchmark the average quarterly cost of overdraft accounts published by the Bank of Israel. This figure includes the interest rate, commitment fees, management fees, and penalties.

We determined the benefits from these loans based on a comparison of the cost of the EPF financing and the cost of the comparable commercially available financing. This benefit was allocated over the value of DSW's total potassium chloride exports during the review period. On this basis, we calculated a bounty or grant in the amount of 1.966 percent *ad valorem*.

2. Export Shipments Fund. The preferential financing designed to afford exporters the possibility of extending

credit in foreign currency to their customers abroad is provided by the Export Shipments Fund (ESF). The Bank of Israel manages this fund. Financial institutions which offer credit to exporters according to the terms established for this fund by the Bank of Israel are discharged from certain payment obligations to the Bank of Israel and are exempt from the credit ceiling fixed by the Bank of Israel.

Exporters are required to pay the Euro-currency interest rate plus a premium on loans obtained through the ESF. Financing is granted after the merchandise is shipped upon the presentation by the exporter of particular export documents. Up to 90 percent of the export value of the merchandise shipped may be financed through this fund for a period not to exceed 6 months. Credit from this fund is provided in the currency indicated on the export documents.

In our preliminary determination, we used as the best available benchmark for dollar loans the sum of the interest rate and the applicable surcharge, in dollar terms, available in Israel on non-directed United States dollar credit. We obtained these figures from Bank of Israel statistics. We were not able to obtain the interest rates available in Israel on non-directed credit in other foreign currencies. For these loans, we used as the benchmark the interest rates on comparable commercial loans. The interest rates DSW received on foreign currency loans adjusted (on a quarterly basis) by the percentage difference by which the interest rate on the non-directed United States dollar benchmark (surcharge excluded) exceeded the interest rates DSW received on United States dollar loans. The applicable surcharge was then added to the foreign currency benchmark interest rates.

Based on our verification, we have determined that during the review period, non-directed foreign currency credit liable to surcharge is not the most appropriate commercial method of foreign currency borrowing for large companies since it represents only a narrow segment of foreign currency borrowing that is not commonly utilized by Israeli companies. At verification, we determined that Israeli companies were able to borrow in the international financial markets at Euro rate plus an appropriate premium. Consequently, we are using as our foreign currency benchmark the Euro rate in effect on the date DSW obtained its foreign currency loans plus a spread of 2 percent which we determined to be the most representative premium paid by Israeli companies during the review period.

We calculated the benefit of the loans by comparing the appropriate benchmark to the preferential rates of interest obtained by DSW on its ESF loans. This benefit was allocated over the value of DSW's total potassium chloride exports during the review period. On this basis, we calculated a bounty or grant in the amount of 0.41 percent *ad valorem*.

**3. Imports-for-Exports Fund.** Through the Imports-for-Export Fund, preferential financing is provided in foreign currency to exporters in order to finance imported material used for export production. The Bank of Israel manages this fund. Financial institutions which offer credit to exporters through this fund may receive credit from the Bank of Israel for the financing which they provide. In its response, the government of Israel states that financial institutions grant credit to exporters in foreign currency at a rate of interest equal to 60 percent of the Euro-currency interest rate for the currency in which the loan is given for a period not to exceed 1 year. The Bank of Israel then credits the financial institution's account with an amount equal to the difference between the rate of interest paid by the exporter (60 percent of the Euro-currency rate) and the Euro-currency rate plus 3/8.

As with the ESF, we have amended the benchmarks used in the preliminary determination to represent the interest rate on comparable commercial loans. We used as our benchmark for this fund the foreign currency benchmark described in the "Export Shipments Fund" section.

We calculated the benefit of these loans by comparing the appropriate benchmark to the preferential rates of interest obtained by DSW on its Imports-for-Exports Fund loans. This benefit was allocated over the value of DSW's total potassium chloride exports during the review period. On this basis, we calculated a bounty or grant in the amount of 0.063 percent *ad valorem*.

## II. Programs Determined Not To Confer Bounties or Grants

We determine that bounties or grants are not being provided to DSW under the following programs:

### A. Exchange Insurances Scheme

During the period for which we are measuring bounties or grants, DSW's exports were covered under the "Exchange Rate Risk Insurance Scheme" (EIS) offered by the government-owned "Israel Foreign Trade Risks Insurance Corporation Ltd." (IFTRIC). EIS, which is optional for all exporters, is a mixture of exchange rate risk insurance and cost escalation

coverage. It is designed to insure the exporter against decreased payments in its foreign currency receivables resulting from a delay in devaluation of the shekel with respect to a market basket of exchange rates, relative to the appreciation of the consumer price index.

IFTRIC structured the EIS program so that it contains certain fundamental economic principles. First, IFTRIC designed EIS to be self-balancing. Under EIS, if the change in the consumer price index is larger than the changes in the rate of the shekel depreciation, the exporter is indemnified by an amount equal to the difference between the changes multiplied by the "added value" of the exports. When the depreciation is higher than the change in the consumer price index, EIS requires the exporter to compensate IFTRIC. Second, IFTRIC set up a premium schedule and compensation formula based on economic projections. Based on these projections, IFTRIC established separate premium schedules for three areas: (1) The U.S., (2) the European Communities, and (3) the rest of the world. Based on the economic projections, the premium rate for exporters of merchandise to the U.S. was the highest. Third, IFTRIC made EIS insurance optional. Those Israeli exporters who chose to participate in the program could choose EIS coverage for all three areas or for all areas other than the U.S. This policy was established due to pressure from exporters who felt that premiums to the U.S. were higher than the risks warranted. Lastly, the EIS is required to pay a premium to the government of Israel which acts as a reinsurer.

Under paragraph j of the Annex to the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement On Tariffs and Trade (the Subsidies Code), an export subsidy is

([t]he provision by governments (or special institutions controlled by governments) . . . of insurance or guarantee programmes against increase in the costs of exported products or of exchange risk programmes, at premium rates, which are manifestly inadequate to cover the long-term operating costs and losses of the programmes.

Under this standard, the premiums must be manifestly inadequate to cover long-term operating costs and losses.

As described above, EIS is structured to be self-balancing. It is designed to prevent losses and take away any gains that arise because of non-commensurate movements in the domestic inflation rate and the currency appreciation/depreciation rate. Under the compensation formula, if inflation equals devaluation, then the insured

receives no payment under EIS. If inflation is greater than devaluation, then the insured is paid. If inflation is less than devaluation, the insured pays EIS.

In the long run, it would not be expected that either of the latter two situations would be sustained since movements in inflation rates and exchange rates are generally correlated. With floating exchange rates, the adjustment would be more rapid. With fixed rates, the rate of adjustment would depend on how often and to what extent the government of Israel devalues the currency. Even with fixed rates, it is unlikely that an overvalued or undervalued currency could be maintained indefinitely.

Thus, in the long term, it should be expected that the inflation rate and the devaluation rate will correspond. As a result, a scheme such as EIS should operate at about the break even level over the long-term. Any premiums paid would be necessary only to cover operating costs.

In the short-run period examined, EIS has not attained the break-even point. While actual loss figures are only available for the first six months of operation, there are indications that the program has suffered continuing losses. However, the program has been in operation only for a short period and it is impossible to ascertain, on the basis of the data available, whether the extent of the losses make the premiums manifestly inadequate to cover long-term losses.

For these reasons, we are unable at this time to determine whether the premiums are manifestly inadequate to cover long term operating costs and consequently do not currently find this program to confer a countervailable benefit. However, we will continue to review the financial performance of this program during our first review under section 751 of the Act. If at this time sufficient information is available to permit a judgment as to whether the premiums are adequate to meet long-term operating costs, and if that judgment results in a conclusion that the program confers a bounty or grant, countervailing duties to offset the bounties or grants will be issued on all entries of the subject merchandise from the effective date of the initial suspension of liquidation in the investigation.

### B. ECIL Partial Non-Payment of A-56 Employer's Tax

The petition alleges that DSW benefits from the partial non-payment of the employer's tax which normally



amounts to 7 percent of payroll. The extent of non-payment depends on the ratio between "approved" assets and total assets.

On January 1, 1980, the employer's tax law was amended. Since April 1, 1980, the employer's tax has not been applicable to the productive sectors, including industrial manufacturing firms, agricultural farms, operation of hotels, and the building of housing or civil engineering related to the above activities. As a result, DSW has not paid an employer's tax since 1980.

We determine that non-payment of the employer's tax as a result of the 1980 amendment is so broad that the 1980 amendment is no longer a selective exemption from a tax. Further, this domestic program is not provided by government action to a specific enterprise or industry, or a group of enterprises or industries. Thus, it does not confer a countervailable benefit.

### C. Preferential Ocean Freight Rates

The petition alleges that most potassium chloride exported from Israel to the United States (back-haul) is shipped by Zim Navigation which is 40 percent owned by the government of Israel, at rates which are charges on bulk (grain) shipments from the United States to Israel (front-haul). Petitioners add that the enormous difference between the front-haul and back-haul rates cannot be accounted for simply as the result of the imbalance in shipments into and out of Israel. They are deliberately structured, at the government of Israel's direction, to cross-subsidize lower freight rates on potassium chloride exports to the United States by higher freight rates on grain imports (by the government of Israel) from the United States.

We verified that there are three Israeli bulk carriers: Zim Navigation Company Ltd. (Zim), El Yam Ships Ltd. (El Yam), and Rosenfeld Company (Rosenfeld), the most recent entrant in the bulk freight business. While Zim is partially owned by the government of Israel, El Yam and Rosenfeld are both privately owned. Although unrelated, Zim and El Yam have an informal agreement to share their bulk freight business, including grain and potassium chloride shipments. We verified that Zim and El Yam negotiated their grain contracts with the Government Trade Administration (GTA) on a commercial basis. El Yam's and Zim's rates to carry grain were substantially lower than the rates charged by U.S. carriers that also ship grain to Israel for the GTA. While the petitioners have submitted a chart showing that some shippers to the Middle East carry grain at rates

generally lower than Zim and El Yam carry grain to Israel, this chart is not dispositive. The risk associated with blacklisting of shippers which carry cargo to Israel, the differences in the size and efficiency of the ships, and the difference in the distances to the port destinations are factors which, alone, could account for the differences in rates. Further, even putting these factors aside, the differences in rates are not so large as to warrant the conclusion that the government of Israel was paying high grain shipment rates to Zim or other Israeli shippers to cross-subsidize lower potassium chloride shipment rates.

We also verified that Zim and El Yam negotiate their contracts directly with DSW to carry potassium chloride. These negotiations are on a commercial basis, with Zim and El Yam using their deviation costs as a basis for negotiations. The government's participation in the negotiations between DSW and El Yam and Zim was limited to the government securing: (1) An assurance from the two shippers that the back-haul of potassium chloride would not interfere with the existing obligations of the shippers to carry grain on the front-haul, and (2) more favorable terms from the shippers for the shipment of grain.

Lastly, we verified that during the review period DSW paid a non-Israeli shipper a lower rate to carry potassium chloride than the rate charged by Zim and El Yam. DSW has also provided evidence of lower spot market rates which it had received but did not utilize, preferring instead to stick with reliable long-term contracts.

For these reasons, we conclude that the shipping rates to carry potassium chloride paid by DSW to Zim and El Yam are set on a commercial basis and that the government is not paying higher grain shipment rates to cross-subsidize lower potassium chloride shipment rates. Consequently, ocean freight rates do not constitute a countervailable benefit.

### D. Preferential Wharfage Charges

Petitioners allege that the "Israeli Ports Dues and Charges" schedule is designed to subsidize exports by disproportionately raising wharfage revenue from imports and vastly undercharging exports.

The Knesset established the Israel Port Authority (IPA) by Port Authority Law 5721-1961 as a self-supporting enterprise to build and operate the ports. The "Israeli Ports Dues and Charges" is a general schedule of port charges which applies to all users of the port who do not have a separate

contract with IPA. DSW, however, is one of two companies that has used their own monies to build port facilities for its own use at Ashdod.

Consequently, DSW has a separate contract with IPA and the general schedule of port charges does not apply to DSW. We verified that DSW pays both rental and operational charges to IPA. The basis of DSW's rental charges to IPA is a 1967 appraisal of the land value which is linked to the cost of building index. We also verified that DSW pays operational charges on a cost-plus basis. Consequently, we conclude that this program does not constitute a countervailable benefit to DSW since DSW pays rental and operational charges on a commercial basis.

### III. Program Determined Not To Be Used

We determine that the following program was not used by DSW:

#### *ECIL Reduction of Corporate Tax Liability*

The petition alleges that DSW's corporate tax liability is limited to 30 percent instead of the normal 60 percent rate and that the benefit lasts 7 years and is prorated according to the ratio between "approved" assets and total assets.

"Approval projects" under ECIL are liable to pay a 30 percent corporate tax on the portion of the "approved" fixed assets; while the regular corporate rate for an industrial corporation is 40 percent. The program is administered by the Investment Center. Even though DSW had profits, DSW did not receive benefits from this program during the period of review. Under Israeli tax law, DSW's tax liability is consolidated with its parent, Israel Chemicals Ltd. (ICL). Since ICL had losses, DSW paid no taxes. Consequently, DSW did not use the benefit of a reduced corporate income tax.

### IV. Programs Which Have Been Terminated

#### *A. Property Tax Exemption on Buildings*

The petition alleges that DSW may continue to benefit from the ECIL provisions that allow eligible enterprises a 5 year exemption from payment of 1/2 of property taxes on buildings. The petition states that this program was repealed by Amendment 17 of the ECIL on August 1, 1978.

The last year that DSW used this program was 1980. The property tax on buildings was abolished for all taxpayers on April 1, 1981.

### *B. Property Tax Exemption on Equipment*

The petition alleges that the government of Israel provides a 10 year exemption from payment of 1/4 of the property taxes on equipment approved prior to repeal of this program. The program was repealed by Amendment 17 of ECIL on August 1, 1978. The last year for which DSW used this program was 1980. This program was abolished for all taxpayers as of April 1, 1981.

#### **Petitioners Comments**

*Comment 1:* The four grades of potassium chloride produced by all of DSW's plants are fungible, "like" products not only to each other but to the grades produced and sold in the United States. Based on the chemical and physical data provided by DSW, there is no obvious unresolvable technical reason why the fine grade potassium chloride product of the Makleff plant is not suitable for sale in the United States market either as is or as a compacted granular grade. Thus, the ECIL grants relating to the Makleff plant are countervailable.

*DOC Position:* After reviewing all the technical evidence on the record, we find that DSW cannot sell potassium chloride produced by the Makleff plant to the U.S. Although all grades of potassium chloride are essentially chemically fungible, there uses in the market place are largely grade-specific. The Makleff plant primarily produces a fine grade of potassium chloride and there is persuasive evidence that this product technically is not saleable in the United States. Further, there is no evidence on the record to refute DSW's contention that the Makleff fine grade has not been sold as is or as a compacted granular grade in the United States market. Accordingly, we determine that ECIL grants for the Makleff plant are not countervailable because they do not benefit the production of exports of potassium chloride to the United States. Since the technical evidence supporting this position is proprietary information we are unable to elaborate on our position in this notice.

*Comment 2:* The ITC determined that potassium chloride is a "like product." In determining in its preliminary determination that grants for the construction of the Makleff plant are not countervailable, it was improper for the Department to conclude that Makleff produced potassium chloride is excluded from the concept of "like product."

*DOC Position:* As stated above, the Department excluded these grants

because the Makleff produced potassium chloride is not, and cannot be, sold to the U.S. The definition of a "like product" is a criterion the Department must consider in determining "interested party" status. The concept of "like product", however, has no bearing on our determination of which ECIL grants to include in our calculations of countervailable benefits.

*Comment 3:* The preliminary determination which did not treat the grants relating to the Makleff plant as countervailable is inconsistent with Certain Steel Products from Italy, 47 FR 39356 (Sept. 7, 1982) and Congressional intent.

*DOC Position:* Certain Steel Products from Italy is inapposite. Unlike the present case, the steel products from both factories could be sold to the United States. There were no technical difficulties prohibiting the sale of steel from either factory to the U.S. The comment about Congressional intent is irrelevant to this issue. A countervailable practice must be conferred with respect to the manufacture, production, or exportation of a class or kind of merchandise imported into the United States. As stated above, we are satisfied that potassium chloride produced by the Makleff plant is not, and cannot be, sold to the U.S.

*Comment 4:* Even if potassium chloride produced in the Makleff plant cannot be sold to the U.S., it is sold to Europe and other markets. Sales to markets other than the U.S. can release output from other DSW plants for sale in the U.S. Thus, the grants to Makleff indirectly subsidize the sale of potassium chloride in the U.S. market.

*DOC Position:* There is no evidence on the record that the grants to Makleff indirectly subsidize the sale of DSW's potassium chloride in the U.S. The evidence shows the DSW has penetrated the European market with potassium chloride produced by the Makleff plant. However, the amount of granular or standard grades sold to Europe had remained fairly constant. The record does not show that DSW has substituted fine for granular or standard grades in the European market.

*Comment 5:* The Department should (1) allocate ECIL grant benefiting all DSW assets put in service after 1980 over 5 years (based on IRS ACRS guidelines) and (2) allocated ECIL grants put in service prior to 1981 over 9.5 years (based on IRS Class Life Asset Depreciation Range System (ADRS) (Rev. Prac. 77-10)) guidelines.

*DOC Position:* We have allocated ECIL grant over 11 years based on the average depreciation range for assets

used in the manufacture of chemicals and allied products as reflected by category 28 of the 1977 ARDS guidelines. The use of this table is consistent with our Subsidies Appendix published at 49 FR 18006, 18016 (April 28, 1984). The fact that U.S. taxpayers may elect accelerated depreciation or may use the 1983 IRS table for assets put into service prior to 1981 is not determinative. As stated in the Subsidies Appendix, "we have concluded that there are no economic or financial rules that mandate the choice of an allocation period." The ITA has selected the 1977 IRS guidelines as the standard to apply.

*Comment 6:* With regard to the calculation of the weighted cost of capital, the Department should use actual interest rates incurred by DSW to calculate the marginal cost of debt. Also, the Department should include dividends paid on shares as part of the marginal cost of equity.

*DOC Position:* We concluded that DSW's long-term loan rates were not suitable as benchmarks for the marginal cost of debt because they contained restrictive terms. For reasons more fully set out in the Subsidies Appendix, we cannot calculate a company's actual marginal cost of equity. As a surrogate, we have used the company's marginal cost of debt, plus the difference between the national average rate of return on equity and the national average cost of debt. Further, the company specific refinements are not possible because of the aggregate (i.e. nationwide) nature of the figures which adjust the marginal cost of debt to the marginal cost of equity.

*Comment 7:* Petitioners suggest that the Department's allocation formula for grants lacks a compounding term in the discount rate terms. Moreover, they recommend a different valuation formula which would measure the benefit to the recipient by calculating the future value of the grant.

*DOC Position:* We do not believe that the allocation formula should include a compounding term. The formula used by ITA is designed to ensure that the present value (in the year of grant receipt) of the amounts allocated over time does not exceed the face value of the grant. In this way, we are consistent with the Act and our international obligations in that the amount countervailed will not exceed the total net subsidy.

This result will not necessarily be obtained using the petitioner's methodology. Only if the discount rate remains constant throughout the allocation period will the petitioners' methodology lead to the present value of

the amounts countervailed (measured in the year of receipt) being equal to the grant. We note that were we to apply their formula (using the same discount rate throughout), the effect would be to allocate a disproportionate share of the benefit to later years of the allocation period. This result, while not unreasonable, has been rejected in favor of a declining balance methodology that allocates higher benefits to those years immediately following the receipt of the grant.

*Comment 8:* ECIL grants are export subsidies.

*DOC Position:* The ECIL program was changed in January 1984 to include as one of its criteria certain export performance requirements. Since all the grants relevant to our investigation were received prior to 1984, we have treated those ECIL grants as domestic subsidies.

*Comment 9:* The appropriate benchmark for determining the subsidy element for the export credit funds is the actual commercial borrow experience of DSW. If DSW's credit experience is unavailable, credits denominated in U.S. dollars and French francs should be measured against LIBOR plus an appropriate premium for foreign currency loans. For Israeli shekel loans, the appropriate benchmark should be a reasonable positive real rate of return plus the increase in the CPI.

*DOC Position:* For short-term loan benchmarks, the Subsidies Appendix provides that we will use the most appropriate national average commercial method of short-term financing, rather than company specific experience. For reasons elaborated in that appendix we agree that foreign currency loans should be measured against interest rates offered in the international financial market.

*Comment 10:* Since 1978, the U.S. has taken the position before GATT that export inflation insurance schemes are subsidies. The EIS exchange risk program is a variant of these subsidies.

*DOC Position:* The standard under the GATT for whether such schemes constitute subsidies, as set forth above, is whether premiums collected are manifestly inadequate to cover long-term operating costs and losses. Available information does not permit us to reach that conclusion in the present investigation.

*Comment 11:* With regard to the EIS program, the Department should segregate long-term operating costs of IFTRIC from those to a specific insurance product line.

*DOC Position:* For the purposes of this investigation, based upon all the facts available, we have done so. Whether this would be appropriate in future

cases will be determined upon the facts of those cases.

*Comment 12:* The gross subsidy from EIS should be the difference between the lag in devaluation of the shekel behind inflation. The net subsidy is the difference between the gross subsidy and the premiums.

*DOC Position:* Since we did not determine that the EIS program is countervailable at this time, we do not have to reach the issue of how to measure the value of the alleged benefit.

*Comment 13:* Under *Bethlehem Steel corp. v. United States*, 6 CIT \_\_\_\_\_, Slip Op. 84-67, June 8, 1984, the preliminary determination that the exemption from the employer's tax is not countervailable because it is generally available is erroneous as a matter of law.

*DOC Position:* In *Bethlehem*, the court's broad opinion that the Department cannot apply a rule that "generally available" benefits are not subsidies is dictum. The Department continues to interpret the language in section 771(5)(B) of the Act that the term subsidy includes "domestic subsidies, if provided or required by government action to a specific enterprise or industry, or group of enterprises or industries . . ." to mean that benefits broadly or "generally" available do not constitute countervailable bounties or grants. In this case we determined that the exemption from the tax program is "generally available." Further, our position does not conflict with the holding of *Bethlehem* which states that tax laws become bounties or grants to the taxpayer only if the elimination or reduction of the tax is selective. In this case, the 1980 amendment to the tax law was so broad as to cover nearly every sector of the economy. Consequently, the program no longer operates as a selective exemption from the employer's tax.

*Comment 14:* The amount of countervailable benefit attributable to the corporation income tax program is the difference between the ordinary 61 percent and the special 30 percent rate linked to ECIL benefits. Further, the Department should examine intra-corporate transfers of funds.

*DOC Position:* DSW's eligibility under the ECIL program to pay a reduced corporate income tax rate is an insufficient basis to conclude that DSW has received a countervailable benefit. Where DSW paid no tax because of its combined return with its parent company, it has not, in fact, received the benefit of a lower tax rate. We are not concerned with intra-corporate transfers of funds but rather with corporate

income taxes paid by DSW through ICL to the government.

*Comment 15:* The government is subsidizing potassium chloride shipments to the extent it is paying more than \$17.00 per MT for the grain haul to Israel. The facts on the record indicate that Zim and El-Yam carry both potassium chloride and grain, the contracts for import and export are between these carriers and the government and no others, and the rates for import carriers of grain to Haifa are contingent upon a reciprocal agreement for export charter of potassium chloride from Ashdod. When the GOL exclusively negotiates all grain import rates and the shipment of potassium chloride and phosphates are linked in reciprocal contracts with all carriers, there are no market rates by leg of voyage. Thus, the Department should look to surrogate rates supplied by the petitioner to determine market rates.

*DOC Position:* See our discussion of these issues under Section II.C. of this notice.

*Comment 16:* The "Israeli Port Dues and Charges" schedule is designed to subsidize exports in general and potassium chloride in particular. Further, the Department should analyze the contract between DSW and the Israeli Port Authority to determine the extent to which the land and equipment lease payments have actually been adjusted through exchange rate or consumer price linkages to reflect the current market value of the lease services to DWS.

*DOC Position:* The "Israeli Port Dues and Charges" schedule does not apply to DSW. We verified that the rental charges paid by DSW are linked to the cost of building index and that the operation charges are paid on a cost plus basis.

#### Respondent's Comments

*Comment 1:* It was inappropriate for ITA to consider as countervailable the grants for the construction of ponds and dikes relating to the Makleff plant. DSW's pond capacity prior to the construction of the Makleff plant was more than adequate to produce sufficient raw material for the hot leach and flotation plants. But for the construction of the Makleff plant, the new ponds would not have been constructed. If ITA insists on including grants to Makleff-related ponds, dikes, and canals, ITA should calculate the benefit by dividing the grant benefit by total sales and not excluding exports of the Makleff product.

*DOC Position:* We have countervailed the grants for the construction of ponds

and dikes relating to Makleff because those ponds and dikes do not exclusively benefit the Makleff plant. Rather, raw material used for the production of potassium chloride in the hot leach and flotation plants also pass through those ponds. The larger capacity of the ponds increases the efficiency of the production of raw material for all potassium chloride produced by DSW. We therefore have included in our calculations those portions of the Makleff grants used to construct canals, ponds, dikes and calculated the benefit by multiplying the grants by the proportion that potassium chloride from the hot leach and flotation plants represent of total potassium chloride production and allocating this amount over the sales of the hot leach and flotation plants.

*Comment 2:* ITA's allocation of grants over 10 years is inappropriate. Although DSW's production is a type of mining, it is not the type envisioned by the IRS depreciation guidelines. If ITA uses the IRS guidelines, grants for land improvements should not be spread over the life of the equipment when the grants were specifically tied to land improvements and when the IRS guidelines provide specifically that land improvements shall be spread over 20 years.

*DOC Position:* As discussed previously, we have concluded that there are no economic or financial rules that mandate the choice of an allocation period and we have selected the 1977 IRS guidelines as the standard to apply. Consistent with the Subsidies Appendix, we have selected Category 28-Chemicals and Allied Products which reflects the type of business activities involved in DSW's manufacture of potassium chloride.

*Comment 3:* The preliminary determination vastly overstates the benchmarks used to calculate the benefits from the export funds. DSW's own experience should be used as a benchmark. Since DSW is one of the most efficient and largest revenue producing companies in Israel, it is unfair, inappropriate, and violative of the statute to use benchmark rates which include small and unprofitable companies.

*DOC Position:* As explained more fully in the Subsidies Appendix, we use as our benchmark for short-term financing the most appropriate national average commercial method of short-term financing, instead of company-specific experience.

*Comment 4:* The benchmark for export production fund loans should be the quarterly (not annualized and not compounded) shekel overdraft rate.

Further, the overdraft rate includes components not attributable to export production fund loans which are term loans. Since ITA is using the overdraft as proxy for a term loan, it must eliminate those elements of the revolving credit not attributable to term loans. Those elements are a negotiated commitment fee for the credit line, penalty interest for exceeding the credit line, and a management fee.

*DOC Position:* We agree that the benchmark for export production fund loans should be the quarterly shekel overdraft rate. In choosing a benchmark, we are seeking the national average commercial method of short-term shekel financing. The benchmark selected for the EPF is the average cost of overdraft accounts. Since the management fees, commitment fees and penalty interest are components of the national average experience of overdraft borrowing, they are properly included in the benchmark.

*Comment 5:* With regard to the benchmark used in the preliminary determination for the Export Shipments Fund and the Import-for-Export Fund, non-directed foreign currency credit liable to the surcharge is unrepresentative of any national average because it represents only a narrow segment of foreign currency borrowing, is highly restrictive, and includes a surcharge intended to discourage borrowing. Further, ITA's addition of the surcharge to the Bank of Israel figure used as the benchmark double-counted the surcharge. Lastly, the Bank of Israel demonstrated that commercial loans exist which should be used as a benchmark. Companies can discount accounts receivable at the Euro rate plus a certain percent.

*DOC Position:* We agree and have modified our foreign currency benchmarks accordingly.

*Comment 6:* The EIS is an internationally accepted type of insurance and does not provide a subsidy.

*DOC Position:* As stated above, section 771(5)(B) of the Act incorporates the Annex to the Subsidies Code into U.S. law. Paragraph j of that Annex sets forth the standards for determining when exchange rate insurance schemes, such as EIS, constitute export subsidies.

#### Verification

In accordance with section 770(a) of the Act, we verified all information used in making our final determination. During verification we followed normal procedures, including meetings with government officials, inspection of government documents and on-site inspection of the records and operations of DSW.

#### Suspension of Liquidation

In accordance with section 703(d) of the Act, we directed the U.S. Customs Service to suspend liquidation of all entries of potassium chloride from Israel which are entered, or withdrawn from warehouse, for consumption on or after June 29, 1984. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the net bounty or grant for each such entry of this merchandise from Israel in the amount of 3.64 percent *ad valorem*.

#### Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulation (19 CFR 355.35). In accordance with the Department's regulations (19 CFR 355.34(A)) timely written views have been received and considered.

#### ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determination whether these imports are materially injuring, or threatening to materially injure, a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury or the threat of material injury does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing Customs officers to assess a countervailing duty on potassium chloride from Israel entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the net bounty or grant amount indicated in the "Suspension of Liquidation" section of this notice.

This notice is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

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Dated: September 10, 1984.  
**William T. Archey,**  
*Acting Assistant Secretary for Trade  
Administration.*  
(FR Doc. 84-24382 Filed 9-13-84; 8:45 am)  
BILLING CODE 3510-06-M

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**ACTION:** Notice of final affirmative countervailing duty determination.

**SUMMARY:** We determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Spain of potassium chloride. The estimated net subsidy is 7.88 percent *ad valorem* on exports prior to July 11, 1984, and 6.90 percent *ad valorem* on exports on or after July 11, 1984. Therefore, we are directing the U.S. Customs Service to continue to suspend liquidation of all unliquidated entries of potassium chloride from Spain which are entered, or withdrawn from warehouse, for consumption on or after June 29, 1984. The Customs Service shall require a cash deposit or bond on this product in the amount equal to the estimated net subsidy.

**EFFECTIVE DATE:** September 17, 1984.

**FOR FURTHER INFORMATION CONTACT:** Terry Link, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377-0189.

**SUPPLEMENTARY INFORMATION:**

**Final Determination**

Based upon our investigation, we determine that certain benefits constituting subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Spain of potassium chloride. The following programs are found to confer subsidies:

- Short-term preferential loans (provided under the Privileged Circuit Exporter Credits Program as working-capital loans and export credits).
- Excessive rebates of indirect taxes on exports under the Desgravacion Fiscal a la Exportacion (DFE).

We determine the net subsidy to be 7.88 percent *ad valorem* on exports prior to July 11, 1984, and 6.90 percent *ad valorem* on exports on or after July 11, 1984.

**Case History**

On March 30, 1984, we received a petition from Amax Chemical, Inc. and Kerr-McGee Chemical Corporation filed on behalf of the U.S. industry producing potassium chloride. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), petitioners alleged that manufacturers, producers, or exporters in Spain of potassium chloride receive, directly or indirectly, benefits which constitute

subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten to materially injure, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on April 19, 1984, we initiated an investigation (49 FR 18149).

Since Spain is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. On May 14, 1984, the U.S. International Trade Commission (ITC) determined that there is a reasonable indication that these imports materially injure, or threaten to materially injure, a U.S. industry (49 FR 21813).

We presented questionnaires concerning the allegations to the government of Spain at its embassy in Washington, D.C., on April 23, 1984. On June 4, 1984, we received a response to the questionnaire from Minas de Potasa de Suria, S.A., (Suria) and on June 22, 1984, we received a response from the related exporter, Comercial de Potasas, S.A. (Copsa). The government of Spain replied to our questionnaire on July 3, 1984. On June 29, 1984, we published an affirmative preliminary countervailing duty determination (49 FR 26784).

During the week of July 8, 1984, we conducted a verification of the responses in Spain.

In response to a request from petitioners, a public hearing was held on August 9, 1984. We received briefs from the parties to the proceeding on August 3, 1984, and August 16, 1984.

**Scope of Investigation**

The product covered by this investigation is potassium chloride. For the purposes of this investigation, the term "potassium chloride" covers potassium chloride, otherwise known as muriate of potash, as currently provided for in item 480.50 of the *Tariff Schedules of the United States*

There is one known firm in Spain which produces potassium chloride for export to the United States. We have received information from Suria, which produced 100 percent of the potassium chloride exported to the United States during the period of investigation, calendar year 1983, and from Suria's related exporter, Copsa.

**Analysis of Programs**

Based upon our analysis of the petition, the responses to our questionnaires, and our verification, we determine the following:

International Trade Administration

(C-469-403)

Potassium Chloride From Spain; Final Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Import Administration, Commerce.

### I. Programs Determined To Confer Subsidies

We determine that subsidies are being provided to manufacturers, producers, or exporters in Spain of potassium chloride under the programs discussed below:

#### A. Privileged Circuit Exporter Credits Program

Petitioners alleged benefits which constitute subsidies in the form of short-term preferential loans. We requested information on all short-term loans outstanding during the period for which we are measuring subsidization. The only preferential short-term borrowing received by Suria was that obtained under the Privileged Circuit Exporter Credits Program.

The government of Spain requires all Spanish commercial banks to maintain a specific percentage of their lendable funds in privileged circuit accounts. These funds are made available to exporters at preferential interest rates though a variety of credit programs. While there is no direct outlay of government funds, the benefits conferred on the companies are the result of a government-mandated program to promote exports. Of the four privileged circuit programs available to companies, we determine that the respondent potassium chloride producer benefited from two programs, the working-capital loan and the short-term export credit programs.

1. *Working Capital Loans.* Under the privileged circuit program, firms may obtain working-capital loans for one year, the total of which is not to exceed a specified percentage of their previous year's exports. During the period of investigation, Suria received three working-capital loans under this program.

For our preliminary countervailing duty determination on potassium chloride from Spain, we used the average prime interest rate for one year as the basis for our benchmark interest rate. We added two percentage points to the average prime rate to arrive at the interest rate faced by average borrowers. To this we then added a legally established 0.5 percent commission.

During our verification of the responses, we met with the director of a bank in Madrid. From the director we learned that our benchmark is a nominal interest rate. We also found that the Bank of Spain which publishes the average prime interest rate also publishes weighted-average lending rates on all loans by length and type of loan. Since the weighted-average

lending rate reflects average borrowing in Spain, it is a more accurate source for a benchmark than the prime rate to which we have been adding an estimate of the percent over prime which average borrowers would pay.

Consequently, for this final determination, we chose as our 1983 benchmark for short-term operating capital loans, the 1983 weighted-average lending rate for loans of one to three years. Since this is a nominal rate, we found the effective rate by quarterly compounding, and then adding the 0.5 percent commission. In addition, an ITE tax of four percent is charged by the government on all interest payments, both commercial and preferential. We added this tax to the benchmark. Based on these data, we determine the national average commercial interest rate to be 20.09 percent for one-year working capital loans given in 1983.

Although in the past we have relied upon comparisons between nominal interest rates, we prefer to compare effective interest rates as stated in the Subsidies Appendix (49 FR at 18022). At verification we received information with which to calculate an effective benchmark interest rate. Given our preference for effective interest rates, we are changing Suria's nominal interest rates to effective rates and calculating the benefit based on a comparison of effective rates.

To determine the benefit, we compared the effective preferential interest rate (including tax and commission) with the effective national average commercial interest rate of 20.09 percent. We multiplied this interest differential by the total amount of Suria's privileged circuit working-capital loans.

We allocated the resulting product over the total sales value of all exports of Suria in 1983. On this basis we determine that the *ad valorem* subsidy for short-term working capital loans to Suria is 0.48 percent.

2. *Short-Term Export Credit.* The short-term export credit program provides loans for up to 90 percent of the value of a company's export shipments at a 10 percent nominal interest rate for a maximum of one year. Suria obtained four 90-day loans under this program during 1983 to finance exports of potassium chloride to the United States.

For our preliminary countervailing duty determination on potassium chloride from Spain, we used as a benchmark the average prime interest rate for loans of 90 days. We added two percentage points to the average prime rate to arrive at the interest rate faced by average borrowers. To this we then

added a legally established 0.5 percent commission.

As with working capital loans, we learned during verification that the average prime rate for 90-day loans is a nominal rate and that the Bank of Spain publishes weighted-average lending rates which more closely approximate the rates afforded the average borrowers.

Consequently, for this final determination, we chose as our 1983 benchmark for short-term export credit loans, the 1983 weighted-average lending rate for trade discount loans of three months. Since this is a nominal rate, we found the effective rate by quarterly compounding. In addition, an ITE tax of four percent is charged by the government on all interest payments, both commercial and preferential. We added this tax to the benchmark. Based on these data, we determine the national average commercial interest rate to be 18.35 percent for 90-day export credit loans given in 1983.

As explained in the section of this notice on working capital loans, we prefer to compare effective interest rates to evaluate the benefit from preferential financing.

To determine the benefit, we compared the effective preferential interest rate (including tax) with the effective national average commercial interest rate of 18.35 percent. We multiplied this interest differential by the amount of Suria's privileged circuit export credit loans. We allocated the interest benefit over the total sales value of Suria's exports to the United States during 1983. We determine that the *ad valorem* subsidy for short-term export credits to Suria is 1.56 percent.

#### B. *Desgravacion Fiscal a la Exportacion (DFE)*

Spain employs a cascading tax system. Under this system, the government levies a turnover tax ("IGTE") on each sale of a product through its various stages of production, up to (but not including) the final sale in Spain. Upon exportation of the product, the government, under the DFE, rebates both these accumulated IGTE indirect taxes and certain final stage taxes.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Act and the Commerce Regulations allow the rebate of only the following: (1) Indirect taxes borne by inputs which are physically incorporated in the export product (see Annex 1.1 of Part 355 of the Commerce Regulations); and (2) indirect taxes levied at the final stage (see Annex 1.2

of part 355 of the Commerce Regulations). If the payment upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overbate of indirect taxes and, therefore, a subsidy.

In this case, we determine that Suria does not purchase from other sources any inputs that are physically incorporated into the final product. Thus, there are no turnover taxes paid on these inputs. The rebate of a final stage tax, the tax on freight, is, however, allowable when calculating whether or not there is an overbate of indirect taxes under the DFE. Based on our analysis, the amount of the subsidy if the DFE rebate less the amount of the final stage freight tax.

During our verification, we learned that the DFE rebate was reduced from 6.5 percent on potassium chloride exports to 5.525 percent effective July 11, 1984. Since the decree was signed on June 20, 1984, prior to our preliminary determination, we have included this information in our final determination. Therefore, any exports of the merchandise under investigation on or after July 11, 1984, are subject to the lower DFE rebate.

On this basis, we determine that the DFE rebate, less the final stage tax, confers an *ad valorem* subsidy of 5.84 percent on exports prior to July 11, 1984, and 4.86 percent *ad valorem* on exports on or after July 11, 1984.

## II. Programs Determined Not to Confer Subsidies

We determine that subsidies are not being provided to manufacturers, producers, or exporters, in Spain of potassium chloride under the following program:

### Government Equity Purchases

Petitioners alleged that producers of potassium chloride benefited from government of Spain purchases of equity on terms inconsistent with commercial considerations.

During verification we found that prior to 1982, a Belgian company held 100 percent of Suria's stock. In 1982, this Belgian company sold 51 percent of its shares in Suria to Fodina, a holding company owned by the government of Spain. Consistent with the Subsidies Appendix (49 FR 18006), we determine that since Fodina purchased previously issued shares from the Belgian company, there is no subsidy to Suria. This is true no matter what price the government pays, since any overpayment benefits only the prior shareholders and not Suria.

## III. Programs Determined Not To Be Used

We have determined that potassium chloride manufacturers, producers, or exporters in Spain do not use the following programs identified in the notice of "Initiation of Countervailing Duty Investigation of Potassium Chloride from Spain."

### A. Certain Benefits Under the Privileged Circuit Export Credits Program

In our analysis of the Privileged Circuit Export Credits Program earlier in this notice, we found that two programs, short-term working capital loans and short-term export credits, did provide subsidies to the respondent. We determine that the two remaining programs identified in our notice of initiation are not used. They are: (1) Commercial services loans, and (2) Prefinancing exports.

### B. Medium- and Long-Term Preferential Loans

Petitioners alleged that producers of potassium chloride are receiving medium- and long-term preferential financing either directly from the government of Spain or from banks instructed by the government of Spain. We verified that Suria had no outstanding medium- or long-term loans during the period in which we are measuring subsidization.

### Petitioners' Comments

*Comment 1.* Petitioners argue that the entire rebate of the DFE is a subsidy to the producer of potassium chloride, since there are no physically incorporated inputs on which indirect taxes are paid.

*DOC Position.* Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Act and the Commerce Regulations allow the rebate of only the following: (1) indirect taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of Part 355 of the Commerce Regulations); and (2) indirect taxes levied at the final stage (see Annex 1.2 of Part 355 of the Commerce Regulations). If the payment upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overbate of indirect taxes, and therefore, a subsidy.

In this case, we determine that Suria does not purchase from other sources any inputs that are physically incorporated into the final product. Thus, there are no turnover taxes paid on these inputs. Consequently, the

subsidy is equal to the DFE rebate less final stage taxes.

*Comment 2.* Petitioners state that the Department incorrectly characterized the IGTE on rail transportation to the port as a final stage indirect tax that may be properly offset against the DFE. Petitioners take the position that such export freight is a tax on transport categorized under present GATT rules as a *tax occulte*, i.e., a tax that may not be rebated.

*DOC Position.* The freight charges in question are established for exporting the merchandise and are treated as a tax on the exported product. We view this as a final stage tax, and have consistently held that this freight tax is an allowable final stage tax. See, for example, Non-Rubber Footwear from Spain (49 FR 19378) and Amoxicillin Trihydrate and Its Salts from Spain (49 FR 12730). Consequently, the rebate of this tax is allowable when calculating whether or not there is an overbate of indirect taxes under the DFE.

*Comment 3.* Petitioners argue that the Department should not offset the Impuesto de Muellaje, a port charge, against the DFE. They state that the port charge does not appear to be an indirect tax, but a utilization fee.

*DOC Position.* We agree that the Impuesto de Muellaje is a utilization fee rather than a tax and, therefore, we are not allowing this as a deduction from the DFE.

*Comment 4.* Petitioners express concern that if the Department calculates interest rate differentials based on effective interest rates, rather than nominal interest rates, the prepayment of interest on subsidized loans might cause an adjustment to be made mitigating the benefit from the lower (nominal) rate.

*DOC Position.* Although in the past we have relied upon comparisons between nominal interest rates, we prefer to compare effective interest rates as stated in the Subsidies Appendix (49 FR at 18022) as follows: "The magnitude of the benefit from loans is a function of the difference between the cost of the loan under examination and the cost of the benchmark loan. Ideally, we attempt to quantify the total effective cost of each type of loan in our comparisons. However, the charges added on to the nominal interest rates for each loan cannot always be quantified. In these cases, we base our calculations on the difference between the quantifiable equivalent terms of both loans." For our final determination we calculated the benefit from these preferential loans as the difference between the effective cost



of the loans under examination and the effective cost of the benchmark loans.

#### Respondent's Comments

*Comment 1.* Respondent states that its effective average interest rate on short-term export credits is higher than the Department's preliminary calculations show.

*DOC Position.* We agree. For our preliminary determination we did not have sufficiently detailed information to calculate the effective interest rates on the short-term export credit loans. During our verification, we gathered sufficient information to calculate effective interest rates for short-term export credits which are higher interest rates than the nominal interest rates in our preliminary calculations. See the section on the Privileged Circuit Exporter Credits Program.

*Comment 2.* Respondent states that since 54.2 percent of the cost of its inputs for the production of potassium chloride are effected by the ICTE at the rate of 4 percent during 1983, the rebate of 6.5 percent under the DFE is clearly justified. Consequently, respondent argues that the DFE represents only a reimbursement of the indirect taxes affecting production and that there is no subsidy from the DFE program.

*DOC Position.* We disagree. See DOC Position to Petitioners' Comment 1.

#### Verification

In accordance with section 776(a) of the Act, we verified all information used in making our final determination.

#### Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all unliquidated entries of potassium chloride from Spain which are entered, or withdrawn from warehouse, or consumption, on or after June 29, 1984. The Customs Service shall require a cash deposit or the posting of a bond for each such entry of this merchandise in the amount of 7.88 percent *ad valorem* on exports prior to July 11, 1984, and 6.90 percent *ad valorem* on exports on or after July 11, 1984. This suspension will remain in effect until further notice.

#### ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the

ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determination of whether these imports are materially injuring, or threatening to materially injure, a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury or the threat of material injury does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order, directing the Customs Service to assess countervailing duties on all entries of potassium chloride from Spain entered, or withdrawn from warehouse, for consumption on or after the suspension of liquidation date, and to require a cash deposit or bond for an amount equal to the net subsidy amount indicated in the "Suspension of Liquidation" section of this notice.

This notice is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

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1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the smooth operation of any business and for the protection of its interests.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It describes how these methods can be applied to different types of data and how they can be used to identify trends and patterns.

3. The third part of the document discusses the importance of data security and privacy. It highlights the need to protect sensitive information from unauthorized access and to ensure that data is handled in a responsible and ethical manner.

4. The fourth part of the document discusses the importance of data quality and accuracy. It emphasizes that data must be reliable and consistent in order to be useful for decision-making and analysis.

5. The fifth part of the document discusses the importance of data integration and interoperability. It highlights the need for different systems and applications to be able to share and exchange data in a seamless and efficient manner.

6. The sixth part of the document discusses the importance of data governance and compliance. It emphasizes that organizations must have clear policies and procedures in place to ensure that data is managed and used in accordance with applicable laws and regulations.

7. The seventh part of the document discusses the importance of data literacy and skills. It highlights the need for individuals to have the knowledge and skills to effectively use and analyze data in their work and in their lives.

8. The eighth part of the document discusses the importance of data ethics and transparency. It emphasizes that organizations must be open and honest about how they collect, use, and share data, and that they must respect the rights and privacy of individuals.

9. The ninth part of the document discusses the importance of data innovation and research. It highlights the need for organizations to invest in research and development in order to discover new and innovative ways to use data and to improve their operations and services.

10. The tenth part of the document discusses the importance of data collaboration and sharing. It emphasizes that organizations should work together and share data in order to maximize its value and to drive innovation and progress.

