

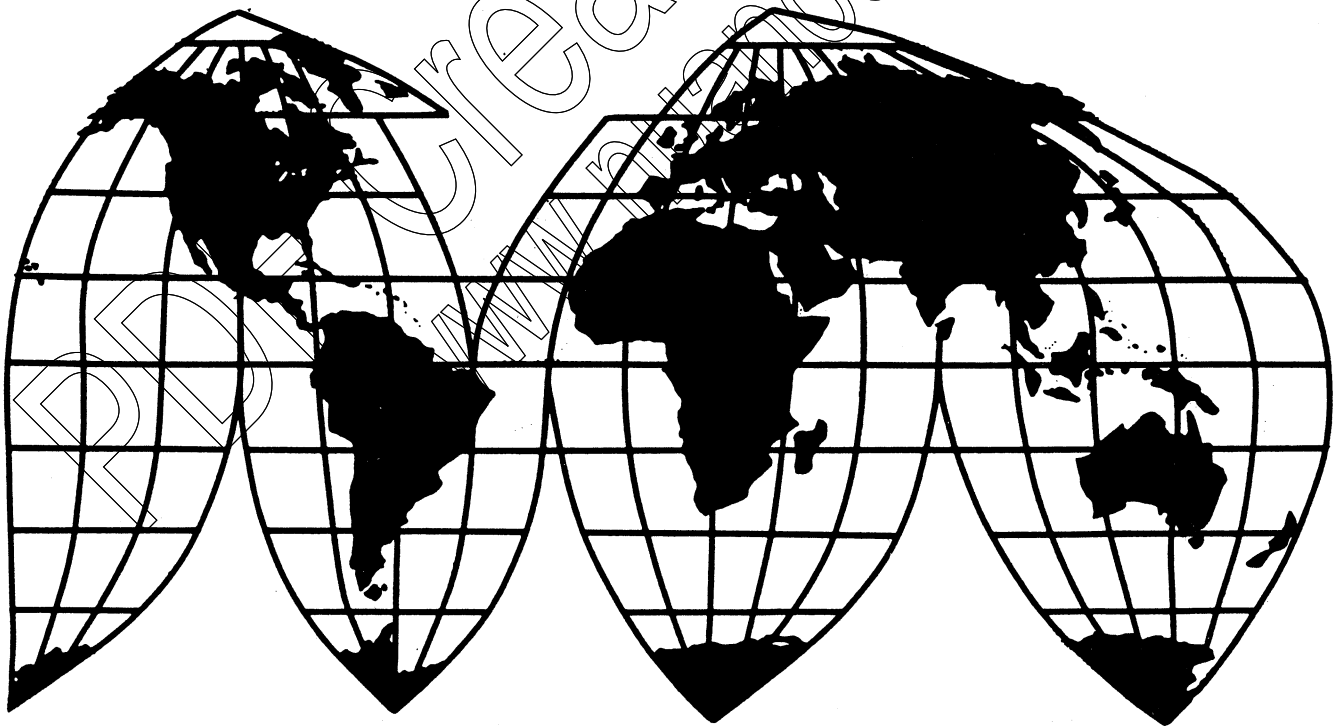
# Phthalic Anhydride From Brazil, Hungary, Israel, Mexico, and Venezuela

Investigations Nos. 303-TA-24 and 701-TA-357-358 (Preliminary) and  
Investigations Nos. 731-TA-664-668 (Preliminary)

Publication 2709

December 1993

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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# U.S. International Trade Commission

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## Phthalic Anhydride From Brazil, Hungary, Israel, Mexico, and Venezuela



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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

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**PART I**  
**DETERMINATIONS AND VIEWS OF THE COMMISSION**

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 303-TA-24 (Preliminary), 701-TA-357-358  
(Preliminary), and 731-TA-664-668 (Preliminary)

PHTHALIC ANHYDRIDE FROM BRAZIL, HUNGARY, ISRAEL,  
MEXICO, AND VENEZUELA

Determinations

On the basis of the record<sup>1</sup> developed in the subject investigations, the Commission determines,<sup>2</sup> pursuant to sections 303 and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1303 and 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of allegedly subsidized and less-than-fair-value (LTFV) imports from Venezuela of phthalic anhydride,<sup>3</sup> provided for in subheading 2917.35.00 of the Harmonized Tariff Schedule of the United States. The Commission also determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1671b(a) and 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of allegedly subsidized and/or LTFV imports from Brazil, Hungary, Israel, and Mexico.<sup>4</sup>

Background

On October 22, 1993, petitions were filed with the Commission and the Department of Commerce by Aristech Chemical Corporation, Pittsburgh, PA; BASF Corporation, Parsippany, NJ; Koppers Industries, Inc., Pittsburgh, PA; and, Stepan Chemical Company, Northfield, IL, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized imports of phthalic anhydride from Brazil, Israel, Mexico, and Venezuela and LTFV imports from Brazil, Hungary, Israel, Mexico, and Venezuela. Accordingly, effective October 22, 1993, the Commission instituted countervailing duty and antidumping investigations Nos. 303-TA-24 (Preliminary), 701-TA-356-358 (Preliminary), and 731-TA-664-668 (Preliminary).

Effective November 18, 1993, Commerce initiated countervailing duty and antidumping investigations with respect to all subject countries, except the countervailing duty investigation for subject imports from Brazil. Therefore, the Commission terminated its countervailing duty investigation involving subject imports from Brazil, investigation No. 701-TA-356 (Preliminary).

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

<sup>2</sup> Chairman Newquist, Commissioner Brunsdale and Commissioner Crawford dissenting.

<sup>3</sup> As defined by Commerce, phthalic anhydride (PAN) is an aromatic synthetic organic chemical usually produced from a primary petrochemical called orthoxylene, although it is sometimes produced from naphthalene. PAN is predominantly used in the production of plasticizers, unsaturated polyester resins, and alkyd resins, which in turn are generally used to produce plastics and paints. The subject PAN is produced in two physical forms, molten and flaked.

<sup>4</sup> Vice Chairman Watson and Commissioner Nuzum voted in the affirmative with respect to Brazil; Commissioner Nuzum voted in the affirmative with respect to Israel; and, Commissioner Rohr and Commissioner Nuzum voted in the affirmative with respect to Mexico.

**Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of November 1, 1993, (58 F.R. 58347). The conference was held in Washington, DC, on November 15, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.**

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**VIEWS OF CHAIRMAN NEWQUIST, VICE CHAIRMAN WATSON,  
COMMISSIONER BRUNSDALE, COMMISSIONER CRAWFORD AND COMMISSIONER NUZUM<sup>1</sup>**

Based on the record in these preliminary investigations, we determine that there is a reasonable indication that the industry in the United States producing phthalic anhydride ("PA") is threatened with material injury by reason of imports of the subject merchandise from Venezuela allegedly subsidized and sold at less than fair value (LTFV) in the United States.<sup>2</sup>

We determine that there is no reasonable indication that the industry in the United States producing PA is materially injured or threatened with material injury by reason of imports of the subject merchandise from Brazil, Hungary, Israel, and Mexico allegedly sold at LTFV and by reason of allegedly subsidized imports of the subject merchandise from Israel and Mexico.<sup>3 4 5</sup>

**I. THE LEGAL STANDARD FOR PRELIMINARY INVESTIGATIONS**

The legal standard in preliminary antidumping duty and countervailing duty investigations requires the Commission to determine, based upon the best information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury by reason of the allegedly LTFV and subsidized imports.<sup>6</sup> In applying this standard, the Commission weighs the evidence before it to determine whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of material injury; and (2) no likelihood exists that any contrary evidence will arise in a final investigation."<sup>7</sup> The U.S. Court of Appeals for the Federal Circuit has held that this interpretation of the standard "accords with clearly discernible legislative intent and is sufficiently reasonable."<sup>8</sup>

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<sup>1</sup> Chairman Newquist, Vice Chairman Watson, Commissioner Brunsdale, Commissioner Crawford, and Commissioner Nuzum jointly discuss the issues of Legal Standard for Preliminary Investigations, Like Product, Domestic Industry and Condition of the Industry. See Additional and Dissenting Views for discussions of Cumulation, Material Injury by Reason of Subject Imports and Threat of Material Injury by Reason of Subject Imports.

<sup>2</sup> Chairman Newquist, Commissioner Brunsdale, and Commissioner Crawford determine that there is no reasonable indication that an industry in the United States producing PA is materially injured or threatened with material injury by reason of subject imports from Venezuela allegedly subsidized and sold at LTFV in the United States. See Additional and Dissenting Views of Chairman Newquist; and Views of Commissioner Brunsdale and Commissioner Crawford.

<sup>3</sup> Vice Chairman Watson also determined that there is a reasonable indication that the industry in the United States producing PA is threatened with material injury by reason of imports of the subject merchandise from Brazil allegedly sold at LTFV. See Separate and Dissenting Views of Vice Chairman Watson.

<sup>4</sup> Commissioner Nuzum determined that there is a reasonable indication that the industry in the United States producing PA is threatened with material injury by reason of imports of the subject merchandise from Brazil, Israel and Mexico allegedly sold at LTFV. Commissioner Nuzum also determines that there is a reasonable indication that the industry in the United States producing PA is threatened with material injury by reason of allegedly subsidized imports of the subject merchandise from Israel and Mexico. See Additional and Dissenting Views of Commissioner Nuzum.

<sup>5</sup> 19 U.S.C. § 1673b(a). Whether the establishment of an industry in the United States is materially retarded is not an issue in any of these investigations.

<sup>6</sup> 19 U.S.C. §§ 1671b(a) and 1673b(a). See also *American Lamb Co. v. United States*, 785 F.2d 994 (Fed. Cir. 1986); *Calabrian Corp. v. United States*, 794 F. Supp. 377, 386 (Ct. Int'l Trade 1992).

<sup>7</sup> *American Lamb*, 785 F.2d at 1001. See also *Torrington Co. v. United States*, 790 F. Supp. 1161, 1165 (Ct. Int'l Trade 1992), *aff'd*, Slip Op. 92-1383, -1392 (Fed. Cir. March 5, 1993).

<sup>8</sup> *American Lamb*, 785 F.2d 994 at 1004.

## II. LIKE PRODUCT

### A. In General

In determining whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury by reason of the subject imports, the Commission must first define the "like product" and the "industry." Section 771(4)(A) of the Tariff Act of 1930 (the "Act") defines the relevant industry as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product . . . ."<sup>9</sup> In turn, the Act defines "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."<sup>10</sup>

The Department of Commerce ("Commerce") has defined the articles subject to this investigation as:

phthalic anhydride [(PA)] . . . an aromatic synthetic organic chemical usually produced from a primary petrochemical called orthoxylene, although it is sometimes produced from naphthalene. PA is predominately used in the production of plasticizers, unsaturated polyester resins, and alkyd resins, which in turn are generally used to produce plastics and paints. The subject PA is produced in two physical forms, molten and flaked.<sup>11</sup>

The imported product subject to investigation is phthalic anhydride ("PA").<sup>12</sup> PA is a commodity chemical produced principally from the primary petrochemical ortho-xylene.<sup>13</sup> PA is produced in two forms, molten (or liquid) PA and flake PA. PA is made by the oxidation of ortho-xylene over a vanadium oxide/titanium oxide catalyst at temperatures of 380-400 degrees C (716-752 degrees F) in a multitubular fixed-bed reactor.<sup>14</sup> As it emerges from the reactor, the crude PA is solidified on cooling fins, then heated, and distilled under vacuum to a purified chemical. The chemical is molten at or above a temperature of 131

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<sup>9</sup> 19 U.S.C. § 1677(4)(A).

<sup>10</sup> 19 U.S.C. § 1677(10). The Commission's determination of what is the appropriate like product or products is a factual determination, and the Commission applies the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis. In analyzing like product issues, the Commission considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability of the products; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) the use of common manufacturing facilities and production employees; and (6) where appropriate, price. *Calabrian Corp. v. United States*, 794 F. Supp. at 382, n.4 (Ct. Int'l Trade 1992). No single factor is dispositive, and the Commission may consider other factors relevant to its like product determination in a particular investigation. The Commission looks for clear dividing lines among possible like products, and disregards minor variations. E.g., S. Rep. No. 249, 96th Cong. 1st Sess. 90-91 (1979); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991).

<sup>11</sup> See 58 Fed. Reg. 60845-60848 (November 18, 1993). Report at A-4. Commerce also indicated that:

The PA subject to these investigations is currently classifiable under the subheading 2917.35.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive. *Id.*

<sup>12</sup> Imports of PA are in the flake form. A small quantity of molten PA was imported from Mexico during interim period 1993 (January-September) for test purposes. Molten PA has not been exported to the United States from any other source. Report at II-39, Table 16, n.1.

<sup>13</sup> See Report at II-5 - II-8.

<sup>14</sup> Report at II-6.

degrees C (286 degrees F). Flake PA, chemically identical to the molten PA, is produced by cooling molten and then flaking the resulting solid.<sup>15</sup>

### B. Domestic Product "Like" Imported Phthalic Anhydride

In these investigations, the only like product issue is whether molten and flake PA constitute one or two like products.<sup>16</sup>

Molten and flake PA are not identical in terms of their physical form, but their chemical composition is identical.<sup>17</sup> Both forms are used as raw materials in the manufacture of plasticizers, unsaturated polyester resins and alkyd resins.<sup>18</sup>

Both forms of PA can be used interchangeably for all applications. However, the molten form, generally, is used only by large-volume customers,<sup>19</sup> whereas all PA consumers purchase some of the flaked product.<sup>20</sup> Small-volume manufacturers use flake PA exclusively, while large-volume consumers purchase flake for inventory to use in the event their liquid handling systems become disabled.<sup>21</sup> Imported flake PA is interchangeable with that produced domestically, despite some reports of quality problems with the imported flake PA.<sup>22</sup>

Customers and producers generally perceive the two forms of PA to be interchangeable, although not all customers can or do use both forms.<sup>23 24</sup> There were

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<sup>15</sup> Commissioner Brunsdale notes that since flake is made directly from molten, she has considered whether these upstream and downstream products constitute one like product.

<sup>16</sup> In this case, petitioners proposed a single like product of phthalic anhydride (both molten and flake). Petition at 71. All of the respondents agreed with petitioners that phthalic anhydride, molten and flake, constitutes one like product. Respondents' (Mexico) Postconference Brief at 2 and 4; Respondents' (Venezuela) Postconference Brief at 2-6; and Tr. at 143.

<sup>17</sup> Report at II-5. Since flake PA is formed when molten PA undergoes a cooling process rather than an evaporation process, both forms contain 99.9 percent PA and are chemically identical. Tr. at 22 and 50. Respondents agreed. Respondent (Venezuela) Postconference Brief at 3, n.7.

<sup>18</sup> Report at II-6. Fifty percent of PA is used in plasticizers, which are used to modify the physical properties, such as flexibility, of plastic resins; twenty-five percent of PA is used in unsaturated polyester resins, which are used principally as the matrix for reinforced thermoset plastics such as fiberglass plastics; and twenty percent of PA is used in alkyd resins which are used as the base for surface coatings. *Id.*

<sup>19</sup> Report at II-6. Respondents alleged that the molten PA is sold mostly to large manufacturers, whereas the flake form is sold primarily to small and medium-sized users. Respondent (Venezuela) Postconference Brief at 4 and 5; Tr. at 61, 81 and 82. Petitioners indicated that this pattern of sale was historical and that it has been changing. Tr. at 22-25.

<sup>20</sup> Report at II-6. During the period of investigation, flake PA accounted for 10 to 13 percent of apparent U.S. consumption of all PA. Report at II-13, Table 2.

<sup>21</sup> Report at II-6.

<sup>22</sup> Report at II-6. Information from producers, importers, and certain purchasers was mixed regarding any quality differences between imported and domestic flake PA. *Id.*

<sup>23</sup> Respondent (Venezuela) Postconference Brief at 3-5; Respondent (Mexico) Postconference Brief at 4; Respondent (Importers/Purchasers) Postconference Brief, Attachment 1; Tr. at 79 and 80.

<sup>24</sup> As was discussed at the Commission's Briefing and Vote, in the past cases for which the Commission has found the liquid and dry form of a material to be one like product, it has done so when the liquid and dry forms have been at least somewhat interchangeable. For example, in Dry Aluminum Sulfate from Sweden, the Commission found dry and liquid forms to be one like product because, despite varying physical properties, "they share the same chemical formula and generally may be used to perform the same functions." Dry Aluminum Sulfate from Sweden, Inv. No. 731-TA-430 (Preliminary) USITC Pub. 2174 (March 1989) at 6 and 7 (customer perception that liquid and dry aluminum sulfate are substitutable; any barriers to interchangeability may be overcome; also same channels of distribution and common production facilities); See Commission's Briefing and Vote Transcript at 7 and 8. See, also, Potassium Hydroxide from Canada, Italy and the United Kingdom, Inv. Nos. 731-TA-542-544 (Preliminary), USITC Pub. 2482 at 9 (February 1992).

somewhat conflicting statements about the degree of interchangeability of flake PA for molten PA.<sup>25 26</sup>

Channels of distribution for the two forms, whether domestic or imported, are virtually the same, i.e., PA is sold directly from the U.S. producer or importer to the end-user.<sup>27</sup> Since molten PA must be kept at temperatures of 131 degree C (286 degrees F), it must be shipped to end users in insulated containers either by road in tank trucks having a capacity of 4-5,000 gallons or by rail in tank cars with a capacity of approximately 26,000 gallons.<sup>28</sup> The flake PA is shipped in multiwalled bags of various capacities, but generally 50 pound bags or super sacks.<sup>29</sup>

Phthalic anhydride is in liquid form when it emerges from the von Heyden or BASF oxidation process.<sup>30</sup> Since flake is produced from molten, there are common production facilities and production employees. To produce flake PA, a metal cylinder is immersed in the molten product. As the metal cylinder is cooled internally, a layer of solidified PA forms at the metal surface which is removed in flakes using a sharp knife. The flake product is then bagged. The price for the flake PA includes the cost of the extra cooling process, which is estimated to add about two cents a pound to the cost of the product.<sup>31</sup>

In summary, the similarities in chemical composition, uses, customer and producer perception, primary manufacturing process, and actual interchangeability among molten and flake PA support the agreement of the parties that only a single like product should be found. We, therefore, find that molten and flake PA are a single like product.<sup>32</sup>

### III. DOMESTIC INDUSTRY AND RELATED PARTIES

#### A. Domestic Producers

In light of our like product determination, we find there is a single industry comprised of the domestic producers of molten and flake PA.<sup>33 34</sup> The principal issues in

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<sup>25</sup> Respondents argued that flake and molten PA have a "reasonable, but limited degree of interchangeability" due to differences in handling and processing requirements. Respondent (Venezuela) Postconference Brief at 3-5; Respondent (Importers/Purchasers) Postconference Brief, Attachment 1.

<sup>26</sup> Petitioners, however, noted that during the GSP proceedings before the Commission in 1992, the Venezuelan respondent argued that the two forms were interchangeable. Petition at 72 and 73 (quoting Prehearing Brief of Oxidor, September 23, 1992 at 2-4 in the ITC GSP Investigation).

<sup>27</sup> Report at II-11. Imports from Israel are distributed differently: 50 percent are sold directly to distributors and then to end users, and 50 percent directly to end-users. The Israeli imports are sold to the same type of end users. *Id.*

<sup>28</sup> Report at II-5.

<sup>29</sup> Report at II-6. Because the flaked product can be stored at ambient temperature, it is the most economical storage form of the chemical. *Id.*

<sup>30</sup> Report at II-5 and II-6.

<sup>31</sup> Tr. at 21. Petitioners contend that "that's why historically in the U.S. phthalic anhydride industry that the traditional upgrade price or the price to receive solid material has been approximately 2 to 3 cents a pound." Tr. at 21.

<sup>32</sup> Commissioner Brunsdale notes that there are no independent converters of molten to flake and that the cost of conversion is relatively small. Thus, producers of molten and flake have no divergent economic interests.

<sup>33</sup> The Mexican respondent in this case raised the issue of whether the petitioners have the requisite standing to bring an antidumping case "on behalf of" the domestic PA industry since "the largest domestic producer, Exxon, is not a Petitioner. BASF is a German company that owns no production facility in the U.S.; Aristech is owned by Mitsubishi, and Stepan has been a major importer of flake from Mexico." Respondents' (Mexico) Postconference Brief at 2 and 4-5. We have consistently declined to make determinations on the question of petitioner standing, deferring instead to the Commerce Department on

(continued...)

defining the domestic industry in these preliminary investigations are: (1) whether production for captive consumption should be included in the domestic industry; and (2) whether there are appropriate circumstances to exclude from the domestic industry as related parties two U.S. producers that import subject merchandise.

### B. Captive Consumption

Each of the five U.S. producers captively consumes a large portion of their domestic production of PA to produce derivative products such as plasticizers and unsaturated polyester resins.<sup>35</sup> In addition, three U.S. producers consume a share of their molten PA, which accounts for a moderate share of U.S. producers' total shipments of molten PA, to produce flake.<sup>36</sup> Therefore, slightly less than half of U.S. producers' total shipments of the molten product were sold in the merchant market, compared with a substantially higher percentage of their shipments of flake PA.

It has been the Commission's practice to find that the domestic industry consists of all U.S. production regardless of whether the production is for captive or merchant market consumption.<sup>37</sup> However, as the Commission also has consistently found, the extent of captive consumption may be relevant as a condition of competition, and subject imports may not affect merchant market production and captive market production in the same way.<sup>38</sup>

### C. Related Parties

Under section 771(4)(B), producers who are related to exporters or importers, or who are themselves importers of allegedly dumped or subsidized merchandise, may be excluded from the domestic industry in appropriate circumstances.<sup>39</sup> Application of the related parties provision is within the Commission's discretion based upon the facts presented in each case.<sup>40</sup>

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<sup>35</sup> (...continued)

this issue. This approach has been affirmed by the courts. See, e.g., Minebea Co., Ltd. v. United States, 794 F. Supp. 1161, 1164, 1165 (Ct. Int'l Trade 1992) (quoting, NTN Bearings v. United States, 757 F. Supp. 1425, 1430 (CIT 1990), "[it] is the function of the ITA [Commerce] to determine standing. . . .").

<sup>36</sup> BASF, which closed its PA production plant in September of 1990, supplies ortho-xylene to Sterling Chemicals to produce molten PA under a toll agreement. The toll agreement includes, in addition to a toll fee for conversion, a fixed fee to use plant facilities for production plus a complex formula for profit split on all products, including molten PA produced by Sterling Chemical. Report at II-25.

<sup>37</sup> Report at II-17, Table 4.

<sup>38</sup> Report at II-17, Table 4.

<sup>39</sup> See e.g., Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom, Inv. Nos. 701-TA-319-332, 334, 336-342, 344, and 347-353 and 731-TA-573-579, 581-592, 594-597, 599-609, and 612-619 (Final), USITC Pub. 2664 at 17 (Aug. 1993) ("Certain Flat-Rolled Steel"); Polyethylene Terephthalate Film, Sheet and Strip from Japan, and the Republic of Korea ("PET Film"), Inv. Nos. 731-TA-458 and 459 (Final), USITC Pub. 2383 at 19 (May 1991); Potassium Hydroxide from Canada, Italy and the United Kingdom, Inv. Nos. 731-TA-542-544 (Preliminary), USITC Pub. 2482 at 9 and 10 (February 1992). Petitioners and the respondents agree.

<sup>40</sup> See e.g., Certain Flat-Rolled Steel, USITC Pub. 2664 at 15 and 17 (Aug. 1993); Electrolytic Manganese Dioxide from Greece and Japan, Inv. Nos. 731-TA-406 and 408 (Final), USITC Pub. 2177 at 9 (April 1989).

<sup>39</sup> 19 U.S.C. § 1677(4)(B).

<sup>40</sup> Torrington v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992) *aff'd*, Slip Op. 92-1383, -1392 (Fed. Cir. March 5, 1993); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

If a company is a related party under section 771(4)(B), the Commission determines whether "appropriate circumstances" exist for excluding the producer in question from the domestic industry.<sup>41</sup> The rationale for excluding related parties is the concern that domestic producers who are related parties may be shielded from any injury that might be caused by the subject imports.<sup>42</sup>

Two petitioners, Stepan Company<sup>43</sup> and Koppers,<sup>44</sup> have imported subject flake PA and, thus, are related parties. Therefore, we must consider whether appropriate circumstances exist to exclude either producer from the domestic industry. Mexican respondents alleged that Stepan imported the flake PA "to cover shortages in the United States."<sup>45</sup> At least one plant shutdown is scheduled during each year for routine maintenance.<sup>46</sup> Moreover, importers have indicated that since U.S. producers "maintain high capacity utilization rates, production problems occurred forcing some domestic producers to import additional material."<sup>47</sup> During these plant shutdowns or reductions in capacity, whether scheduled or unscheduled, U.S. producers must rely on other sources either to supply their own internal needs or to supplement existing marketing orders.<sup>48</sup> U.S. producers generally purchase PA from other domestic producers, but Stepan and Koppers have also relied on imports to fill the gaps in supply.<sup>49</sup> Thus, the evidence supports a conclusion that the primary interest of these U.S. producers is in producing, not importing, PA.

Koppers accounts for a significant share of total U.S. production of PA in 1992; Stepan accounts for a similar share.<sup>50</sup> Inclusion of both Koppers and Stepan does not appear

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<sup>41</sup> The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include:

- (1) the percentage of domestic production attributable to related producers;
- (2) the reason why importing producers choose to import the articles under investigation - to benefit from the unfair trade practice or to enable them to continue production and compete in the domestic market; and
- (3) the position of the related producers vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry.

See, e.g., Torrington Co., 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992) *aff'd*, Slip Op. 92-1383, -1392 (Fed. Cir. March 5, 1993) (Court upheld the Commission's practice of examining these factors in determining that appropriate circumstances did not exist to exclude related party); Empire Plow Co., 675 F. Supp. at 1353 (Ct. Int'l Trade 1987). The Commission has also considered whether each company's books are kept separately from its "relations" and whether the primary interests of the related producers lie in domestic production or in importation. See e.g., PET Film, USITC Pub. 2383 at 17-18 (May 1991); Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 at 12 (January 1986).

<sup>42</sup> See Torrington v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992) *aff'd*, Slip Op. 92-1383, -1392 (Fed. Cir. March 5, 1993); Sandvik AB v. United States, 721 F. Supp. 1322, 1331 (Ct. Int'l Trade 1989), *aff'd*, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1353-54 (Ct. Int'l Trade 1987) (An analysis of "[b]enefits accrued from the relationship" as a major factor in deciding whether to exclude a related party held to be a "reasonable approach in light of the legislative history . . .").

<sup>43</sup> Stepan imported flake PA from Mexico which accounted for a fluctuating but small share of all Mexican imports. Report at II-45.

<sup>44</sup> Koppers imported subject flake from Venezuela during the period of investigation which accounted for a small but increasing share of subject imports. Report at II-45.

<sup>45</sup> Tr. at 82.

<sup>46</sup> Report at II-22.

<sup>47</sup> Tr. at 70.

<sup>48</sup> Report at II-22.

<sup>49</sup> Report at II-11 and II-22.

<sup>50</sup> Report at II-10, Table 1 and at II-16, Table 3.



to skew the financial data.<sup>51</sup> Based on these facts, we do not find appropriate circumstances to exclude either of these U.S. producers as related parties.

#### **IV. CONDITION OF THE DOMESTIC INDUSTRY**

In assessing whether there is a reasonable indication of material injury to a domestic industry by reason of allegedly dumped and subsidized imports, the Commission considers "all relevant economic factors which have a bearing on the state of the industry in the United States . . . ." <sup>52</sup> These include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. <sup>53</sup> No single factor is determinative, and we consider all relevant factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry." <sup>54</sup> In evaluating the condition of the domestic industry, we look at the domestic industry as a whole. <sup>55</sup>

We note that there are differences in handling and processing requirements for flake PA and molten PA which limit the ability of customers to switch from the use of one form to the other. For example, large-volume molten PA customers have made considerable investments in capital intensive molten systems and have indicated that they would not switch to flake exclusively due to: (1) lack of speed and efficiency (it "takes considerable time to manually unload the bags"); (2) product exposure to workers and to the environment; (3) disposal costs of the containers; (4) poorer quality resins; and (5) capital investment necessary to handle large quantities of flake (hoppers, silos, etc.). <sup>56</sup> Comparatively, small to medium size end users are prohibited from using molten PA unless they invest in a molten system. <sup>57</sup>

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<sup>51</sup> While Stepan's financial trends are similar to other domestic producers, Kopper's financial trends indicate a slightly poorer performance than the others. Report at II-32, Table 13.

<sup>52</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>53</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>54</sup> 19 U.S.C. § 1677(7)(C)(iii). Petitioners alleged that there were several factors distinctive to the PA industry such as that PA is a price-sensitive commodity chemical, that there was a consolidation of the industry, and that there was improvement in the U.S. economy, and contended that the Commission should consider this industry within the context of these distinctive business cycle and conditions of competition. Petition at 74 and 75. We reviewed petitioners' factors and determine that they are not conditions of competition distinctive to production of PA, but rather are distinctive to any industry producing a commodity chemical.

<sup>55</sup> See, e.g., Welded Steel Pipe from Malaysia, Inv. No. 731-TA-644 (Preliminary), USITC Pub. 2620 at 19-20 and n.79 (Apr. 1993) ("The Commission may take into account the departures from an industry or the unique circumstances of individual companies, but ultimately must assess the condition of the industry as a whole, and not on a company-by-company basis."), citing Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 735 (Ct. Int'l Trade 1989).

<sup>56</sup> Respondent (Importers/Purchasers) Postconference Brief, Attachment 1. The Mexican respondents said that "although flake PA competes with molten, it does so at a severe competitive disadvantage due to intrinsic disadvantages of the flake form that add to the cost of the end user and which require a discount in price to find a market." Respondent (Mexico) Postconference Brief at 4; Tr. at 80. The Venezuelan respondent stated that "different handling and processing requirements necessitated by the use of the two forms have significant economic consequences for the customer" since the molten PA is hard to handle, corrosive, solidifies at 240 degrees Fahrenheit, and requires expensive equipment to use. Respondent (Venezuela) Postconference Brief at 4.

<sup>57</sup> Chairman Newquist does not join the preceding paragraph. In his view, this discussion is inconsistent with the single like product analysis.

Apparent U.S. consumption of PA fluctuated by quantity during the period of investigation but declined overall by less than one percent between 1990 and 1992.<sup>58</sup> Consumption was lower in interim period (January-September) 1993 than in interim period (January-September) 1992. Apparent U.S. consumption of PA by value, however, increased steadily by 11.2 percent from 1990 to 1992. It was 5.1 percent lower in the interim period of 1993 than in the comparable period of 1992.

We discuss production conditions separately for molten production and for flake conversion since the production of molten PA and the further conversion of some molten PA into flake PA involves separate production processes. A discussion of overall production data would be skewed and would not reflect the different capacity constraints in the molten production and flake conversion processes. Domestic production of molten PA declined by 4.3 percent from 1990 to 1992, and was 4.8 percent lower in interim period 1993 as compared with interim period 1992.<sup>59</sup> Domestic production of flake PA decreased by 38.2 percent from 1990 to 1992, with most of the decrease from 1991 to 1992. During interim period 1993, domestic production of flake PA was 7 percent lower as compared to interim period 1992. Capacity to produce molten PA fell by 11.3 percent from 1990 to 1991, with an overall decrease of 9.4 percent for 1990 to 1992; interim period 1993 capacity was 3.1 percent higher than during the comparable period in 1992. Capacity to produce flake PA declined by 10.6 percent from 1990 to 1992, with all of the decrease occurring from 1990 to 1991. Capacity utilization rates for molten PA, though relatively high, also increased by 4.9 percentage points from 1990 to 1992. Capacity utilization rates for flake PA, which already were lower than similar rates for molten PA, fell by 22.8 percentage points from 1990 to 1992, and was 3.8 percentage points lower in interim period 1993 as compared with interim period 1992.

The domestic industry's U.S. shipments of PA fluctuated by quantity between years, but declined overall by 3.2 percent from 1990 to 1992, and was 4.7 percent lower in the interim period of 1993 than in the comparable period of 1992.<sup>60</sup> Domestic shipments of PA by value increased from 1990 to 1992 by 8.1 percent, with most of the increase reported for the 1991-1992 period. During interim period 1993, U.S. shipments of PA by value were 7.5 percent lower than in the comparable 1992 period. Export shipments of PA by the domestic industry declined by 69.3 percent by quantity and by 70.1 percent by value from 1990 to 1992.<sup>61</sup>

The domestic industry reported increases of 28.3 percent in year-end inventories of PA for the 1990-1992 period; interim period 1993 was 39.3 percent higher than the comparable 1992 period.<sup>62</sup> Inventories as a share of U.S. shipments increased 1.4 percentage points from 1990 to 1992; interim period 1993 was 1.6 percentage points higher than interim period 1992.

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<sup>58</sup> Data referred to in this paragraph are summarized in Report, Table 2 at II-13 and II-14, unless otherwise noted.

<sup>59</sup> Data referred to in this paragraph are summarized in Report, Table 3 at II-16, unless otherwise noted.

<sup>60</sup> Data referred to in this paragraph are summarized in Report, Table 2 at II-13 and II-14, unless otherwise noted.

<sup>61</sup> Data referred to in this sentence are summarized in Report, Table 4 at II-17 and II-18.

<sup>62</sup> Data referred to in this paragraph are summarized in Report, Table 5, at II-21, unless otherwise noted.

Employment in the domestic PA industry declined 12.2 percent from 1990 to 1991, with a slight further decrease later in the period of investigation.<sup>63</sup> From 1990 to 1991, hours worked declined by 13.6 percent, total compensation by 16.7 percent, and hourly total compensation by 3.6 percent. While hours worked also declined by 4.3 percent from 1991 to 1992, total compensation and hourly total compensation increased from 1991 to 1992. During interim period 1993, hours worked, total compensation, and hourly total compensation were 0.7 percent, 8.5 percent, and 7.7 percent higher, respectively, as compared with interim period 1992. Productivity increased by 15.8 percent from 1990 to 1992, but was 5.4 percent lower in interim period 1993 compared with interim period 1992.

The financial performance indicators for the domestic PA industry were positive and showed increases over the period of investigation after some initial losses in 1990. From 1990 to 1992, the PA industry experienced a 6.1 percent decline in net sales by quantity, but a 7.6 percent increase by value.<sup>64</sup> Operating income, which was positive for each year during the period 1990-1992, increased by 614.9 percent from 1990 to 1991, and by 41.5 percent from 1991 to 1992; interim period 1993 was 10.6 percent higher than the comparable 1992 period. Similarly, net income, which was positive for 1991 and 1992, increased by 296.6 percent from 1990 to 1991 and continued to increase by 35.8 percent from 1991 to 1992; net income for interim period 1993 was 1.7 percent higher than the comparable 1992 period. The operating income margin (ratio of operating income to net sales) was 1.7 percent in 1990 but increased to 11.7 percent in 1991 and 15.8 percent in 1992, and was 17.7 percent in interim period 1993 compared with 14.9 percent in interim period 1992. After the net loss in 1990, the net income margin rose to 11.9 percent in 1991 and to 15.4 percent in 1992. The net income margin was 16.3 percent in interim period 1993 compared with 14.8 percent in interim period 1992.

The cost of goods sold for the domestic PA industry declined by 7.3 percent from 1990 to 1991 and remained constant from 1991 to 1992 but, as a share of net sales, declined by 12.9 percentage points from 1990 to 1992.<sup>65</sup> While selling, general, and administrative (SG&A) expenses also declined by 18.5 percent from 1990 to 1991 and increased by 1.7 percent from 1991 to 1992, SG&A expenses as a share of net sales declined by 1.2 percentage points from 1990 to 1992.

Research and development expenditures for the domestic PA industry remained relatively constant from 1990 to 1992; however, expenditures for interim period 1993 were 51 percent lower as compared with interim period 1992.<sup>66</sup> Finally, the domestic industry's capital expenditures increased by 20 percent from 1990 to 1992; however, expenditures for interim period 1993 were 62 percent lower than the comparable 1992 period.<sup>67</sup>

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<sup>63</sup> Data referred to in this paragraph are summarized in Report, Table 7, at II-23 and II-24, unless otherwise noted. BASF, which closed a PA production facility in 1990, was the only producer reporting a reduction in employees over the period of investigation. Report at II-22.

<sup>64</sup> Data referred to in this paragraph are summarized in Report, Table 12 at II-31 and II-32, unless otherwise noted.

<sup>65</sup> Data referred to in this paragraph are summarized in Report, Table 12 at II-31 and II-32, unless otherwise noted.

<sup>66</sup> Report at II-34.

<sup>67</sup> Report, Table 15 at II-35.

<sup>a</sup> Based on the foregoing, Chairman Newquist concludes that the domestic PA industry is not experiencing material injury.

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## ADDITIONAL AND DISSENTING VIEWS OF CHAIRMAN NEWQUIST

In all of the subject investigations, I make negative determinations. Thus, I concur with a majority of my colleagues that there is no reasonable indication that the domestic industry producing phthalic anhydride is materially injured or threatened with material injury by reason of imports from Israel and Mexico which are allegedly subsidized and sold at in the United States at less-than-fair value, and by reason of imports from Brazil and Hungary which are allegedly sold in the United States at less-than-fair-value. Unlike my colleagues, however, I also determine that there is no reasonable indication of threat of material injury by reason of imports from Venezuela which are allegedly subsidized and sold in the United States at less-than-fair-value.

I join the majority's discussion of like product, domestic industry, and condition of the domestic industry, and begin these views with further elaboration on the latter.

### I. CONDITION OF THE DOMESTIC INDUSTRY

In my analytical framework, I must first determine whether the domestic industry is "experiencing material injury" before I reach the question of whether such injury is "by reason of" subject imports. Here, there is no reasonable indication that the domestic industry producing phthalic anhydride is materially injured. For the purpose of Title VII determinations, what constitutes material injury will vary from one industry to another. And, no single performance indicator is dispositive of the question of injury.

Based on the record in these preliminary investigations, the domestic phthalic anhydride industry is performing quite favorably. Although total sales declined irregularly during the period as subject imports increased their market share, the domestic industry's operating income increased steadily every year and during the interim periods.<sup>1</sup> Similarly, operating margins increased more than 800% between 1990-92,<sup>2</sup> and operating return on total assets more than 300%.<sup>3</sup> Based on these data, I cannot conclude that there is a reasonable indication that this industry is experiencing "harm which is not inconsequential, immaterial, or unimportant."<sup>4</sup> Therefore, after addressing cumulation, I proceed to a threat of material injury analysis.

### II. CUMULATION

The cumulation provision provides, in pertinent part, that for purposes of a threat of material injury analysis

. . . the Commission [subject to the negligibility provision in cumulation for material injury] may cumulatively assess the volume and price effects of imports from two or more countries if such imports -- compete with each other, and with

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<sup>1</sup> Report at Table 12.

<sup>2</sup> Id.

<sup>3</sup> Report at Table 14.

<sup>4</sup> 19 U.S.C. § 1677(7)(A).

the like products of the domestic industry, in the United States market . . . .<sup>5</sup>

In other words, cumulation for a threat analysis is discretionary, and is even more so if a country's imports are negligible and without discernible adverse impact on the domestic industry. What level of imports may be negligible is, in important part, a function of the relative health of the domestic industry. Where, as here, the domestic industry is prosperous, a large volume of imports may nonetheless be found to be negligible. In these investigations, I determine that imports from Brazil, Hungary and Israel are negligible, and do not cumulate these imports. I further determine that imports from Mexico and Venezuela are not negligible and may be appropriately cumulated for a threat analysis.

**A. Imports From Brazil, Hungary And Israel**

**1. Reasonable Overlap of Competition**

There is no dispute that imports of phthalic anhydride compete with each other, imports from Mexico and Venezuela, and with the domestic like product.<sup>6</sup>

**2. Negligibility**

Imports from Brazil, Hungary and Israel, individually never accounted for more than 0.3% of domestic consumption during the period of investigation for which full year data are available.<sup>7</sup> Only in interim 1993 (January-September), did any one of these three country's imports account for more than 0.3% of domestic consumption: imports from Israel garnered 0.7%.<sup>8</sup> In contrast, in 1992, imports from Mexico and Venezuela accounted for 2.3% and 1.6% respectively of domestic consumption.<sup>9</sup> A comparison of Israel's share to the domestic share of consumption as well as to the cumulative share held by Mexico and Venezuela (6.0% in interim 1993), demonstrates that its share during the period of investigation was not significant.<sup>10</sup>

Accordingly, due to the inconsequential share of domestic consumption accounted for by imports from Brazil, Hungary, and Israel, particularly in light of the condition of the domestic industry, I find that imports from each of these three countries are negligible and without discernible adverse impact on the domestic industry.

**B. Imports From Mexico And Venezuela**

**1. Reasonable Overlap of Competition**

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<sup>5</sup> 19 U.S.C. § 1677(7)(F)(iv)(I)(emphasis added). I view this language to require scrutiny of primarily geographic and temporal competition between the subject imports and the domestic like products; assessing competition on the basis of the substitutability of these products is a lesser consideration.

<sup>6</sup> Conference transcript at 110, 112; Report at II-49 and II-50.

<sup>7</sup> Report at Table 19.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

I find that there is a reasonable overlap of competition between Mexican and Venezuelan imports and the domestic like product. I note that neither the Mexican or Venezuelan respondents made any assertions to the contrary. There were sales of Mexican and Venezuelan phthalic anhydride during all fifteen quarters of the investigation,<sup>11</sup> and these sales were marketed nationwide.<sup>12</sup>

## 2. Negligibility

Individually, imports from Mexico and Venezuela accounted for an increasingly significant share of domestic consumption. In 1990, Mexico's share of consumption was 0.9%; Venezuela's, 0.8%.<sup>13</sup> Had these levels stayed constant, I would have been inclined to find Mexican and Venezuelan imports negligible as well; however, both at least doubled by 1992.<sup>14</sup> In fact, throughout the period of investigation, including interim 1993, imports from Mexico and Venezuela accounted for 85% or more of the subject imports' share of domestic consumption.<sup>15</sup>

Therefore, I determine that imports from Mexico and Venezuela are not negligible and may be cumulated for purposes of a threat of material injury analysis.

### III. NO REASONABLE INDICATION OF THREAT OF MATERIAL INJURY

Like my negligibility analysis above, the condition of the domestic industry significantly implicates my assessment of whether there is a reasonable indication that the industry is threatened with material injury. The statute requires that the "threat of material injury is real and that actual injury is imminent."<sup>16</sup> The Commission is directed to consider ten factors in the threat analysis.<sup>17</sup> Upon review of the data gathered in these preliminary

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<sup>11</sup> Report at Tables 23 and 24.

<sup>12</sup> Report at II-49; Conference transcript at 110, 112.

<sup>13</sup> Report at Table 19.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> 19 U.S.C. § 1677(7)(F)(ii).

<sup>17</sup> These ten factors are as follows:

(I) if a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement);

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States;

(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level;

(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise;

(V) any substantial increase in inventories of the merchandise in the United States;

(continued...)

investigations and in light of the strong condition of the domestic industry, I determine that there is no reasonable indication that imports from Mexico and Venezuela which are allegedly subsidized and sold at less-than-fair-value in the United States threaten the domestic industry with material injury.

Although both countries allegedly subsidize the production of phthalic anhydride, petitioners allege only one export subsidy program in each country.<sup>18</sup> Moreover, petitioners did not estimate the amount of either the production or export subsidies. While information regarding the nature of these subsidies would likely be further developed in a final investigation (and in fact may be for Venezuela), the record at the time of these preliminary determinations does not evidence that the threat, if any, posed by imports benefitting from these subsidies is real and that injury is imminent.

During the period of investigation for which full-year data are available, the cumulated productive capacity of the two countries increased by only 3.3%.<sup>19</sup> Moreover, the non-weighted average capacity utilization for the two countries was nearly 100% throughout the investigation, and 95% in interim 1993.<sup>20</sup>

Although imports from Mexico and Venezuela more than doubled between 1990-92, the domestic share of consumption never fell below 95% during this period, and was only marginally lower in interim 1993.<sup>21</sup> More significantly, in the wake of the rising increasing subject imports, the domestic industry reported consistently increasing operating profits and margins.<sup>22</sup> Accordingly, to the extent that any past import increases may be characterized as

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<sup>17</sup> (...continued)

(VI) the presence of underutilized capacity for producing the merchandise in the exporting country;

(VII) any other demonstrable adverse trends that indicate probability that importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury;

(VIII) the potential for product shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 1671 or 1673 of this title or to final orders under section 1671e or 1673e of this title, are also used to produce the merchandise under investigation;

(IX) in any investigation under this title which involves imports of both raw agricultural product (within the meaning of paragraph (4)(E)(iv) and any product processed from such raw agricultural product, the likelihood there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both); and

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.

19 U.S.C. § 1677(7)(F)(i). In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry. See 19 U.S.C. section 1677(7)(F)(iii).

<sup>18</sup> Report at II-4 and II-5.

<sup>19</sup> Report at Table 17.

<sup>20</sup> Id.

<sup>21</sup> Report at Tables 17 and 19.

<sup>22</sup> Report at Table 12.



"rapid," there was no indication that such increased imports had any injurious effect on the domestic industry. And the record does not indicate any future "rapid" increases which will result in a real threat of imminent injury to the domestic industry.

Similarly, although the Mexican and Venezuelan imports appear to have consistently undersold the domestic like product,<sup>23</sup> this underselling has not had any demonstrable adverse effect on the domestic industry's performance. In fact, in 1990, when Mexican and Venezuelan imports accounted for only 1.7% of domestic consumption, the average non-weighted selling price for domestic phthalic anhydride was \$0.347 per pound.<sup>24</sup> By 1992, when the cumulated imports accounted for 3.9% of domestic consumption, the average non-weighted selling price for domestic phthalic anhydride was \$0.356 per pound — an increase of approximately 2.6%.<sup>25</sup> Although the non-weighted average selling price of the domestic like product dropped in interim 1993, so too did the cost of orthoxylene, an input feedstock which accounts for approximately 60-70% of the cost of producing and selling phthalic anhydride.<sup>26</sup> Accordingly, there is no reasonable indication that continued imports from Mexico and Venezuela will imminently suppress or depress domestic prices to a significant degree, if at all.

While importers' reported inventories of the cumulated countries' phthalic anhydride increased during the period of the investigation, the amount held in inventory never exceeded 10% of the amount of the reported exports to the United States by the subject producers.<sup>27</sup> Further, the amount of subject merchandise in domestic inventory never accounted for even 1% of total domestic consumption of phthalic anhydride.<sup>28</sup> Therefore, I find that the increase in inventories of the subject imports poses no real threat of imminent injury to the domestic industry.

Both Mexico and Venezuela consume approximately one-third of their phthalic anhydride production in their home markets.<sup>29</sup> The remainder is exported to several countries in addition to the United States.<sup>30</sup> There is no evidence in the record, however, to suggest that either country has any intention or incentive, either in the short or long-term, to divert to the United States phthalic anhydride consumed in the home market or shipped to other export markets.

Finally, the record is essentially devoid of any suggestion that continuing imports from Mexico and Venezuela will have any negative effects on existing development and production efforts of the domestic industry. To the contrary, the domestic industry has flourished during the period of the investigation. Moreover, phthalic anhydride is a basic chemical compound unlikely to be the subject of extensive efforts to develop a derivative or more advanced version. In this regard, it is instructive that the domestic industry's reported research and development expenditures never equalled even 1% of the total cost of goods sold.<sup>31</sup>

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<sup>23</sup> Report at Tables 23 and 24.

<sup>24</sup> Id.

<sup>25</sup> Id.

<sup>26</sup> Report at II-30; Table 12; Figure 3.

<sup>27</sup> Report at Tables 16 and 17.

<sup>28</sup> Report at Tables 2 and 16.

<sup>29</sup> Report at Table 17.

<sup>30</sup> Id.

<sup>31</sup> Report at II-34; Table 12.

Based on my analysis of the above-referenced statutory threat factors, I find no reasonable indication that imports of phthalic anhydride from Mexico and Venezuela pose an actual threat of imminent injury to the domestic industry.

I note that in other Title VII investigations, particularly where the domestic industry shows more compelling signs of injury, a threat finding might be warranted based on data comparable to that for Mexico and Venezuela. However, in these investigations, these data in light of the healthy and improving condition of the domestic industry, cause me to determine that the imports are not a real threat of imminent injury to this industry.

#### **IV. CONCLUSION**

For the foregoing reasons, particularly the robust condition of the domestic industry, the negligibility of imports from Brazil, Hungary and Israel, and the absence of imminent threat of harm from imports from Mexico and Venezuela, I determine that there is no reasonable indication that imports from any of the countries subject to investigation threaten the domestic industry with material injury.

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## SEPARATE AND DISSENTING VIEWS OF VICE CHAIRMAN WATSON<sup>1</sup>

Based on the information obtained in these preliminary investigations, I find that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of LTFV imports of phthalic anhydride (PA) from Brazil and LTFV and subsidized imports of PA from Venezuela.

### I. NO MATERIAL INJURY BY REASON OF THE SUBJECT IMPORTS

#### A. Cumulation

In determining whether there is a reasonable indication of material injury by reason of the subject imports, the Commission is required to cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports are reasonably coincident with one another and compete with one another and with the domestic like product in the United States market,<sup>2</sup> unless imports from a subject country are negligible and have no discernable adverse impact on the domestic industry.<sup>3</sup>

I considered two cumulation issues in determining whether there was material injury by reason of the subject imports. First, I considered whether subject PA from Brazil, Hungary, Mexico and Venezuela competes with the domestic like product and with each other and whether any of the imports from these countries are negligible and should be excluded from cumulation. Second, I considered whether imports from Israel cause material injury to the U.S. domestic industry and, if not, whether they should be excluded as negligible under the U.S-Israel Free Trade Agreement provision added to the cumulation provision in the 1988 Trade Act.<sup>4</sup>

#### 1. The Competition Requirement

In assessing whether imports compete with each other and with the domestic like product, only a "reasonable overlap" of competition is required, and the Commission need not find that "all imports compete with all other imports and all domestic like products."<sup>5 6</sup>

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<sup>1</sup> See Views of Chairman Newquist, Vice Chairman Watson, Commissioner Brunsdale, Commissioner Crawford and Commissioner Nuzum for a discussion of the issues of Legal Standard for Preliminary Investigations, Like Product, Domestic Industry and Condition of the Industry.

<sup>2</sup> 19 U.S.C. § 1677(7)(C)(iv); Chaparral Steel Co. v. United States, 901 F.2d 1097, 1105 (Fed. Cir. 1990).

<sup>3</sup> 19 U.S.C. § 1677(7)(C)(v).

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

<sup>5</sup> See Wieland Werke, AG v. United States, 718 F.Supp. 50-52 (Ct. Int'l Trade 1989) ("Completely overlapping markets are not required."); Granges Metallverken AB v. United States, 716 F.Supp. 17, 21, 22 (Ct. Int'l Trade 1989) ("The Commission need not track each sale of individual sub-products and their counterparts to show that all imports compete with all other imports and all domestic like products...the Commission need only find evidence of reasonable overlap in competition"); Florex v. United States, 705 F.Supp. 582, 592 (Ct. Int'l Trade 1989) ("[c]ompletely overlapping markets is [sic] not required.").

<sup>6</sup> The Commission has generally considered four factors, including:

(1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;

(2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product;

(continued...)

There is no dispute that the subject imports of PA have been marketed in the United States through common and similar channels of distribution throughout the period of investigation and have competed nationwide with each other in the U.S. market.<sup>7</sup> Imported flake PA may be used interchangeably with domestic flake and molten PA for all applications.<sup>8</sup> I note, however, that the degree of commercial substitutability may be limited due to specific customer requirements.<sup>9</sup>

Based on the above facts, I determine that subject imports of flake PA compete with each other and with the domestic like product.

## 2. The Negligible Import Exception

### a. The Statute and Legislative History

Section 771(7)(C)(v) of the Act provides that the Commission is not required to cumulate those imports of the merchandise subject to investigation if they "are negligible and have no discernable adverse impact on the domestic industry."<sup>10</sup> In determining whether imports are negligible, the statute directs us to consider all relevant economic factors regarding the imports including, but not limited to, whether:

- (I) the volume and market share of the imports are negligible,
- (II) sales transactions involving the imports are isolated and sporadic, and

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<sup>6</sup> (...continued)

(3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product;

(4) whether the imports are simultaneously present in the market.

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

While no single factor is determinative and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the imports compete with each other and with the domestic like product. See Wieland Werke, AG v. United States, 718 F.Supp. 50-52 (Ct. Int'l Trade 1989); Granges Metallverken AB v. United States, 716 F.Supp. 17 (Ct. Int'l Trade 1989); Florex v. United States, 705 F.Supp. 582 (Ct. Int'l Trade 1989).

The respondents acknowledged that the imports directly compete with each other and with the domestic products. Tr. at 110 and 112. While a few producers and importers reported selling PA in specific areas of the United States, other U.S. producers and importers reported selling nationwide. The need to maintain molten PA at high temperature provides some limitation on the distance from producer to end-user. However, since U.S. producers are located in different geographic areas, this does not limit competition with the imports. Moreover, since domestic and import flake PA have similar transportation difficulties, they also compete nationwide. In addition, most import and domestic PA is sold directly from the U.S. producer or importer to the end user. Confidential Report (hereinafter referred to as "CR") at I-8, I-18, and I-69; Public Report (hereinafter referred to as "PR") at II-5 and II-6, II-11, and II-49. Note: all references to Tables can be found in either the CR or in the PR and, therefore, a PR page number is not provided.

<sup>8</sup> CR at I-8; PR at II-6.

<sup>9</sup> Respondent (Venezuela) Postconference Brief at 3-5; Respondent (Importers/Purchasers) Postconference Brief, Attachment 1. I also note that there were mixed reports from producers, importers, and some purchasers regarding possible quality problems with imported flake PA which might reduce their substitutability for some applications. CR at I-8; PR at II-6.

<sup>10</sup> 19 U.S.C. § 1677(7)(C)(v).

(III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.<sup>11</sup>

All factors need not be present for imports to be considered negligible.<sup>12</sup>

Where market share increases even by small amounts, I look carefully at whether a discernible adverse impact from such imports exists.<sup>13</sup> I note that the Commission has never established a numerical benchmark for application of the exception. I have also recognized that imports that are not isolated and sporadic may, in appropriate circumstances, still be negligible.<sup>14</sup>

Finally I note that the Commission has in the past applied the exception notwithstanding the price sensitive nature of a particular market.<sup>15</sup> In this case, the U.S. molten PA market has limited price sensitivity to the price of imported flake due to the low degree of substitutability between the molten and flake product.<sup>16</sup> The U.S. flake PA market, however, appears to be sensitive to the price of imported flake PA.<sup>17</sup>

In addition to the statutory factors discussed above, the Commission has also examined four additional factors: (1) whether the domestic industry is "already suffering considerable injury and has long been battered by import price competition";<sup>18</sup> (2) whether the market share of the subject imports is rising or falling;<sup>19</sup> (3) whether any cross-ownership of foreign producers exists;<sup>20</sup> and (4) the degree of direct or attenuated competition between the imported product and the domestic product.<sup>21</sup>

<sup>11</sup> 19 U.S.C. § 1677(7)(C)(v).

<sup>12</sup> Torrington v. United States, 790 F. Supp. at 1171.

<sup>13</sup> See, Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom, Invs. Nos. 701-TA-319-332, 334, 336-342, 344 and 347-353 (Final) and Invs. Nos. 731-TA-573-579, 581-592, 594-597, 599-609 and 612-619 (Final), USITC Pub. 2664, at 28-33 (August 1993) (hereinafter referred to as Certain Flat-Rolled Steel); Certain Circular, Welded, Non-Alloy Steel Pipes and Tubes from Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela, Inv. Nos. 701-TA-311 and 731-TA-532-537 (Final), USITC Pub. 2564 at 27-32 (October 1992) (exception applied to Romanian imports with market share of 0.5 to 0.7 percent and imports deemed to be of inferior quality with sporadic sales; compare exception not applied to Brazilian and Mexican imports with separate market shares of one to three percent and growth in volume, products deemed fungible, market considered price sensitive, and imports had not been isolated nor sporadic); Coated Groundwood Paper, (Preliminary), USITC Pub. 2359 at 28, 30-36 (February 1991) (exception invoked with respect to four countries (Austria, Italy, the Netherlands, and Sweden); imports from each country had market share at or below 0.3 percent).

Compare Silicon Metal from the People's Republic of China, Inv. No. 731-TA-472 (Final), USITC Pub. 2385 at 24-26 (June 1991) (imports from Argentina were cumulated, market share was never below 1.1 percent during the period of investigation).

<sup>14</sup> Torrington, 790 F. Supp. at 1171, *aff'd* 991 F.2d 809 (Fed. Cir. 1993).

<sup>15</sup> Certain Flat-Rolled Steel, USITC Pub. 2664 at 32 (August 1993).

<sup>16</sup> CR at I-70-71; PR at II-49-50.

<sup>17</sup> CR at I-69 and I-70; PR at II-49-50.

<sup>18</sup> See Circular Steel Pipes and Tubes, (Preliminary), USITC Pub. 2454 at 23 n. 97 (November 1991); Coated Groundwood Paper, (Preliminary), USITC Pub. 2359 at 33 (February 1991). This factor derives from the OTCA legislative history quoted *supra* p. 23.

<sup>19</sup> See Circular Steel Pipes and Tubes, (Preliminary), USITC Pub. 2454 at 23 and 24 (November 1991); Coated Groundwood Paper, (Preliminary), USITC Pub. 2359 at 31 (February 1991) (discussion of France and United Kingdom); PET Film, USITC Pub. 2292 at 20 n. 69 (June 1990).

<sup>20</sup> See Coated Groundwood Paper, (Preliminary), USITC Pub. 2359 at 28-29 (February 1991); Ball Bearings, (Preliminary), USITC Pub. 2374 at 26 n. 93 (April 1991); Electrolytic Manganese Dioxide, (Final), USITC Pub. 2177 at 13-15 (April 1989).

<sup>21</sup> Certain Flat-Rolled Steel, USITC Pub. 2664 at 31 (August 1993); Coated Groundwood Paper, (Preliminary), USITC Pub. 2359 at 28-29 (February 1991).

b. Considerations in this Investigation

All countries in these investigations<sup>22</sup> have relatively low market penetration for at least part of the period of investigation and therefore were considered for exclusion from cumulation under the negligible import exception.

I determine that imports from Mexico and Venezuela are not negligible because the market share and absolute volumes of subject imports from those countries were not insignificant and rose throughout the period of investigation.<sup>23 24</sup> Imports from Mexico and Venezuela were not isolated and sporadic; they entered the United States nationwide throughout the period of investigation. I, therefore, cumulate imports from Mexico and Venezuela for determining whether there is a reasonable indication of material injury by reason of the subject imports from those countries.

I determine separately that imports from Brazil and Hungary are negligible because the market share and absolute volumes of the subject imports from those countries were insignificant in and of themselves and as compared to the subject imports from Mexico and Venezuela.<sup>25 26</sup> There were no Brazilian imports in 1990; there were no imports of PA from Hungary until 1992.<sup>27</sup> Although imports from both Brazil and Hungary were not sporadic and isolated they were imported for limited portions of the period of investigation. The minimal volumes and market shares accounted for by Brazilian and Hungarian imports had no discernible adverse impact on the domestic industry during the three year period of investigation. I do not cumulate the subject imports from Brazil and Hungary with the subject imports from Mexico and Venezuela.

3. U.S.-Israel Free Trade Agreement Exception

As amended by the 1988 Omnibus Trade and Competitiveness Act ("the 1988 Act"), title VII contains a special provision for determining whether imports from Israel should be subject to the statute's cumulation requirements. Specifically, section 1677(7)(C)(v) provides

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<sup>22</sup> See section I.A.3. *infra* for a discussion regarding the issue of cumulation for Israel.

<sup>23</sup> CR at I-65 and I-66, Table 19. Mexican PA market share increased throughout the period of investigation both by quantity and by value. The market share held by Mexican PA by quantity was 0.9 percent in 1990, 1.3 percent in 1991, and 2.3 percent in 1992, with market share for interim period 1992, 1.8 percent and for interim period 1993, 4.1 percent. Data demonstrate a similar trend for Mexican market share by value increasing from 1 percent in 1990 to 2.5 percent in 1992, with market share between interim periods increasing from 2.0 percent to 3.8 percent. U.S. shipments of imports from Mexico by quantity increased by 32.2 percent from 1990 to 1991 and by 81.1 percent from 1991 to 1992, with an increase of 122.5 percent between interim period 1992 and interim period 1993. CR at C-6, Table C-3.

<sup>24</sup> CR at I-65 and I-66, Table 19. Venezuelan PA market share by quantity increased from 0.8 percent in 1990 to 1.1 percent in 1991 and 1.6 percent in 1992. Imports from Venezuela accounted for 1.5 percent of market share by quantity in interim period 1992 and 1.8 percent in interim period 1993. Venezuelan market share by value was similar throughout the period of investigation. U.S. shipments of imports from Venezuela increased by 32.7 percent from 1990 to 1991 and by 49.2 percent from 1991 to 1992, with an increase of 17.9 percent between interim period 1992 and interim period 1993. CR at C-6, Table C-3.

<sup>25</sup> CR at I-65 and I-66, Table 19. The market share by quantity and by value of Brazilian PA was 0.1 percent in 1991, 0.3 percent in 1992 and in interim period 1992, and 0.2 percent in interim period 1993. U.S. shipments of Brazilian imports were small throughout the period of investigation. Imports increased in quantity from 1991 to 1992, but declined between interim periods. CR at C-6, Table C-3.

<sup>26</sup> CR at I-65 and I-66, Table 19. The market share by quantity and by value of Hungarian PA imports for 1992 was less than 0.1 percent and was 0.1 percent for interim period 1993. U.S. shipments of imports from Hungary were extremely small during the period of investigation. CR at C-6, Table C-3.

<sup>27</sup> CR at I-65 and I-66, Table 19.

that, for the purposes of the negligible imports clause for material injury determinations and certain aspects of threat determinations:

the Commission may treat as negligible and having no discernable adverse impact on the domestic industry imports that are the product of any country that is a party to a free trade area agreement with the United States which entered into force and effect before January 1, 1987, if the Commission determines that the domestic industry is not being materially injured by reason of such imports.<sup>28</sup>

Israel is the only country to which this clause is applicable.

The legislative history affords the following explanation of this provision: Before applying the provision, in any investigation, involving imports from Israel, the ITC would first determine whether a domestic industry is materially injured by reason of the imports from Israel. If the ITC made an affirmative determination, this provision would not apply. If the ITC made a negative determination, it would be authorized to consider such imports as negligible and having no discernable impact on the domestic industry.

In deciding whether such imports are negligible and having no discernable impact on the domestic industry, the ITC should consider all relevant economic factors regarding the imports, including the level of the imports from Israel, relative to both domestic production and other imports under investigation, their effect on U.S. prices for the like product, and their impact on domestic producers.<sup>29</sup>

This provision was applied in one previous investigation.<sup>30</sup> In short, there are two aspects of the Israel exception that are plain from the statutory language: (1) in deciding whether to cumulate imports from Israel, the Commission must make an independent injury determination with respect to those imports; and (2) if the Commission makes a negative injury determination with respect to these imports, the decision whether to cumulate is discretionary with the Commission.<sup>31</sup> If we make an affirmative injury determination with

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<sup>28</sup> 19 U.S.C. § 1677(7)(C)(v). Thus, this statutory provision is an explicit exception to the general principle, enunciated in Certain Flat-Rolled Steel, that "it is not true that imports that are to be cumulated must first each cause material injury." USITC Pub. 2664 at 29.

<sup>29</sup> H.R. Rep. No. 576, 100th Cong., 2d Sess. (1988) at 621 (Conference Report). See the 1988 Trade Act § 1102(c)(5) (recognizing that provisions of U.S.-Israel FTA take precedence over statutory provision where there is an inconsistency), and S. Rep. No. 71, 100th Cong., 1st Sess. 244 (1988) (discussion of above section, noting Congressional intent to "assure that the principle of bilateral reciprocity and mutual advantage under the agreement is maintained by not applying any provision of this Act to Israel if there is an inconsistency between a particular provision and the agreement.")

<sup>30</sup> This provision was considered by the Commission in the first investigation which involved Israel after the 1988 Trade Act, Steel Wire Rope from Argentina, Chile, India, Israel, Mexico, the People's Republic of China, Taiwan, and Thailand, Inv. Nos. 701-TA-305 and 306, and 731-TA-476-482 (Preliminary), USITC Pub. 2343 at 20-22 (December 1990) (Commission considered the exception and exercised its discretion not to cumulate Israel imports with imports from the other subject countries for assessing the threat of material injury by reason of the Israeli imports. The Commission noted that Israeli imports had accounted for an insignificant share of apparent domestic consumption throughout the period of investigation, market share had declined between interim periods, imports had remained stable, and there were no lost sales allegations which involved imports from Israel.)

<sup>31</sup> In Steel Wire Rope, the Commission considered whether a one or two-part test was required for the purposes of addressing cumulation of Israeli imports i.e., if the Commission finds "no material injury by reason of such imports," whether it must then make a second distinct determination as to whether these imports are "negligible and having no discernable adverse impact." The Commission determined that the

(continued...)

respect to Israel, Israeli imports would not be treated differently from other subject imports for the purposes of cumulating.

As discussed below, I determine that there is no reasonable indication of material injury to the domestic PA industry by reason of the subject imports from Israel.

a. Volume of PA Imports

The volume and market share of PA imports from Israel were extremely small. Israeli imports accounted for 0.1 percent of the domestic market in terms of quantity and value in 1992,<sup>32</sup> while domestic producers held 96 and 95 percent of the market in terms of quantity and value in 1992. The highest market share attained by the Israeli imports during the period of investigation was 0.7 percent in interim period 1993. U.S. shipments of Israeli imports were extremely small throughout the period of investigation. There were no Israeli imports in 1991.<sup>33</sup>

b. Effect of the Subject Israeli Imports on Domestic Prices

In evaluating the effect of the subject imports on prices, the Commission considers whether there has been significant price underselling of imports and whether the imports depress prices to a significant degree or prevent price increases that otherwise would have occurred, to a significant degree.<sup>34</sup>

To analyze the effect of this volume of imports on domestic prices of the like product and on the domestic industry, I consider a number of factors about the industry and the nature of the products, such as substitutability between the subject imports and the domestic like product, and the availability of substitute products in the market.

The record indicates that domestic and import price trends have declined since 1991 and closely follow similarly declining trends of ortho-xylene.<sup>35</sup> Despite the fact that the Israeli imports undersold the domestic product during the period of investigation,<sup>36</sup> there is no evidence that the very small quantity of Israeli imports sold in the domestic marketplace has significantly depressed or suppressed prices of either domestic flake or molten PA.<sup>37</sup> Given the extremely small market share held by Israeli PA imports, and because of the large market share held by the domestic industry, domestic sales would not have increased significantly had the price of the subject imports been higher.

c. Impact on the Domestic PA Industry

In assessing the impact of the subject imports on the domestic industry, I consider, among other relevant factors, U.S. consumption, production, shipments, capacity utilization, employment, wages, financial performance, capital investment, and research and development expenses.<sup>38</sup> Despite a decline in U.S. consumption by quantity over the period of investigation, the financial data in the record show a healthy domestic industry. The

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<sup>31</sup> (...continued)

statute does not require such a two-part test and did not apply it in that case. Steel Wire Rope from Argentina, Chile, India, Israel, Mexico, the People's Republic of China, Taiwan, and Thailand, Inv. Nos. 701-TA-305 and 306, and 731-TA-476-482 (Preliminary), USITC Pub. 2343 at 22, n.62 (December 1990).

<sup>32</sup> Data referred to in this paragraph are summarized in the CR at I-65 and I-66, Table 19, unless otherwise noted.

<sup>33</sup> CR at C-6, Table C-3.

<sup>34</sup> 19 U.S.C. § 1677(7)(C)(ii).

<sup>35</sup> CR at I-75, Figure 3.

<sup>36</sup> CR at I-82, Table 22.

<sup>37</sup> The record indicates that almost no Israeli imports were sold in 1990 and 1991. CR at C-6, Table C-3.

<sup>38</sup> 19 U.S.C. § 1677(C)(iii).



domestic PA industry has been able to significantly increase its operating income, net sales by value and productivity during the entire period of investigation, despite the increase in Israeli imports in interim 1993.<sup>39</sup> I do not find any evidence in the record which demonstrates that the extremely small quantity of Israeli imports has adversely impacted the domestic PA industry. Given the extremely small market share held by Israeli PA imports, and because of the large market share held by the domestic industry, it is unlikely that domestic sales would have increased significantly had imports been fairly traded.

I conclude, therefore, that the domestic industry is not materially injured by reason of the subject imports of PA from Israel. I exercise my discretion to treat these imports as "negligible and having no discernible adverse impact on the domestic industry,"<sup>40</sup> and do not cumulate Israeli imports with other imports under investigation.

**B. No Reasonable Indication of Material Injury by Reason of the Subject Imports**

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

(I) the volume of imports of the merchandise which is the subject of the investigation,

(II) the effect of imports of that merchandise on prices in the United States for like products, and

(III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States . . .<sup>41</sup>

For the reasons discussed below, I find that there is no reasonable indication that the domestic PA industry is materially injured by reason of the non-cumulated subject imports from Brazil, Hungary, and Israel, or by reason of the cumulated imports from Mexico and Venezuela.

In reaching these determinations I considered the substitutability of imported flake PA for domestic molten PA and for domestic flake PA. There are essentially no substitute products for PA for the majority of its applications.<sup>42</sup> While imported flake PA appears to be commercially substitutable for domestic flake PA, there were reports of quality problems with some sources of the imported flake PA which in some instances could reduce the substitutability.<sup>43</sup> U.S. producers and importers indicated that the subject import flake PA competed with the domestic flake PA. Overall, subject imports and the domestic flake PA appear to be good substitutes.

In considering the substitutability of imported flake PA for domestic molten PA, I found that in many instances that they are not close commercial substitutes.<sup>44</sup> The molten

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<sup>39</sup> CR at C-6, Table C-3.

<sup>40</sup> 19 U.S.C. § 1677(7)(C)(v).

<sup>41</sup> 19 U.S.C. § 1677(7)(B)(i).

<sup>42</sup> Petition at 73.

<sup>43</sup> CR at I-8, I-69 and I-70; PR at II-6, II-49 and II-50. However, information from producers, importers, and certain purchasers was mixed regarding any quality differences between imported and domestic flake PA. *Id.*

<sup>44</sup> CR at I-8; PR at II-6.

form is used only by large-volume customers.<sup>45</sup> Moreover, all PA consumers purchase some of the flaked product.<sup>46</sup> Small-volume manufacturers use flake PA exclusively, while large-volume consumers purchase flake for inventory to use in the event their liquid handling systems become disabled.<sup>47</sup> Flake and molten PA have a "reasonable, but limited degree of interchangeability" due to differences in handling and processing requirements which mean that they are not close economic substitutes.<sup>48</sup> Importers and purchasers maintained that the use of flake PA is more costly and that large-volume molten PA customers would not switch to flake exclusively due to: (1) lack of speed and efficiency (it "takes considerable time to manually unload the bags"); (2) product exposure to U.S. workers and to the environment; (3) disposal costs of the containers; (4) poorer quality resins; and (5) capital investment necessary to handle large quantities of flake (hoppers, silos, etc.).<sup>49</sup> Although most U.S. producers felt the two forms were substitutable, they also noted some factors, such as additional handling, increased energy costs to heat flake, disposal of containers, and possible costs to modify or purchase equipment to handle flake, that limit such substitution.<sup>50</sup> At the conference, one of the U.S. producers indicated that the firm only uses molten PA and would not switch to use of flake PA for its captive consumption of the domestic product.<sup>51</sup> Overall there appears to be low commercial substitutability of flake PA for molten PA.

During the period of investigation, flake PA accounted for about 10 to 13 percent of apparent U.S. consumption of all PA (both molten and flake).<sup>52</sup> In 1992, for example, about 47 percent of apparent U.S. consumption of all PA was accounted for by U.S. producers' sales of molten PA, about 42 percent was captively consumed by U.S. producers, about 7 percent was accounted for by U.S. producers' sales of domestic flake PA, and about 4 percent was accounted for by all subject imports of flake PA.<sup>53</sup>

The evidence in the record indicates that the impact of the flake PA imports on the domestic molten market is limited. Some U.S. producers have indicated that they would not switch their captive use of molten PA to flake PA.<sup>54</sup> However, based on discussions with purchasers, it appears that only a small portion of U.S. producers' commercial molten sales are, or, could be subject to such a switchover, due to specific customer requirements.<sup>55</sup> Further limiting the impact of the subject imports, any switch to flake PA could include domestic as well as imported flake PA. I conclude, therefore, that the imported PA competes head to head only with domestic flake PA product.

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<sup>45</sup> CR at I-7 and I-8; PR at II-5. Respondents alleged that the molten PA sold mostly to large manufacturers, whereas the flake form is sold primarily to small and medium users. Respondent (Venezuela) Postconference Brief at 4 and 5; Tr. at 61, 81 and 82. Petitioners indicated that this pattern of sale was historical and that it has been changing. Tr. at 22-25.

<sup>46</sup> CR at I-8; PR at II-6. During the period of investigation, flake PA accounted for 10 to 13 percent of apparent U.S. consumption of all PA. CR at I-20, Table 2.

<sup>47</sup> CR at I-8; PR at II-6.

<sup>48</sup> Respondent (Venezuela) Postconference Brief at 3-5; Respondent (Importers/Purchasers) Postconference Brief, Attachment 1.

<sup>49</sup> Respondent (Importers/Purchasers) Postconference Brief, Attachment 1. The Mexican respondents said that "although flake PA competes with molten, it does so at a severe competitive disadvantage due to intrinsic disadvantages of the flake form that add to the cost to the end user and which require a discount in price to find a market." Respondent (Mexico) Postconference Brief at 4; Tr. at 80. The Venezuelan respondent stated that "different handling and processing requirements necessitated by the use of the two forms have significant economic consequences for the customer" since the molten PA is hard to handle, corrosive, solidifies at 240 degrees Fahrenheit, and requires expensive equipment to use. Respondent (Venezuela) Postconference Brief at 4.

<sup>50</sup> CR at I-70; PR at II-49-II-50.

<sup>51</sup> Tr. at 36 and 37.

<sup>52</sup> CR at I-20, Table 2.

<sup>53</sup> CR at I-71, n.39; PR at II-50, n.39.

<sup>54</sup> Tr. at 36 and 37.

<sup>55</sup> CR at I-71 and I-72; PR at II-50; Respondent's (Importers/Purchasers) Postconference Brief, Attachment 1.

1. **Brazil**

a. **Volume of PA Imports**

In determining whether there is material injury by reason of the subject imports, the statute directs the Commission to consider "whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."<sup>56</sup>

As discussed above in the cumulation section, the volume and market share of PA imports from Brazil were extremely small. Brazilian imports accounted for 0.3 percent of the domestic market in terms of quantity and value in 1992.<sup>57</sup> This was the highest market share attained by the Brazilian imports during the period of investigation. Domestic producers held 96 percent and 95 percent of the market in terms of quantity and value in 1992. U.S. shipments of Brazilian imports were small throughout the period of investigation. Imports increased in quantity from 1991 to 1992, and but declined between interim periods; there were no Brazilian imports in 1990.<sup>58</sup> While it is clear that the smaller the volume of the subject imports, the smaller the effect they will have on the domestic industry, a determination of whether the volume is significant must consider other factors, such as the level of substitutability and the availability of substitute products. Given the condition of the domestic industry and the non-price factors discussed above, I do not find the volume of imports to be significant.

b. **Effect of the Subject Brazilian Imports on Domestic Prices**

In evaluating the effect of the subject imports on prices, the Commission considers whether there has been significant price underselling of imports and whether the imports depress prices to a significant degree or prevent price increases that otherwise would have occurred, to a significant degree.<sup>59</sup>

To analyze the effect of this volume of imports on domestic prices of the like product and on the domestic industry, I consider a number of factors about the industry and the nature of the products, such as substitutability between the subject imports and the domestic like product, and the availability of substitute products in the market.

The record indicates that domestic and import price trends have declined since 1991 and closely follow similarly declining trends of ortho-xylene.<sup>60</sup> Despite the fact that the Brazilian imports consistently undersold the domestic product during the period of investigation,<sup>61</sup> there is no evidence that the small quantity of Brazilian imports sold in the domestic marketplace has significantly depressed or suppressed prices of either domestic flake or molten PA. Given the extremely small market share held by Brazilian PA imports, and because of the large market share held by the domestic industry, it is unlikely that domestic sales would have increased significantly had the price of the subject imports been higher.

c. **Impact on the Domestic PA Industry**

In assessing the impact of the subject imports on the domestic industry, I consider, among other relevant factors, U.S. consumption, production, shipments, capacity utilization, employment, wages, financial performance, capital investment, and research and development

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<sup>56</sup> 19 U.S.C. § 1677(7)(C)(i).

<sup>57</sup> Data referred to in this paragraph are summarized in the CR at I-65 and I-66, Table 19, unless otherwise noted.

<sup>58</sup> CR at C-6, Table C-3.

<sup>59</sup> 19 U.S.C. § 1677(7)(C)(ii).

<sup>60</sup> CR at I-75, Figure 3.

<sup>61</sup> CR at I-80, Table 20.

expenses.<sup>62</sup> Despite a decline in U.S. consumption by quantity over the period of investigation, the financial data in the record show a healthy domestic industry. The domestic PA industry has been able to significantly increase its operating income, net sales by value and productivity during the entire period of investigation, despite the increase in Brazilian imports from 1991 to 1992.<sup>63</sup> I do not find any evidence in the record which demonstrates that the extremely small level of Brazilian imports has adversely impacted the domestic PA industry.

I conclude, therefore, that the domestic industry is not materially injured by reason of the subject imports of PA from Brazil.

## 2. Hungary

### a. Volume of PA Imports

As discussed above in the cumulation section, the volume and market share of PA imports from Hungary were extremely small. U.S. shipments of Hungarian imports were extremely small throughout the period of investigation. There were no Hungarian imports in 1990 and 1991.<sup>64</sup> Hungarian imports accounted for less than 0.1 percent of the domestic market in terms of quantity and value in 1992.<sup>65</sup> The highest market share attained by the Hungarian imports during the period of investigation was 0.1 percent in interim period 1993.

Domestic producers held 95 percent of the market in terms of quantity and value in 1992. While it is clear that the smaller the volume of the subject imports, the smaller the effect they will have on the domestic industry, a determination of whether the volume is significant must consider other factors, such as the level of substitutability and the availability of substitute products. Given the condition of the domestic industry and the non-price factors discussed above, I do not find the volume of imports to be significant.

### b. Effect of the Subject Hungarian Imports on Domestic Prices

In evaluating the effect of the subject imports on prices, the Commission considers whether there has been significant price underselling of imports and whether the imports depress prices to a significant degree or prevent price increases that otherwise would have occurred, to a significant degree.<sup>66</sup>

To analyze the effect of this volume of imports on domestic prices of the like product and on the domestic industry, I consider a number of factors about the industry and the nature of the products, such as substitutability between the subject imports and the domestic like product, and the availability of substitute products in the market.

The record indicates that domestic and import price trends have declined since 1991 and closely follow similarly declining trends of ortho-xylene.<sup>67</sup> Despite the fact that the Hungarian imports consistently undersold the domestic product during the period of investigation,<sup>68</sup> there is no evidence that the small quantity of Hungarian imports sold in the domestic marketplace has significantly depressed or suppressed prices of either domestic flake or molten PA.<sup>69</sup> Given the extremely small market share held by Hungarian PA imports, and

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<sup>62</sup> 19 U.S.C. § 1677(C)(iii).

<sup>63</sup> CR at C-6, Table C-3.

<sup>64</sup> CR at C-6, Table C-3.

<sup>65</sup> Data referred to in this paragraph are summarized in the CR at I-65 and I-66, Table 19, unless otherwise noted.

<sup>66</sup> 19 U.S.C. § 1677(7)(C)(ii).

<sup>67</sup> CR at I-75, Figure 3.

<sup>68</sup> CR at I-81, Table 21.

<sup>69</sup> While the six price comparisons between Hungarian flake and domestic flake show that the Hungarian flake was priced less than the domestic product in all comparisons, margins of underselling averaged only 8.3%. CR at I-81, Table 21.

because of the large market share held by the domestic industry, domestic sales would not have increased significantly had the price of the subject imports been higher.

**c. Impact on the Domestic PA Industry**

In assessing the impact of the subject imports on the domestic industry, I consider, among other relevant factors, U.S. consumption, production, shipments, capacity utilization, employment, wages, financial performance, capital investment, and research and development expenses.<sup>70</sup> Despite a decline in U.S. consumption by quantity over the period of investigation, the financial data in the record show a healthy domestic industry. The domestic PA industry has been able to significantly increase its operating income, net sales by value and productivity during the entire period of investigation.<sup>71</sup> I do not find any evidence in the record which demonstrates that the extremely small level of Hungarian imports has adversely impacted the domestic PA industry.

I conclude, therefore, that the domestic industry is not materially injured by reason of the subject imports of PA from Hungary.

**3. Cumulated Subject Imports from Mexico and Venezuela**

**a. Volume of PA Imports**

The volume and market share of cumulated PA imports from Mexico and Venezuela were relatively small, although larger than the market shares held by the non-cumulated subject imports. Cumulated subject imports accounted for 3.8 percent of the domestic market in terms of quantity and 4.2 percent in terms of value in 1992.<sup>72</sup> The highest market share attained by the cumulated imports during the period of investigation was 5.9 percent by quantity and 5.5 percent by value in interim period 1993. Domestic producers held 96 percent and 95 percent of the market in terms of quantity and value in 1992. Given the condition of the domestic industry and the non-price factors discussed above, I do not find the volume of cumulated imports to be significant.

**b. Effect of the Subject Cumulated Imports on Domestic Prices**

In evaluating the effect of the subject imports on prices, the Commission considers whether there has been significant price underselling of imports and whether the imports depress prices to a significant degree or prevent price increases that otherwise would have occurred, to a significant degree.<sup>73</sup>

To analyze the effect of this volume of imports on domestic prices of the like product and on the domestic industry, I consider a number of factors about the industry and the nature of the products, such as substitutability between the subject imports and the domestic like product, and the availability of substitute products in the market.

The record indicates that domestic and import price trends have declined since 1991 and closely follow similarly declining trends of ortho-xylene.<sup>74</sup> Despite the fact that both the Venezuelan and Mexican imports consistently undersold the domestic product during the period of investigation,<sup>75</sup> there is no evidence that the small quantity of those imports sold in

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<sup>70</sup> 19 U.S.C. § 1677(C)(iii).

<sup>71</sup> CR at C-6, Table C-3.

<sup>72</sup> Data referred to in this paragraph are summarized in the CR at C-6 and C-7, Table C-3 unless otherwise noted. The market share held by cumulated PA imports by quantity was 1.7 percent in 1990, 2.4 percent in 1991, 3.9 percent in 1992, 3.3 percent in interim period 1992, and 5.9 percent in interim period 1993. The market share held by cumulated PA in terms of value was similar.

<sup>73</sup> 19 U.S.C. § 1677(7)(C)(ii).

<sup>74</sup> CR at I-75.

<sup>75</sup> CR at I-83, Table 23 and I-84, Table 24.

the domestic marketplace has significantly depressed or suppressed prices of either domestic flake or molten PA. Given the small market share held by the cumulated Venezuelan and Mexican PA imports, and because of the large market share held by the domestic industry, it is unlikely that domestic sales would have increased significantly had the price of the subject imports been higher.

c. Impact on the Domestic PA Industry

I do not find any evidence in the record which demonstrates that the small level of cumulated imports has adversely impacted upon the domestic PA industry. In assessing the impact of the subject imports on the domestic industry, I consider, among other relevant factors, U.S. consumption, production, shipments, capacity utilization, employment, wages, financial performance, capital investment, and research and development expenses.<sup>76</sup> Despite a decline in U.S. consumption by quantity over the period of investigation, the financial data in the record show a generally healthy domestic industry. The domestic PA industry has been able to significantly increase its operating income, net sales by value and productivity during the entire period of investigation.<sup>77</sup> I do not find any evidence in the record which demonstrates that the small quantity of those cumulated imports has adversely impacted the domestic PA industry.

I conclude, therefore, that the domestic industry is not materially injured by reason of cumulated subject imports of PA from Mexico and Venezuela.

II. THREAT OF MATERIAL INJURY TO THE DOMESTIC PA INDUSTRY BY REASON OF THE SUBJECT IMPORTS

I further determine that there is no reasonable indication of a threat of material injury by reason of non-cumulated subject imports of PA from Hungary, Israel, or Mexico, but that there exists a reasonable indication of a threat of material injury by reason of non-cumulated imports from Brazil and Venezuela. In reaching these determinations, I have considered all the statutory factors that are relevant to this investigation.<sup>78</sup>

The statute directs us to determine whether an industry in the United States is threatened with material injury by reason of imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent." Our decision "may not be made on the basis of mere conjecture or supposition."<sup>79</sup>

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<sup>76</sup> 19 U.S.C. § 1677(C)(iii).

<sup>77</sup> CR at C-6, Table C-3.

<sup>78</sup> 19 U.S.C. § 1677(7)(F)(i), as amended by 1988 Act sections 1326(b), 1329.

In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry. See 19 U.S.C. section 1677(7)(F)(iii), as amended by 1988 Act section 1329.

Several statutory threat factors have no relevance to these investigations and need not be discussed. The Brazil and Hungary antidumping investigations do not involve subsidies or agricultural products nor any potential for product shifting due to other findings or orders under the antidumping or countervailing duty laws, or dumping findings or remedies in third countries. The Mexico and Venezuela antidumping investigations do not involve agricultural products nor any potential for product shifting due to other findings or orders under the antidumping or countervailing duty laws, or dumping findings or remedies in third countries. The Israel antidumping investigation does not involve agricultural products.

<sup>79</sup> 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallwerken Nederland B.V. v. U.S., 744 F.Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire, 8 CIT at 28, 590 F.Supp. at 1280.

## A. Cumulation Analysis for Purposes of A Threat Determination

As a threshold matter, I have considered whether to cumulate imports from the five subject countries for purposes of my threat analysis. Based on the record in these investigations, I have determined to exercise my discretion and decline to cumulate any of the subject imports.

Cumulation of imports from several countries for threat analysis is discretionary if the imports are subject to investigation and compete with each other and the like product of the domestic industry.<sup>60</sup> I have considered whether the imports are increasing at similar rates in the same markets, whether the imports have similar price trends, and the probability that imports will enter the United States at prices that would have a depressing or suppressing effect on domestic prices of that merchandise.<sup>61 62</sup>

While the existence of negligible imports is a factor weighing against discretionary cumulation for a threat analysis, it is one important factor to consider and does not control my decision regarding cumulation.<sup>63</sup> As noted above, I have found subject imports from Brazil, Hungary and Israel to be negligible. These findings weigh against cumulation for purposes of my threat analysis.

Although I find that the volume and pricing trends were generally similar for the subject countries, I have noted a number of important differences in other trends among the subject countries that lead me to conclude that any cumulation for purposes of a threat analysis would be inappropriate.

In that regard, Brazil had the lowest capacity utilization rate of any subject country throughout the period of investigation,<sup>64</sup> and was the only subject country showing declining market penetration during the 1993 interim period.<sup>65</sup>

Hungary is unique in that it is the only subject country for which production capacity of PA declined in interim 1993.<sup>66</sup> Moreover, with the exception of Israel, Hungarian exports to the U.S. market and market penetration of the U.S. market were the smallest of the countries subject to investigation.<sup>67</sup>

The level of the Venezuelan imports were clearly not negligible, increasing steadily and significantly each year.<sup>68</sup> Moreover, Venezuela is unique in that it is the only country subject to investigation which significantly increased its production capacity in the 1993 interim period, and for which U.S. importers held significant quantities of inventories throughout the period of investigation.<sup>69</sup>

Mexican import levels were even higher than those from Venezuela. Subject imports from Mexico demonstrated the largest increase of the five subject countries in the interim

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<sup>60</sup> 19 U.S.C. § 1677(T)(F)(iv).

<sup>61</sup> See *Torrington v. United States*, 790 F. Supp. at 1172 (affirming Commission's determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); *Metallwerken Nederland B.V. v. United States*, 728 F. Supp. 730, 741-42 (Ct. Int'l Trade 1989); *Asocoflores*, 704 F. Supp. 1068, 1072 (Ct. Int'l Trade 1988).

<sup>62</sup> The Mexican and Venezuelan respondents argued that there are different patterns in volumes and pricing of imports which make it inappropriate to cumulate the subject imports for purposes of determining whether the domestic industry is threatened with material injury. Respondent (Mexico) Postconference Brief at 3, 14-19; Respondent (Venezuela) Postconference Brief at 9-14.

<sup>63</sup> I note, however, that a finding of negligibility does not preclude discretionary cumulation for threat purposes. See, *Certain Flat-Rolled Steel*, USITC Pub. 2664 at 59 (August 1993).

<sup>64</sup> CR at I-58, Table 17.

<sup>65</sup> *Id.* at C-6, Table C-3.

<sup>66</sup> CR at I-58, Table 17.

<sup>67</sup> CR at C-6, Table C-3.

<sup>68</sup> *Id.*

<sup>69</sup> Over the nine month interim period, production capacity in Venezuela increased by approximately 69%. See, CR at Table C-3. See also, CR at I-55, Table 16.

period.<sup>90</sup> In addition, as discussed more fully below, Mexican production of flake PA is expected to significantly decline in the imminent future.

## B. Threat Analysis

### 1. No Reasonable Indication of Threat of Material Injury by Reason of Imports from Hungary

In reaching my determination that an industry in the United States is not threatened by material injury by reason of subject imports from Hungary, I have carefully considered the legal standard for preliminary antidumping and countervailing duty investigations.<sup>91</sup> The record regarding the subject imports from Hungary is complete<sup>92</sup> and contains clear and convincing evidence that the domestic industry is not threatened with material injury by reason of the subject imports from Hungary.

I do not find that there is any increase in production capacity or unused capacity in Hungary likely to result in a significant increase in imports of PA to the United States.<sup>93</sup> Capacity utilization levels of the Hungarian producers were high and increasing throughout the period of investigation.<sup>94</sup> I also find that the record does not support a finding that there will be a rapid increase in United States market penetration of PA from Hungary, nor is there a likelihood that the penetration will increase to an injurious level.<sup>95</sup> The market share held by U.S. shipments of Hungarian PA imports never exceeded 0.1 percent of apparent U.S. consumption over the period of investigation and there is no evidence of record to suggest an imminent reversal of this trend.<sup>96</sup>

The record does not support a finding that the increase in inventories in the United States will have an injurious effect on the U.S. industry.<sup>97</sup> As discussed above, I do not find significant price suppressing or depressing effects by the imports entering the United States on domestic prices. There is no indication that future imports are likely to have a depressing or suppressing effect on U.S. prices in the imminent future.<sup>98</sup>

There are no "other demonstrable adverse trends" that indicate that imports will be the cause of actual injury, nor are there "actual and potential negative effects on existing development and production efforts of the domestic industry."<sup>99</sup> Based on these facts, I find that the domestic industry producing PA is not threatened with material injury by reason of the subject imports of PA from Hungary.

### 2. No Reasonable Indication of Threat of Material Injury by Reason of Imports from Israel

In reaching my determination that an industry in the United States is not threatened by material injury by reason of subject imports from Israel, I have carefully considered the legal standard for preliminary antidumping and countervailing duty investigations.<sup>100</sup> The

<sup>90</sup> The market share of Mexican imports increased from 1.8% in interim 1992 to 4.1% in interim 1993. CR at C-6, Table C-3.

<sup>91</sup> 19 U.S.C. §§ 1671b(a), 1673(a). American Lamb Co. v. United States, 785 F.2d 994, 1001 (Fed. Cir. 1986).

<sup>92</sup> See CR at I-57.

<sup>93</sup> CR at I-58, Table 17.

<sup>94</sup> CR at I-58, Table 17.

<sup>95</sup> CR at I-65, Table 19.

<sup>96</sup> CR at I-65, Table 19.

<sup>97</sup> CR at I-55, Table 16.

<sup>98</sup> See 19 U.S.C. § 1677(7)(F)(i)(IV).

<sup>99</sup> See 19 U.S.C. §§ 1677(7)(F)(i)(VII) and (X).

<sup>100</sup> 19 U.S.C. §§ 1671b(a), 1673(a). American Lamb Co. v. United States, 785 F.2d 994, 1001 (Fed. Cir. 1986).



record regarding the subject imports from Israel is complete<sup>101</sup> and contains clear and convincing evidence that the domestic industry is not threatened with material injury by reason of the subject imports from Israel.

I do not find that there is any increase in production capacity or unused capacity in Israel likely to result in a significant increase in imports of PA to the United States.<sup>102</sup> Capacity utilization levels of the Israeli producer were extremely high throughout the period of investigation.<sup>103</sup> I also find that the record does not support a finding that there will be any rapid increase in United States market penetration of PA from Israel, nor is there a likelihood that the penetration will increase to an injurious level.<sup>104</sup> The market share held by U.S. shipments of Israeli PA imports never exceeded 0.7 percent of apparent U.S. consumption over the period of investigation and there is no evidence of record to suggest an imminent reversal of this trend.<sup>105</sup>

The record does not support a finding that there will be an increase in inventories in the United States that will have an injurious effect on the U.S. industry.<sup>106</sup> As discussed above, I do not find significant price suppressing or depressing effects by the imports entering the United States on domestic prices. There is no indication that future imports are likely to have a depressing or suppressing effect on U.S. prices in the imminent future.<sup>107</sup>

Commerce has initiated an investigation, but has not made a determination on the alleged Israeli subsidies. Upon review of these alleged subsidies, I am not certain that they will be determined by Commerce to be countervailable export subsidies. I find, however, that even if these do constitute countervailable subsidies that they are not sufficient to pose a real and imminent threat to the domestic industry due to the extremely small Israeli share of the U.S. market and the small volume for Israeli imports.

I have considered the antidumping finding against Israel in Australia and find that it does not present a threat of material injury to the domestic PA industry caused by Israeli PA which will be diverted from the Australian market to the United States.<sup>108</sup> Since the final Australian decision was reached in early 1992, I find that any shift would already have occurred.

There are no "other demonstrable adverse trends" that indicate that imports will be the cause of actual injury, nor are there "actual and potential negative effects on existing development and production efforts of the domestic industry."<sup>109</sup> Based on these facts, I find that the domestic industry producing PA is not threatened with material injury by reason of the subject imports of PA from Israel.

### 3. No Reasonable Indication of Threat of Material Injury by Reason of Imports from Mexico

In reaching my determination that an industry in the United States is not threatened by material injury by reason of subject imports from Mexico, I have carefully considered the

<sup>101</sup> See CR at I-61, Table 17.

<sup>102</sup> CR at I-58, Table 17.

<sup>103</sup> CR at I-58, Table 17.

<sup>104</sup> CR at I-65, Table 19.

<sup>105</sup> Id.

<sup>106</sup> CR at I-55, Table 16. The Israeli producer indicated that it does not maintain inventories in the United States. Tr. at 96.

<sup>107</sup> See 19 U.S.C. § 1677(F)(i)(IV).

<sup>108</sup> The Australian Anti-Dumping Authority completed its final finding inquiry into phthalic anhydride from the Argentine Republic, the Federative Republic of Brazil, Israel, and the Republic of Korea and determined that dumping duties should be imposed on exports of phthalic anhydride from Israel and the Republic of Korea. Australian Anti-Dumping Authority Report, No. 75 (July 1992).

<sup>109</sup> See 19 U.S.C. §§ 1677(F)(i)(VII) and (X).

legal standard for preliminary antidumping and countervailing duty investigations.<sup>110</sup> The record regarding the subject imports from Mexico is complete<sup>111</sup> and contains clear and convincing evidence that the domestic industry is not threatened with material injury by reason of the subject imports from Mexico.

I find that Mexican PA production is expected to significantly decline in the imminent future creating a likelihood that Mexican imports of PA to the United States will decline in early 1994.<sup>112</sup> Capacity utilization levels of the Mexican producers were extremely high throughout the period of investigation and can now be expected to increase significantly.<sup>113</sup> I also find that the record does not support a finding that there will be any rapid increase in U.S. market penetration of PA from Mexico, nor is there a likelihood that the penetration will increase to an injurious level.<sup>114</sup> The market share held by U.S. shipments of Mexican PA imports never exceeded 4.2 percent of apparent U.S. consumption over the period of investigation and there is strong evidence of record to suggest that this market share will decline.<sup>115</sup>

The record does not support a finding that the increase in inventories in the United States will have an injurious effect on the U.S. industry.<sup>116</sup> As discussed above, I do not find significant price suppressing or depressing effects by the imports entering the United States on domestic prices. There is no indication that future imports are likely to have a depressing or suppressing effect on U.S. prices in the imminent future.<sup>117</sup>

Commerce has initiated an investigation, but has not made a determination on the alleged Mexican subsidies. Upon review of these alleged subsidies, I am not certain that all of them will be determined by Commerce to be countervailable export subsidies. I find, however, that even if they do constitute countervailable subsidies that they are not sufficient to pose a real and imminent threat to the domestic industry due to the relatively small Mexican share of the U.S. market and the small volume for Mexican imports.

There are no "other demonstrable adverse trends" that indicate that imports will be the cause of actual injury, nor are there "actual and potential negative effects on existing development and production efforts of the domestic industry."<sup>118</sup> Based on these facts, I find that the domestic industry producing PA is not threatened with material injury by reason of the subject imports of PA from Mexico.

#### 4. Reasonable Indication of Threat of Material Injury by Reason of Imports from Brazil

In reaching my determination that an industry in the United States is threatened by material injury by reason of subject imports from Brazil, I have carefully considered the legal standard for preliminary antidumping and countervailing duty investigations.<sup>119</sup> It appears that the record in this preliminary investigation does not contain certain information in regard

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<sup>110</sup> 19 U.S.C. §§ 1671b(a), 1673(a). American Lamb Co. v. United States, 785 F.2d 994, 1001 (Fed. Cir. 1986).

<sup>111</sup> See CR at I-62 as supplemented by INV-Q-198 indicating that Celanese Mexicana, S.A. will close its facility producing PA in December 1993.

<sup>112</sup> CR at I-58, Table 17. As disclosed by counsel, Celanese Mexicana, S.A. will be shutting down its PA facility in December 1993 and will no longer be a PA producer after January 1994. See INV-Q-198. ITC staff has confirmed that this information has been publicly disclosed by the company. See Transcript of Commission Meeting of December 2, 1993 at 4-6.

<sup>113</sup> CR at I-58, Table 17. It is expected that the two remaining Mexican producers of PA will continue to operate well beyond 100% capacity utilization by operating extra shifts.

<sup>114</sup> CR at I-65, Table 19.

<sup>115</sup> CR at I-65, Table 19.

<sup>116</sup> CR at I-55, Table 16. I note that inventories declined in the 1993 interim period.

<sup>117</sup> See 19 U.S.C. § 1677(7)(F)(i)(IV).

<sup>118</sup> See 19 U.S.C. §§ 1677(7)(F)(i)(VII) and (X).

<sup>119</sup> 19 U.S.C. §§ 1671b(a), 1673(a). American Lamb Co. v. United States, 785 F.2d 994, 1001 (Fed. Cir. 1986).

to Brazil which might be obtained in a final investigation. The staff report indicates that although two Brazilian producers of PAN were identified in the petition, commission staff was not able to verify the exact number of Brazilian producers.<sup>120</sup> Moreover, it appears that only one of the two producers listed in the petition answered the Commission's questionnaire.<sup>121</sup> I conclude, therefore, that a likelihood exists that the Commission will obtain additional evidence in regard to Brazil that might be favorable to the Petitioners in a final investigation.

Brazilian production capacity remained constant throughout the period of investigation while production declined slightly.<sup>122</sup> As mentioned above, Brazilian capacity utilization was, by far, the lowest among the subject countries. Total Brazilian exports to the United States have increased steadily and significantly over the period of investigation. Although the record indicates that exports to the United States have declined during the interim period, there is evidence that this decline can be accounted for by a temporary shortage of ortho-xylene in Brazil which will be remedied by year end.<sup>123</sup> In short, the record does not persuade me that imports of Brazilian PAN will not increase to an injurious level in the imminent future.

##### 5. Reasonable Indication of Threat of Material Injury by Reason of Imports from Venezuela

In reaching my determination that an industry in the United States is threatened by material injury by reason of subject imports from Venezuela, I have carefully considered the legal standard for preliminary antidumping and countervailing duty investigations.<sup>124</sup> I find that the record contains evidence which leads me to conclude that there is a reasonable indication that the domestic industry is threatened with material injury by reason of the Venezuelan imports.

Venezuelan production capacity increased significantly and steadily throughout the period of investigation.<sup>125</sup> Venezuela was the only country that saw its production capacity increase in the interim period as well.<sup>126</sup> Total exports of PA from Venezuela are expected to increase in 1993 and remain at least at that level in 1994.<sup>127</sup> In any final investigation, I would seek further evidence regarding Venezuelan producers' future plans for expansion of their PA production capacities and the importance of the U.S. market to those producers. I also note that end of period inventories of Venezuelan PA held by U.S. importers were significant and increased steadily throughout the period of investigation.<sup>128</sup>

#### CONCLUSION

<sup>120</sup> CR at I-57; PR at II-39.

<sup>121</sup> Id.

<sup>122</sup> CR at I-58, Table 17.

<sup>123</sup> Id. at I-59, Table 17; Post Conference Brief of Petitioners at Table #1. Petitioners contend that Brazilian ortho-xylene production will increase 27% between 1993 and 1995 alone. Petitioners also note that the main Brazilian exporter, Oxypar, admits that Oxypar's exports to the United States are critical to its global marketing strategy. Petition at 86-88.

<sup>124</sup> 19 U.S.C. § § 1671b(a), 1673(a). American Lamb Co. v. United States, 785 F.2d 994, 1001 (Fed. Cir. 1986).

<sup>125</sup> CR at I-58; PR at II-40.

<sup>126</sup> CR at I-62; PR at II-44. One of Venezuela's two PA producers significantly expanded its production capacity in 1993.

<sup>127</sup> CR at I-58, I-62; PR at II-44.

<sup>128</sup> CR at I-55, Table 16. Far greater quantities of Venezuelan imports were held by U.S. importers than other subject imports. Inventories of Venezuelan imports nearly doubled in the 1993 interim period.

**I find that the evidence in the record regarding PA, including the small volume and market share accounted for by subject imports and the profitable condition of the domestic industry, supports a finding that the domestic industry producing PA is not threatened with material injury by reason of the subject imports from Hungary, Israel and Mexico. I find, however, that the record does provide evidence of a reasonable indication of a threat of material injury by Brazil and Venezuela.**

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## VIEWS OF COMMISSIONER DAVID B. ROHR

Based on the record in these preliminary investigations, I determine that there is a reasonable indication<sup>1</sup> that the industry in the United States producing phthalic anhydride ("PAN") is threatened with material injury by reason of imports of the subject merchandise from Mexico and Venezuela that are allegedly subsidized and sold at less than fair value. I further determine, however, that there is no reasonable indication that the industry in the United States producing PAN is materially injured or threatened with material injury by reason of imports of the subject merchandise from Brazil, Hungary, and Israel that are allegedly subsidized and/or sold at less than fair value.<sup>2</sup>

### *Like Product and Domestic Industry*

The first step in my analysis in any title VII investigation is to identify the products that are "like" the imports subject to investigation and the domestic industry or industries that produce those products. The Tariff Act of 1930, as amended, (the "Act"), defines the industry relevant to a title VII analysis as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."<sup>3</sup> The Act in turn defines the "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the articles subject to investigation."<sup>4</sup>

According to the notice of investigation issued by the Department of Commerce, the articles subject to these investigations are:

phthalic anhydride (PA) . . . an aromatic-synthetic organic chemical usually produced from a primary petrochemical called orthoxylene, although sometimes it is produced from naphthalene. PA is predominately used in the production of plasticizers, unsaturated polyester resins, and alkyd resins, which in turn are generally used to produce plastics and paints. The subject PA is produced in two physical forms, molten and flaked.<sup>5</sup>

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<sup>1</sup> As approved by the Commission's reviewing courts, the "reasonable indication" standard requires the Commission to determine, based upon the best information available at the time of its determination, whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of material injury; and (2) no likelihood exists that any contrary evidence will arise in a final investigation." *American Lamb Co. v. United States*, 785 F.2d 994, 1004 (Fed Cir. 1986); *see also Torrington Co. v. United States*, 790 F. Supp. 1161, 1165 (Ct. Int'l trade 1992). *aff'd* Slip Op 92-1383-1392 (Fed. Cir. March 5, 1993); *Calabrian Corp. v. United States*, 794 F. Supp. 377, 386 (Ct. Int'l Trade 1992).

<sup>2</sup> Material retardation of an industry is not an issue in this investigation.

<sup>3</sup> 19 U.S.C. §1677(4)(A).

<sup>4</sup> 19 U.S.C. § 1677(10). The Commission's determination of what is the appropriate like product or products is a factual determination, and the Commission applies the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis. In analyzing like product issues, the Commission typically considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability of the products; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) the use of common manufacturing facilities and production employees; and (6) where appropriate, price. *Calabrian Corp. v. United States*, 794 F. Supp. at 382, n.4 (Ct. Int'l Trade 1992). No single factor is dispositive, and the Commission may consider other factors relevant to its like product determination in a particular investigation. The Commission looks for clear dividing lines among possible like products, and disregards minor variations. *E.g.*, S. Rep. No. 249, 96th Cong. 1st Sess. 90-91 (1979); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991).

<sup>5</sup> See 58 Fed. Reg. 60845-60848 (November 18, 1993). Report at A-4.

## 1. Like Product

While the notice of investigation thus includes PAN in both molten and flake form, in fact, the imports are almost exclusively of the flake form of PAN.<sup>6</sup> The only question in these preliminary investigations with regard to defining the like product is whether the molten and flake forms of PAN, both of which are produced domestically, are a single like product or two separate like products.

PAN is a commodity chemical produced principally from the primary petrochemical orthoxylene. The chemical processes used to produce PAN result initially in the molten form of the product. The molten form of PAN must be maintained at a temperature of 131 degrees celsius. To produce the flaked form of PAN, a metal cylinder is immersed in the molten PAN, cooled internally, and the solidified layer of PAN on the surface of the cylinder is removed using a sharp knife. Historically, flaked PAN has been priced 2 to 3 cents above molten PAN to account for this additional processing step.<sup>7</sup>

The two forms of PAN are chemically identical. Both are used for the same end uses. Generally, large scale users have invested in the capital equipment necessary to economically use molten PAN. Smaller users have generally not invested in such equipment and use the flaked form. Even the large users purchase some flaked PAN as a contingency in case of emergencies. The two forms of PAN appear interchangeable, and there is only a small price difference between them. The channels of distribution are similar, although the costs of shipping molten PAN are somewhat greater due to the need to transport it at elevated temperatures. None of the parties have argued that the two forms should be treated as separate like products, although respondents have pointed out various differences in the products that limit the competition between them.<sup>8</sup>

The Commission has, in the past, dealt with several investigations in which there were both liquid and dry forms of a product. These have included *Sorbitol from France*, Inv. No. 731-TA-44 (Remand), USITC Pub. 1441 (October 1983) (two like products); *Choline Chloride from Canada*, Inv. No 731-TA-155 (Final), USITC Pub. 1595 (October 1984) (one like product, Commissioners Lodwick and Rohr finding two like products); *Dry Aluminum Sulfate from Sweden*, 731-TA-430 (Preliminary), USITC Pub. 2174 (March 1989) (one like product). In those cases in which the Commission, or in the case of *Choline Chloride*, Commissioner Lodwick and myself, found dry and liquid forms of a product to be two separate products, we have done so for several reasons. Principally, we have done so because we found a lack of competition between the two forms. To contrast my determination in *Choline Chloride*, for example, there was a similar distinction as here between large users and smaller users. However, the additional production step to produce dry choline chloride was more significant than that of cooling molten PAN to produce flaked PAN; there were more distinct differences in uses; there were more significant price differences, and the price changes in the two forms were more independent of each other than in the present case.

I have therefore determined that there is a single product like the imported flaked PAN, consisting of both molten and flaked PAN.

## 2. Domestic Industry

I find that the domestic industry consists of all domestic producers of molten and flaked PAN. I note that this includes those domestic producers who produce for captive

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<sup>6</sup> A small quantity of molten PAN was imported from Mexico for test purposes. Report at II-39, Table 16, n.1.

<sup>7</sup> Tr. at 21.

<sup>8</sup> Petition at 71. Respondents' (Mexico) Post-Conference Brief at 2 and 4. Respondents' (Venezuela) Post-Conference Brief at 2-6. Tr. at 143.

consumption and those producers who have imported certain quantities of the allegedly dumped and subsidized PAN.

With respect to those producers who captively consume their production, I am at a loss to understand why the argument has again been raised that such producers are not part of the domestic industry. This argument has been made on numerous occasions before the Commission and the Commission has never, I emphasize never, accepted it.<sup>9</sup> Yes, the Commission does understand that captive producers may be affected differently than merchant producers by imports.<sup>10</sup> But no, that does not mean, nor has it ever meant, that the captive producers are not part of the industry.

With respect to those domestic producers who also imported the allegedly dumped and/or subsidized material during the period of investigation,<sup>11</sup> I note that the imports were made to cover short term shutdowns of the domestic facilities of the two producers.<sup>12</sup> I note as well that the domestic production data from the two importing domestic producers does not include the results of their import operations and that the data is therefore not skewed by their inclusion.<sup>13</sup> I therefore determine that appropriate circumstances do not exist to exclude them from the domestic industry.

### *Condition of the Domestic Industry*

In assessing whether there is a reasonable indication of material injury to a domestic industry by reason of allegedly dumped imports, I have considered "all relevant economic factors which have a bearing on the state of the industry in the United States . . . ."<sup>14</sup> In particular, these include consumption, production, capacity, shipments, inventories, employment, compensation, productivity, and financial performance.<sup>15</sup> No single factor is determinative, and I considered these factors "within the context of the business cycle and

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<sup>9</sup> See, e.g., *Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom*, Inv. Nos. 701-TA-319-332, 334, 336-342, 344, and 347-353 and 731-TA-573-579, 581-592, 594-597, 599-609, and 612-619 (Final), USITC Pub. 2664 at 17 (Aug. 1993) ("*Certain Flat-Rolled Steel*"); *Polyethylene Terephthalate Film, Sheet and Strip from Japan, and the Republic of Korea ("PET Film")*, Inv. Nos. 731-TA-458 and 459 (Final), USITC Pub. 2383 at 19 (May 1991); *Potassium Hydroxide from Canada, Italy and the United Kingdom*, Inv. Nos. 731-TA-542-544 (Preliminary), USITC Pub. 2482 at 9 and 10 (February 1992).

<sup>10</sup> See e.g., *Certain Flat-Rolled Steel*, USITC Pub. 2664 at 15 and 17 (Aug. 1993); *Electrolytic Manganese Dioxide from Greece and Japan*, Inv. Nos. 731-TA-406 and 408 (Final), USITC Pub. 2177 at 9 (April 1989).

<sup>11</sup> Under section 771(4)(B), producers who are related to exporters or importers, or who are themselves importers of allegedly dumped or subsidized merchandise, may be excluded from the domestic industry in appropriate circumstances. Application of the related parties provision is within the Commission's discretion based upon the facts presented in each case. If a company is a related party under section 771(4)(B), the Commission must determine whether "appropriate circumstances" exist for excluding the producer in question from the domestic industry. 19 U.S.C. §1677(4)(B).

<sup>12</sup> Tr. at 82.

<sup>13</sup> While Stepan's financial trends are similar to other domestic producers, Kopper's financial trends indicate a slightly poorer performance than the others. Report at II-32, Table 13.

<sup>14</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>15</sup> 19 U.S.C. § 1677(7)(C)(iii).

conditions of competition that are distinctive to the affected industry."<sup>16</sup> In evaluating the condition of the domestic industry, I looked at the domestic industry as a whole.<sup>17</sup>

Apparent U.S. consumption of PAN, by quantity, fluctuated over the period of investigation, declining slightly more than 7 percent from 1990 to 1991 and rising slightly less than 7 percent from 1991 to 1992. Overall, this meant a decline of less than one percent over the period. A further decline of 1 percent is also evident in a comparison between interim period (January-September) 1992 and interim period (January-September) 1993.<sup>18</sup>

Domestic production of PAN also fluctuated over the period following the same pattern as consumption. Production declined by 4 percent from 1990 to 1992, with a 5 percent decrease between interim periods.<sup>19</sup> Capacity to produce PAN also followed the same pattern as production and consumption with somewhat larger swings. Capacity fell by 11 percent from 1990 to 1991, with an overall decrease of 9 percent over the period of investigation. Unlike the production and consumption data, a moderate increase in production capacity of 3.1 percent is evidenced in the interim periods. Capacity utilization rates for PAN, relatively high throughout the period of investigation, also increased by 5 percentage points from 1990 to 1992, but show a decline of 7 percent in the interim period.

The domestic industry's U.S. shipments of PAN also fluctuated by quantity between years, shadowing the production and consumption patterns. Overall, shipments declined by 3 percent from 1990 to 1992 and by 5 percent from interim period 1992 to interim period 1993.<sup>20</sup> In contrast, the unit value of domestic shipments show a continual rise throughout the period of investigation of over 11 percent. A decline of 3 percent was reported for the interim period.<sup>21</sup> The domestic industry reported significant increases in year-end inventories of PA for the 1990-1992 period and between interim periods.<sup>22</sup> Inventories as a share of U.S. shipments increased slightly from 1990 to 1992 and between interim periods.

Employment in the domestic PAN industry declined significantly from 1990 to 1991, with a slight further decrease later in the period of investigation.<sup>23</sup> Hours worked, total compensation, and hourly total compensation declined by 14 percent, 17 percent, 4 percent, respectively, from 1990 to 1991. While hours worked also declined by 4 percent from 1991 to 1992, total compensation and hourly total compensation increased from 1991 to 1992 and between interim periods. Productivity increased steadily from 1990 to 1992, with a decrease in interim 1993.

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<sup>16</sup> 19 U.S.C. § 1677(7)(C)(iii). Petitioners alleged that there were several factors distinctive to the PA industry such as that PA is a price-sensitive commodity chemical, that there was a consolidation of the industry, and that there was improvement in the U.S. economy, and contended that the Commission should consider this industry within the context of these distinctive business cycle and conditions of competition. Petition at 74 and 75. I reviewed petitioners' factors and determine that they are not conditions of competition distinctive to production of PA, but rather are distinctive to any industry producing a commodity chemical.

<sup>17</sup> See, e.g., *Welded Steel Pipe from Malaysia*, Inv. No. 731-TA-644 (Preliminary), USITC Pub. 2620 at 19-20 and n.79 (Apr. 1993) ("The Commission may take into account the departures from an industry or the unique circumstances of individual companies, but ultimately must assess the condition of the industry as a whole, and not on a company-by-company basis."), citing *Metallverken Nederland B.V. v. United States*, 728 F. Supp. 730, 735 (Ct. Int'l Trade 1989).

<sup>18</sup> Data referred to in this paragraph are summarized in Report at Table 2 unless otherwise noted.

<sup>19</sup> Data referred to in this paragraph are summarized in Report at Table 3 unless otherwise noted. Because the molten PAN production includes that part of production which becomes flake, I consider the molten PAN data on production and capacity to represent the most appropriate data for the PAN industry as a whole.

<sup>20</sup> Data referred to in this paragraph are summarized in Report at Table 2 unless otherwise noted.

<sup>21</sup> Data referred to in this sentence are summarized in Report at Table 4.

<sup>22</sup> Data referred to in this paragraph are summarized in the Report at Table 5.

<sup>23</sup> Data referred to in this paragraph are summarized in the Report at Table 7 unless otherwise noted. BASF, which closed a PA production facility in 1990, was the only producer reporting a reduction in employees over the period of investigation. Report at II-22.



The financial performance indicators for the domestic PAN industry showed steady increases over the period of investigation after an initial weak performance in 1990. The PAN industry experienced a steady increase in net sales from 1990 to 1992, resulting in an overall increase of 8 percent.<sup>24</sup> Cost of good sold declined over 7 percent over the same period. Operating income, which was positive for each year during the period 1990-1992, increased substantially from 1990 to 1991, and continued to increase from 1991 to 1992. The operating income margin (ratio of operating income to net sales) was low for 1990 (1.7 percent) but increased substantially for 1991 and 1992 (11.7 percent and 15.8 percent) and for interim period 1992 and interim period 1993 (14.9 percent and 17.7 percent).

The figures for the interim period are slightly mixed, but also indicate very positive financial performance. While net sales declined, cost of goods sold declined even more and both gross and operating profits increased. The operating income margin also continued to increase.

Research and development expenditures for the domestic PA industry remained relatively constant from 1990 to 1992, with a significant decline between interim periods.<sup>25</sup> Finally, the domestic industry's capital expenditures increased by 21 percent from 1990 to 1992 and then declined between interim periods.<sup>26</sup>

The indicators of this industry's performance are somewhat mixed, but, on the whole, I cannot conclude that they are indicative of an industry currently experiencing material injury. The fluctuations in the production indicators are basically consistent with the changes in consumption. Capacity utilization has remained high, and after an initial decline in 1991, the industry has been adding to its productive capacity. The domestic market share, while declining slightly, remains high. While the employment indicators show some declines, there are also positive indicators in hours worked, compensation, unit labor costs and productivity. The financial indicators are very solid. Despite the production fluctuations the industry has both improved and reached very good levels of performance. On this basis, I must conclude that there is no reasonable indication that the industry is currently experiencing material injury, and I must therefore find that there is no reasonable indication of present material injury.

#### *Threat of Material Injury*

In making my determinations with regard to whether there is a reasonable indication of threat of material injury to a domestic industry, I traditionally engage in a two part analysis. First, I examine the extent to which the indicators of an industry's performance reveal any particular vulnerability to the impact of unfairly traded imports. I then examine the statutorily enumerated threat factors<sup>27</sup> and make a determination whether the pattern of

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<sup>24</sup> Data referred to in this paragraph are summarized in the Report at Table 12 unless otherwise noted.

<sup>25</sup> Report at II-34.

<sup>26</sup> Report at Table 15.

<sup>27</sup> The Act provides that the Commission should consider: (I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement), (II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States, (III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level, (IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise, (V) any substantial increase in inventories of the merchandise in the United States, (VI) the presence of underutilized capacity for producing the merchandise in the exporting country, (VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury, (VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 1671 or 1673 of this title or to final orders under section

(continued...)

imports which emerges presents a threat based upon the vulnerability displayed by the industry.

Further, in these investigations, the Commission is dealing with imports from five countries. While I do not engage in formal cumulation in my threat analysis, in appropriate circumstances, I do consider the presence of other unfairly traded imports to be an important factor in my analysis. In general, the factors relevant to traditional cumulation are relevant to my consideration of whether appropriate circumstances exist for my informal cumulation.<sup>27</sup>

### 1. Vulnerability.

In my analysis of the condition of the domestic industry, I noted the mixed nature of certain of the domestic industries performance indicators. I also noted that many of the downturns occurred in the interim 1993 period as compared to interim 1992. Capacity utilization was down for the first time as was the unit value of domestic shipments. Market share declined. Inventories were up. The number of workers continued to decline and productivity declined for the first time, while the unit cost of labor increased slightly. Net sales declined for the first time, and investment was down. I also note that the upturn in the production indicators in 1992 was somewhat less than the upturn in consumption at that time.

The indicators point to a certain degree of vulnerability to the effects of imports. There are also, of course, contrary indicators such as the increase in capacity, the increase in hours worked and most particularly the increase in operating income and operating income margin. Thus, while there is some degree of vulnerability I cannot conclude that this is an industry on the verge of material injury.

### 2. Consideration of Other Unfair Imports in Individual Threat Determinations

PAN is a commodity chemical and is relatively fungible. While there is a limited amount of anecdotal evidence to suggest some quality differences between the imports and domestic product, the degree of these differences is not at all clear from the amount of evidence currently before the Commission. Similarly, there is some evidence that there are limits to the substitutability of flake and molten PAN. It does not appear, however, from the data currently available to the Commission that any such limits are intrinsic to the products. Rather, it is suggested that users who, in the past, invested not inconsiderable amounts of capital in the facilities to handle molten PAN have an economic interest in not idling these facilities. It is not clear to me that this is a significant limitation on substitution given the limited price difference between the two forms of PAN.

With respect to the individual countries, I note that imports from Brazil, Hungary and Israel are all at levels that I consider to be negligible. While all have been increasing over

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<sup>27</sup> (...continued)

1671e or 1673e of this title, are also used to produce the merchandise under investigation . . . (X) at actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product. 19 U.S.C. §1677(7)(F)(i). The Court of International Trade has stated that while the Commission must consider each of the statutory threat factors, it need not discuss each of them. *Citrosuco Paulista* at 1094; *Asocoflores* at 1073.

<sup>28</sup> See *Torrington v. United States*, 790 F. Supp. at 1172 (affirming Commission's determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); *Metallwerken Nederland B.V. v. United States*, 728 F. Supp. 730, 741-42 (Ct. Int'l Trade 1989); *Asocoflores*, 704 F. Supp. 1068, 1072 (Ct. Int'l Trade 1988). While the negligibility of the imports is not an absolute bar to my informal cumulation for threat purposes, as I indicated in my decision in the steel investigations, the issue in such cases is whether the imports which are currently negligible are likely to rise within a reasonably imminent time frame to the level at which I would have cumulated them for purposes of a present injury determination. See *Certain Flat-Rolled Steel*, USITC Pub. 2664.

the period of investigation none are near or likely to rise within a reasonably imminent time frame to a level at which I would have cumulated them for a present injury determination.<sup>29</sup> I therefore decline to take into consideration the presence of the other allegedly unfair imports in making a determination as to these three countries.

With respect to Mexico and Venezuela, I cannot conclude that the imports of either are at negligible levels. Both increased substantially over the period of investigation; the United States is a significant market of increasing importance to both; both undersold the domestic product by similar amounts; both were simultaneously present in the market and were not geographically segregated.<sup>30</sup>

I therefore conclude it is appropriate to consider the presence of the other's allegedly unfair imports in making my threat determinations.

3. *Reasonable Indication of a Real threat of Imminent Injury from Imports from Mexico and Venezuela*

**Mexico**

Mexican imports have been present in the United States throughout the period of investigation. Beginning at a small but significant level in 1990, they more than doubled by 1992, and interim 1993 data show imports more than double interim 1992 and, in fact, significantly higher than full year 1992.<sup>31</sup> Market shares based on import shipment show the same trend. From an initial 0.9 percent of the market, Mexican shipments increased to 2.3 percent of the market, and, in the interim period of 1993, such shipments accounted for over 4 percent of the U.S. market. A small amount of Mexican product is being held in inventories.<sup>32</sup> There are no other significant export markets for Mexican PAN and the Mexican home market shows dramatic declines in interim 1993. The Mexican product undersold the domestic product in all fifteen price comparisons in the Commission's data.<sup>33</sup>

I note that at the close of the Commission's preliminary investigation, evidence was submitted that indicated that one Mexican producer intends to shut down its plant producing PAN. This matter was discussed in open session at the Commission's vote in this investigation.<sup>34</sup> Due to its lateness, the Commission has limited information about this potential closure of the Mexican facility. If our investigation had continued, we would have learned more about it and its effect on the level of shipments to the United States and on the price of those shipments in the market. As it is, I cannot say that at the present time I am able to put enough weight on this information to project with any reasonable degree of certainty anything about the level or price of Mexican shipments in the future.<sup>35</sup> For this reason alone, I would be compelled, under the standard of *American Lamb*, to make an affirmative determination.

Looking at the combined impact of Mexican and Venezuelan imports as another adverse trend affecting the domestic industry, I note that the two countries' market share rose from 1.7 percent of the market in 1990 to 3.9 percent of the market in 1992 and, in interim

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<sup>29</sup> Report at Table 18 and Table 19.

<sup>30</sup> Report at Tables 18 and 19; Report at II-54; Tr. at 110 and 112.

<sup>31</sup> Data referred to in this paragraph are summarized in the Report at Tables 18 and 19 unless otherwise noted.

<sup>32</sup> Report at Table 16.

<sup>33</sup> Report at Table 23.

<sup>34</sup> Commission's Briefing and Vote, Tr. at 4-6.

<sup>35</sup> I note that information about the nature of the Mexican subsidy programs would have been available to the Commission following a Commerce preliminary determination had the Commission made an affirmative determination in this preliminary investigation.

1993, had gained almost 6 percent of the total U.S. market.<sup>36</sup> While the Mexican imports rose at a faster pace than those of Venezuela, both were substantial.

I therefore make an affirmative determination with respect to Mexico. I conclude that there is a reasonable indication that Mexican imports pose a real threat of imminent material injury to the domestic PAN industry.

### Venezuela

Imports from Venezuela more than doubled over the period of investigation.<sup>37</sup> By 1992, they had reached a market share of over 1.6 percent and continued to rise during the interim period. Capacity utilization was high, but there was also evidence of new capacity coming on line whose effects are not yet reflected in our data.<sup>38</sup> There were small but growing inventories of Venezuelan product being held in the United States.<sup>39</sup> The Venezuelan product also undersold the domestic product throughout the period of investigation.<sup>40</sup> Home market shipments showed little growth over the period of investigation. Exports to third market also did not grow until the interim 1993 period. Additional information about such 1993 exports should be available in any final investigation.

The data over the period for Venezuelan imports provides a reasonable indication of a threat of material injury. This conclusion is reinforced when the Venezuelan imports are considered in conjunction with similar increases in Mexican imports over the same time. At the same time, the Commission does not possess sufficient information about the 1993 Venezuelan data, particularly the changes in historic shipment patterns, the alleged subsidies, and the new increase in Venezuelan capacity for me to conclude that such imports do not pose a threat. I therefore make an affirmative determination. I conclude that there is a reasonable indication that imports from Venezuela pose a real threat of imminent material injury to the domestic PAN industry.

#### 4. *No reasonable indication of Threat of Material Injury from Imports from Brazil, Hungary and Israel*

### Brazil

Brazilian imports were not present in the U.S. market at the beginning of the period of investigation.<sup>41</sup> In 1992, the import level was small and import shipments accounted for only 0.3 percent of the U.S. market. Imports and import market share declined in the interim 1993 period. There was capacity to produce additional product in Brazil.<sup>42</sup> Inventories of the Brazilian product are not substantial.<sup>43</sup> There appear to be no other substantial export markets other than the United States for Brazilian flake, but the Brazilian domestic market was large and growing. Brazilian flake undersold domestically produced flake in all periods.<sup>44</sup> I cannot conclude however that this underselling is having an impact on overall prices of PAN in the U.S. market.

<sup>36</sup> Report at Table 19.

<sup>37</sup> Data referred to in this paragraph are summarized in the Report at Tables 18 and 19 unless otherwise noted.

<sup>38</sup> Report at Table 17.

<sup>39</sup> Report at Table 16.

<sup>40</sup> Report at Table 24.

<sup>41</sup> Data referred to in this paragraph are summarized in the Report at Tables 18 and 19 unless otherwise noted.

<sup>42</sup> Report at Table 17.

<sup>43</sup> Report at Table 16.

<sup>44</sup> Report at Table 20.

I therefore make a negative determination with respect to such imports. I conclude there is no reasonable indication that Brazilian imports pose a real threat of imminent material injury to the domestic industry.

### Hungary

Hungarian import levels were even smaller than the Brazilian import levels.<sup>45</sup> Hungarian imports entered the United States only in 1992 and in the interim 1993 period. Their market shares were infinitesimal. While there was evidence of underselling, there was no evidence that this underselling was having an effect on the overall market price of PAN.<sup>46</sup> Hungary has large and growing export markets and a significant home market. There are no significant inventories of Hungarian material.<sup>47</sup> Again, because of the negligible volume of Hungarian PAN entering the United States, I do not believe it appropriate to consider the presence of other allegedly unfair imports in assessing the threat posed by such imports.

I therefore make a negative determination. I conclude that there is no reasonable indication that Hungarian imports pose a real threat of imminent material injury to the domestic industry.

### Israel

Israeli imports were present in the United States in 1990 and 1992 and in interim 1993.<sup>48</sup> Yearly imports were very small, while the interim 1993 totals were larger but still quite small. Market shares were infinitesimal from 1990-1992, while even in the interim period they are only slightly more than 0.5 percent of the U.S. market. The Israeli home market and other exports markets are more significant than the U.S. market. Our limited data show consistent underselling.<sup>49</sup> Inventories of Israeli material are not significant.<sup>50</sup> As was the case with Hungary and Brazil, I find that the volumes of Israeli imports are too small to be cumulatively or jointly assessed with other allegedly unfairly traded material. I therefore make a negative determination. I conclude that there is no reasonable indication that the allegedly unfair Israeli imports posed a reasonable indication of a real threat of imminent material injury to the domestic PAN industry.

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<sup>45</sup> Data referred to in this paragraph are summarized in the Report at Tables 18 and 19 unless otherwise noted.

<sup>46</sup> Report at Table 21.

<sup>47</sup> Report at Table 16.

<sup>48</sup> Data referred to in this paragraph are summarized in the Report at Tables 18 and 19 unless otherwise noted.

<sup>49</sup> Report at Table 22.

<sup>50</sup> Report at Table 16.

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## VIEWS OF COMMISSIONER BRUNSDALE AND COMMISSIONER CRAWFORD<sup>1</sup>

### I. NO REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV AND SUBSIDIZED IMPORTS

#### A. Cumulation

In determining whether there is a reasonable indication of material injury by reason of allegedly LTFV and subsidized imports, the Commission is required to cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports compete with each other and with the domestic like product in the United States market.<sup>2</sup> Cumulation is not required if imports from a subject country are negligible and have no discernable adverse impact on the domestic industry.<sup>3</sup>

We considered two cumulation issues in determining whether there is a reasonable indication of material injury by reason of allegedly LTFV and subsidized imports. First, we considered whether subject PA from Brazil, Hungary, Mexico and Venezuela compete with the domestic like product and with each other and whether any of the imports from these countries are negligible and should be excluded from cumulation. Second, we considered whether the domestic industry is materially injured by reason of allegedly LTFV and subsidized imports from Israel, and, if not, whether they should be excluded as negligible under the U.S-Israel Free Trade Agreement provision added to the cumulation provision in the 1988 Trade Act.<sup>4</sup>

#### 1. The Competition Requirement

In assessing whether imports compete with each other and with the domestic like product, only a "reasonable overlap" of competition is required, and the Commission need not find that "all imports compete with all other imports and all domestic like products."<sup>5</sup>

The PA market is dominated by molten PA, and there is little direct competition between molten PA and flake PA because, as discussed below, they are not close economic substitutes. With a small exception, subject imports consist entirely of flake PA, and therefore only compete indirectly with domestic molten PA. However, all imported and domestic flake PA are fairly good substitutes, and therefore compete directly with each other. For purposes of these preliminary investigations, we find that the indirect competition between subject imports of flake PA and domestic molten PA and the direct competition between subject imports of flake PA and domestic flake PA constitute a reasonable overlap of competition.

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<sup>1</sup> See Views of the Chairman Newquist, Vice Chairman Watson, Commissioner Brunsdale, Commissioner Crawford, and Commissioner Nuzum for a joint discussion of the issues of Legal Standard for Preliminary Investigations, Like Product, Domestic Industry and Condition of the Industry.

<sup>2</sup> 19 U.S.C. § 1677(7)(C)(iv); Chaparral Steel Co. v. United States, 901 F.2d 1097, 1105 (Fed. Cir. 1990).

<sup>3</sup> 19 U.S.C. § 1677(7)(C)(v).

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

<sup>5</sup> See Wieland Werke, AG v. United States, 718 F.Supp. 50-52 (Ct. Int'l Trade 1989) ("Completely overlapping markets are not required."); Granges Metallverken AB v. United States, 716 F.Supp. 17, 21, 22 (Ct. Int'l Trade 1989) ("The Commission need not track each sale of individual sub-products and their counterparts to show that all imports compete with all other imports and all domestic like products...the Commission need only find evidence of reasonable overlap in competition"); Florex v. United States, 705 F.Supp. 582, 592 (Ct. Int'l Trade 1989) ("[c]ompletely overlapping markets is [sic] not required.")

## 2. The Negligible Imports Exception

Cumulation is not required for imports of the merchandise subject to investigation if they "are negligible and have no discernable adverse impact on the domestic industry."<sup>6</sup> In making this determination, the statute directs us to consider all relevant economic factors regarding the imports including, but not limited to, whether:

- (I) the volume and market share of the imports are negligible,
- (II) sales transactions involving the imports are isolated and sporadic, and
- (III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.<sup>7</sup>

All factors need not be present for imports to be considered negligible.<sup>8</sup>

We first considered whether the volume and market share of the subject imports from a country are negligible. The Commission has never established a numerical benchmark defining whether imports are negligible.<sup>9</sup>

The second and third statutory factors are whether the sales of the imports are isolated and sporadic,<sup>10</sup> and whether the market for the product is price sensitive.<sup>11</sup> Imports that are not isolated and sporadic may still be negligible.<sup>12</sup> In addition, the Commission has applied the exception notwithstanding the price sensitive nature of the market.<sup>13</sup>

All countries in this investigation<sup>14</sup> have relatively low market penetration for at least part of the period of investigation, and therefore were considered for exclusion from cumulation under the negligible imports exception. Mexican and Venezuelan respondents

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<sup>6</sup> 19 U.S.C. § 1677(7)(C)(v).

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

<sup>8</sup> Torrington v. United States, 790 F. Supp. at 1171.

<sup>9</sup> The House Ways and Means Committee Report emphasizes that whether a particular volume of imports is negligible may differ from industry to industry and for that reason the statute does not provide a specific numerical definition of negligibility. H.R. Rep. No. 40, Part 1, 100th Cong., 1st Sess. 130 (1987) at 131.

<sup>10</sup> See Circular Steel Pipes and Tubes, (Preliminary), USITC Pub. 2454 at 24 (November 1991) (imports with market share of less than one percent were cumulated in part due to the fact that imports had not been isolated nor sporadic); Groundwood Paper (Preliminary), USITC Pub. 2359 at 32-35 (noting that Belgian imports, found not to be negligible, "had a steady presence in the market;" by contrast, Austrian and Dutch imports, which were found to be negligible, were distributed only on a spot market basis, unlike the domestic product and other imports); PET Film, USITC Pub. 2292 at 20 (noting isolated and sporadic nature of imports as factor in suggesting negligibility).

<sup>11</sup> See Certain Flat-Rolled Steel, USITC Pub. 2664 at 32 (August 1993); Circular Steel Pipes and Tubes, (Final), USITC Pub. 2564 at 27-32 (October 1992) (found that the domestic market is to some degree price sensitive); Coated Groundwood Paper, (Preliminary, USITC Pub. 2359 at 28 (February 1991) (noting considerable price sensitivity of domestic market).

<sup>12</sup> Torrington, 790 F. Supp. at 1171, *aff'd* 991 F.2d 809 (Fed. Cir. 1993).

<sup>13</sup> Certain Flat-Rolled Steel, USITC Pub. 2664 at 32 (August 1993).

<sup>14</sup> See *infra* for a discussion regarding the issue of cumulation for Israel.



specifically argued that imports from each of these countries are negligible and should not be cumulated.<sup>15</sup>

At the outset, we discuss whether the U.S. market for PA is price sensitive. The fact that approximately one half of the domestic like product is captively consumed limits the price sensitivity of the market because these products do not compete directly on the basis of price in the open market. In addition, although domestic capacity utilization is relatively high, available capacity exists to supply that portion of domestic consumption accounted for by subject imports. Commissioner Brunsdale finds that the market is not so price sensitive that the small quantities of imports we are considering in the cases of Brazil, Hungary, and Israel could result in price suppression or depression. While these facts limit the price sensitivity of the domestic PA market, for purposes of these preliminary investigations Commissioner Crawford gives petitioners the benefit of the doubt and finds that the domestic PA market is somewhat price sensitive.<sup>16</sup>

a. Mexico and Venezuela

Although the individual market shares of imports from Mexico and Venezuela are quite small, the market shares are larger than the level that the Commission historically has found negligible. Therefore, for purposes of these preliminary investigations we find that imports from Mexico and Venezuela are not negligible and cumulate these imports for our analysis of whether there is a reasonable indication of material injury by reason of subject imports.

b. Brazil and Hungary

We determine that imports from Brazil and Hungary are negligible because the market shares are extremely small.<sup>17</sup> There were no Brazilian imports in 1990, and the largest market share was 0.3 percent in 1992. Similarly, there were no imports of PA from Hungary until 1992, and the largest market share was less than 0.1 percent.<sup>18</sup> These minuscule market shares are too small to have any adverse impact on the domestic industry, particularly here, where Brazilian and Hungarian imports are not close substitutes for the vast majority of the domestic like product. Therefore, we do not cumulate imports from Brazil and Hungary with other imports subject to investigation.

c. Israel

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<sup>15</sup> Respondent's (Mexico) Postconference Brief at 2; Respondent's (Venezuela) Postconference Brief, appended Economic Submission at 12.

<sup>16</sup> It is not possible to make firm findings that substitutes for PA are available in the market or that the cost of PA is a small portion of the total cost of the downstream products, both of which further would limit the price sensitivity of the market.

<sup>17</sup> Report at II-47 and II-48, Table 19. The market share by quantity and by value of Brazilian PA was 0.1 percent in 1991, 0.3 percent in 1992, and 0.2 percent in interim period 1993. Shipments of Brazilian imports to the U.S. were small throughout the period of investigation. They increased in quantity from 1991 to 1992, and but declined between interim periods. Report at C-6, Table C-3.

<sup>18</sup> Report at II-47 and II-48, Table 19. The market share by quantity and by value of PA imports for 1992 was less than 0.1 percent and was 0.1 percent for interim period 1993. U.S. shipments of imports from Hungary were extremely small during the period of investigation. Report at C-6, Table C-3.

<sup>19</sup> Report at II-47 and II-48, Table 19.

As amended by the 1988 Omnibus Trade and Competitiveness Act ("the 1988 Act"), title VII contains a special provision for determining whether imports from Israel should be subject to the statute's cumulation requirements. Israel is the only country to which this clause is applicable. Specifically, section 1677(7)(C)(v) provides that, for the purposes of the negligible imports clause for material injury determinations and certain aspects of threat determinations:

the Commission may treat as negligible and having no discernable adverse impact on the domestic industry imports that are the product of any country that is a party to a free trade area agreement with the United States which entered into force and effect before January 1, 1987, if the Commission determines that the domestic industry is not being materially injured by reason of such imports.<sup>20</sup>

The Commission applied this provision in one previous investigation.<sup>21</sup> There are two aspects of the Israel exception that are plain from the statutory language: (1) in deciding whether to cumulate imports from Israel, the Commission must make an independent injury determination with respect to those imports; and (2) if the Commission makes a negative injury determination with respect to these imports, the decision whether to cumulate is discretionary with the Commission.<sup>22</sup>

We determine that there is no material injury to the domestic PA industry by reason of the allegedly LTFV and subsidized imports from Israel. We considered the statutory factors regarding material injury to the domestic industry by reason of allegedly LTFV and subsidized imports, as discussed below, separately for Israel.

i. Volume of PA Imports

The volume and market share of PA imports from Israel were extremely small. Israeli imports accounted for 0.1 percent of the domestic market in terms of quantity and

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<sup>20</sup>19 U.S.C. § 1677(7)(C)(v). Thus, this statutory provision is an explicit exception to the general principle, enunciated in Certain Flat-Rolled Steel, that "it is not true that imports that are to be cumulated must first each cause material injury." USITC Pub. 2664 at 29.

<sup>21</sup> This provision was considered by the Commission in the first investigation which involved Israel after the 1988 Trade Act, Steel Wire Rope from Argentina, Chile, India, Israel, Mexico, the People's Republic of China, Taiwan, and Thailand, Inv. Nos. 701-TA-305 and 306, and 731-TA-476-482 (Preliminary), USITC Pub. 2343 at 20-22 (December 1990) (Commission considered the exception and exercised its discretion not to cumulate Israel imports with imports from the other subject countries for assessing the threat of material injury by reason of the Israeli imports. The Commission noted that Israeli imports had accounted for an insignificant share of apparent domestic consumption throughout the period of investigation, market share had declined between interim periods, imports had remained stable, and there were no lost sales allegations which involved imports from Israel.)

<sup>22</sup> In Steel Wire Rope, the Commission considered whether a one or two-part test was required for the purposes of addressing cumulation of Israeli imports i.e., if the Commission finds "no material injury by reason of such imports," whether it must then make a second distinct determination as to whether these imports are "negligible and having no discernable adverse impact." The Commission determined that the statute does not require such a two-part test and did not apply it in that case. Steel Wire Rope from Argentina, Chile, India, Israel, Mexico, the People's Republic of China, Taiwan, and Thailand, Inv. Nos. 701-TA-305 and 306, and 731-TA-476-482 (Preliminary), USITC Pub. 2343 at 22, n.62 (December 1990).

value in 1992,<sup>23</sup> while domestic producers held about 95 percent of the market in terms of quantity and value in 1992. The highest market share attained by the Israeli imports during the period of investigation was 0.7 percent in interim period 1993.<sup>24</sup> Given the condition of the industry and the nature of the market, we do not find this minimal volume of imports to be significant.

In analyzing the effect of this small volume of imports on domestic prices of the like product and on the domestic industry, we will give petitioners benefit of the doubt and assume that the products are close substitutes and that the Israeli product would not have been sold in the U.S. market if these imports had been fairly traded.

ii. Effect of PA Imports on Domestic Prices

Given the extremely small market share held by Israeli PA imports, there is simply no reason to believe that domestic prices would have increased had these imports been fairly traded. With excess capacity available, U.S. producers surely would have been able to supply the small amount of increased flake demand if Israeli imports were not sold in the U.S. market. Furthermore, substantial evidence in the lost sales investigation shows that domestic firms compete vigorously on the basis of price. There is no evidence that this price competition would be curtailed if Israeli imports were no longer in the market. Thus, allegedly LTFV and subsidized imports from Israel are unlikely to have suppressed or depressed domestic prices.

iii. Impact on the Domestic PA Industry

We find no evidence in the record demonstrating that the extremely small level of Israeli imports has materially injured the domestic PA industry. Even if domestic firms increased their sales by the entire amount of the Israeli imports, domestic sales would not have increased significantly. Further, domestic prices are unlikely to have increased. We note that material injury is even less likely to have occurred in light of the positive industry indicators discussed in the section on condition of the domestic industry.

We determine, therefore, that there is no reasonable indication that the domestic industry is materially injured by reason of allegedly LTFV and subsidized imports of PA from Israel. Thus, we treat these imports as negligible and having no discernable adverse impact on the domestic industry. Therefore, we do not cumulate imports from Israel with other subject imports.

B. No Reasonable Indication of Material Injury by Reason of Allegedly LTFV and Subsidized Imports

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

(I) the volume of imports of the merchandise which is the subject of the investigation,

(II) the effect of imports of that merchandise on prices in the United States for like products, and

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<sup>23</sup> Data referred to in this paragraph are summarized in Report at II-47 and II-48, Table 19, unless otherwise noted.

<sup>24</sup> Report at C-6, Table C-3.

(III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States . .

In assessing the effect of allegedly LTFV and subsidized imports, we compare the current condition of the domestic industry to that which would have existed had imports not been dumped and subsidized.<sup>25</sup> Then, taking into account the condition of the industry, we determine whether the resulting change of circumstances constitutes material injury. For the reasons discussed below, we find that there is no reasonable indication that the domestic PA industry is materially injured by reason of allegedly LTFV and subsidized imports from Brazil, Hungary, Israel, Mexico, and Venezuela.

### 1. Industry Background

In this case the domestic like product consists of two forms of PA, molten and flake. Molten PA makes up 87-90 percent of the market, while flake accounts for 10-13 percent of the market. With one small exception, only flake PA is imported.

As discussed at length above, substitutability between molten PA and flake PA is limited in a practical sense. Large producers have special facilities for molten PA and find it much cheaper to use the molten product. They do, however, keep some flake on hand for emergencies, if their equipment fails. Specifically, importers and purchasers maintained that large-volume molten PA customers would not switch to flake due to: (1) lack of speed and efficiency (it "takes considerable time to manually unload the bags"); (2) product exposure to workers and to the environment; (3) disposal costs of the containers; (4) poorer quality resins; and (5) capital investment to handle large quantities of flake (hoppers, silos, etc.).<sup>27</sup> U.S. producers also noted factors such as additional handling, increased energy costs to heat flake, disposal of containers, and possible costs to modify or purchase equipment to handle flake, that limit substitutability.<sup>28</sup>

As a result, competition between subject imports and the vast majority of the domestic like product is severely limited. Based on discussions with purchasers, the evidence indicates that less than 10 percent of U.S. producers' commercial molten sales are subject to such a switchover, due to specific customer requirements.<sup>29</sup>

Smaller end users often must use flake exclusively. While substitutability between imported and domestic flake is more direct, there were reports of quality problems with some

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<sup>25</sup> 19 U.S.C. § 1677(7)(B)(i).

<sup>26</sup> See 19 U.S.C. § 1677(7)(C)(iii).

<sup>27</sup> Respondent (Importers/Purchasers) Postconference Brief, Attachment 1. The Mexican respondents said that "although flake PA competes with molten, it does so at a severe competitive disadvantage due to intrinsic disadvantages of the flake form that add to the cost of the end user and which require a discount in price to find a market." Respondent (Mexico) Postconference Brief at 4; Tr. at 80. The Venezuelan respondent stated that "different handling and processing requirements necessitated by the use of the two forms have significant economic consequences for the customer" since the molten PA is hard to handle, corrosive, solidifies at 240 degrees Fahrenheit, and requires expensive equipment to use. Respondent (Venezuela) Postconference Brief at 4.

<sup>28</sup> Report at II-49 and II-50.

<sup>29</sup> Report at II-50; Respondent's (Importers/Purchasers) Postconference Brief, Attachment 1.

sources of the imported flake PA.<sup>30</sup> In 1992, 43 percent of domestic output of PA was captively consumed by U.S. producers.<sup>31</sup> Some U.S. producers have indicated that they would not switch their use of captive molten PA to flake PA.<sup>32</sup> Even if they did, it is highly unlikely that they would purchase the subject imports.

## **2. Mexico and Venezuela**

### **a. Volume of Cumulated PA Imports**

The volume and market share of cumulated PA imports from Mexico and Venezuela were small. Subject imports accounted for 3.9 percent of the domestic market in terms of quantity and 4.2 percent in terms of value in 1992.<sup>33</sup> The highest market share attained by the cumulated imports during the period of investigation was 5.9 percent by quantity and 5.5 percent by value in interim period 1993. Domestic producers held about 95 percent of the market in terms of quantity and value in 1992. While it is clear that the smaller the volume of allegedly LTFV and subsidized imports, the smaller the effect they will have on the domestic industry, a determination of whether the volume is significant must consider other factors. Given the condition of the domestic industry and the nature of the market, we do not find the volume of cumulated imports to be significant.

### **b. Effect of Cumulated PA Imports on Domestic Prices**

As detailed above, subject imports are not generally a close substitute for the domestic like product. A large quantity of PA is captively consumed by U.S. producers, large purchasers have a clear preference for PA in its molten form, which cannot be imported feasibly, and there is some evidence that imported flake is of inferior quality.

Our investigation revealed that there is intense price competition among domestic firms.<sup>34</sup> In many instances when producers reported sales lost to and price competition from imports, they were mistaken. In fact, the sales were lost to another domestic firm offering a low price. In this atmosphere of individual private price negotiations between buyers and sellers, and intense competition among domestic firms, we find that price suppression, if any, by subject imports accounting for less than 6 percent of the market is not significant.

In addition, given the substantial excess capacity in the conversion of domestic molten to domestic flake, the increasing productivity in domestic production, and the relatively small increase in demand for all domestic PA that would have resulted if allegedly LTFV and subsidized imports had been fairly traded, subject imports are unlikely to have suppressed domestic prices.

### **c. Impact on the Domestic PA Industry**

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<sup>30</sup> Report at II-6, II-49 and II-50. Information from producers, importers, and a limited number of purchasers was mixed regarding any quality differences between imported and domestic flake PA. *Id.*

<sup>31</sup> Report at Table 4.

<sup>32</sup> Tr. at 36 and 37.

<sup>33</sup> Data referred to in this paragraph are summarized in Report at C-6 and C-7, Table C-3 unless otherwise noted. The market share held by cumulated PA imports by quantity was 1.7 percent in 1990, 2.4 percent in 1991, 3.9 percent in 1992, 3.3 percent in interim period 1992, and 5.9 percent in interim period 1993. The market share held by cumulated PA in terms of value was similar.

<sup>34</sup> See Report at I 60-63.

We do not find any evidence in the record demonstrating that the small level of cumulated imports had an adverse impact on the domestic PA industry. For the reasons discussed above, we find that if imports had been fairly traded, neither the domestic volume of sales nor domestic prices would have increased significantly. Particularly, in light of the condition of the industry during the period of investigation, we do not find a reasonable indication that the domestic industry would have performed materially better if subject imports had not been dumped or subsidized.

We conclude, therefore, that there is no reasonable indication that the domestic industry is materially injured by reason of cumulated allegedly LTFV and subsidized imports of PA from Mexico and Venezuela.

### **3. Brazil**

#### **a. Volume of PA Imports**

As discussed above in the cumulation section, the volume and market share of PA imports from Brazil were extremely small. There were no Brazilian imports in 1990. They accounted for 0.1 percent of the market in both quantity and value terms in 1991, rose to 0.3 percent in 1992, and declined to 0.2 percent in the interim period.<sup>35</sup> In contrast, domestic producers held about 95 percent of the market in terms of quantity and value in 1992.<sup>36</sup>

#### **b. Effect of PA Imports on Domestic Prices**

In analyzing the effect of this small volume of imports on domestic prices of the like product, we give petitioners the benefit of the doubt and assume that the products are close substitutes and that the Brazilian product would not have been sold in the U.S. market if these imports were fairly traded.

Given the extremely small market share held by Brazilian PA imports, there is simply no reason to believe that domestic prices would have increased had these imports been fairly traded. With excess capacity available, U.S. producers surely would have been able to supply the small amount of increased flake demand if Brazilian imports were not sold in the U.S. market. Furthermore, substantial evidence in the lost sales investigation shows that domestic firms compete vigorously on the basis of price, and there is no evidence that this price competition would be curtailed if Brazilian imports were no longer in the market. Thus, allegedly dumped imports from Brazil are unlikely to have suppressed or depressed domestic prices.

#### **c. Impact on the Domestic PA Industry**

We find no evidence in the record demonstrating that the extremely small level of Brazilian imports has materially injured the domestic PA industry. Even if domestic firms increased their sales by the entire amount of the Brazilian imports, domestic sales would not have increased significantly. Further, domestic prices are unlikely to have increased. We note that material injury is even less likely to have occurred in light of the positive industry indicators discussed in the section on condition of the domestic industry.

We conclude, therefore, that there is no reasonable indication that the domestic industry is materially injured by reason of allegedly LTFV imports of PA from Brazil.

### **4. Hungary**

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<sup>35</sup> Data referred to in this paragraph are summarized in Report at II-47 and II-48, Table 19, unless otherwise noted.

<sup>36</sup> Report at C-6, Table C-3.

a. Volume of PA Imports

As discussed above in the cumulation section, the volume and market share of PA imports from Hungary were extremely small. The highest market share attained by the Hungarian imports during the period of investigation was 0.1 percent in interim period 1993. Hungarian imports accounted for less than 0.1 percent of the domestic market in terms of quantity and value from 1990-1992.<sup>37</sup> Domestic producers held about 95 percent of the market in terms of quantity and value in 1992.

b. Effect of PA Imports on Domestic Prices

In analyzing the effect of this extremely small volume of imports on domestic prices of the like product, we give petitioners the benefit of the doubt and assume that the products are close substitutes and that the fairly traded Hungarian product would not have been sold in the U.S. market.

Given the extremely small market share held by Hungarian imports, there is simply no reason to believe that domestic prices would have increased had these imports been fairly traded. With excess capacity available, U.S. producers would surely have been able to supply the small amount of increased flake demand if Hungarian imports were not sold in the domestic market. Furthermore, as detailed above, substantial evidence in our lost sales investigation shows that domestic firms compete vigorously on the basis of price, and there is no evidence that this price competition would be curtailed if Hungarian imports were no longer in the market. Thus, allegedly dumped imports from Hungary are unlikely to have suppressed or depressed domestic prices.

c. Impact on the Domestic PA Industry

We do not find any evidence in the record to demonstrate that the extremely small level of Hungarian imports in a limited period has had an adverse impact on the domestic PA industry. Even if U.S. producers captured all Hungarian sales, their own sales would barely increase. In addition, we have found no evidence that prices would increase if imports had been fairly traded.

We conclude, therefore, that there is no reasonable indication that the domestic industry is materially injured by reason of allegedly dumped imports of PA from Hungary.

**II. NO REASONABLE INDICATION OF THREAT OF MATERIAL INJURY TO THE DOMESTIC PA INDUSTRY BY REASON OF ALLEGEDLY LTFV AND SUBSIDIZED IMPORTS**

We further determine that there is no reasonable indication of threat of material injury to the domestic industry by reason of allegedly LTFV and subsidized imports of PA

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<sup>37</sup> Data referred to in this paragraph are summarized in Report at II-47 and II-48, Table 19, unless otherwise noted.

from Brazil, Hungary, Israel, Mexico, and Venezuela.<sup>38</sup> We have considered all the statutory factors that are relevant to this investigation.<sup>39</sup>

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<sup>38</sup> Under the statute, the Commission is required to consider the following criteria.

(I) if a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement.

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

(V) any substantial increase in inventories of the merchandise in the United States,

(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

(VII) any other demonstrable adverse trends that indicate probability that importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,

(VIII) the potential for product shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 1671 or 1673 of this title or to final orders under section 1671e or 1673e of this title, are also used to produce the merchandise under investigation,

(IX) in any investigation under this title which involves imports of both raw agricultural product (within the meaning of paragraph (4)(E)(iv) and any product processed from such raw agricultural product, the likelihood there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.

19 U.S.C. § 1677(7)(F)(i), as amended by 1988 Act sections 1326(b), 1329.

In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry. See 19 U.S.C. section 1677(7)(F)(iii), as amended by 1988 Act section 1329.

<sup>39</sup> Several statutory threat factors have no relevance to these investigations and need not be discussed. The Brazil and Hungary antidumping investigations do not involve subsidies,  
(continued...)



The statute directs us to determine whether an industry in the United States is threatened with material injury by reason of imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent." Our decision "may not be made on the basis of mere conjecture or supposition."<sup>40</sup>

**A. Cumulation**

We have considered the statutory factors of competition, negligibility and the Israeli FTA provision. For the same reasons discussed above, we find that imports from Brazil, Hungary and Israel are negligible and have no discernable adverse impact on the domestic industry. Therefore, we do not cumulate imports from Brazil, Hungary and Israel with each other or with other imports.<sup>41</sup> For purposes of these preliminary investigations, we give the petitioners the benefit of the doubt and exercise our discretion to cumulate imports from Mexico and Venezuela.

**B. No Reasonable Indication of Threat of Material Injury by Reason of Allegedly LTFV and Subsidized Imports**

**1. Brazil**

There is no evidence of any increase in production capacity or unused capacity in Brazil likely to result in a significant increase in imports of PA to the United States.<sup>42</sup> Capacity utilization levels of the Brazilian producers were high throughout the period of investigation,<sup>43</sup> and we find no indication of a rapid increase in U.S. market penetration of PA from Brazil. The large percentage increase is a function of the extremely small base. Record evidence supports our conclusion that there is at best a small likelihood that the penetration will increase to an injurious level. The market share held by shipments of Brazilian PA imports to the U.S. never exceeded 0.3 percent of apparent U.S. consumption over the period of investigation, and there is no evidence of record to suggest a reversal of this trend in the immediate future.<sup>44</sup>

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<sup>39</sup>(...continued)

agricultural products, or any potential for product shifting due to other findings or orders under the antidumping or countervailing duty laws, or dumping findings or remedies in third countries. The Mexico and Venezuela antidumping investigations do not involve agricultural products nor any potential for product shifting due to other findings or orders under the antidumping or countervailing duty laws, or dumping findings or remedies in third countries. The Israel antidumping investigation does not involve agricultural products.

<sup>40</sup> 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallwerken Nederland B.V. v. U.S., 744 F.Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire, 8 CIT at 28, 590 F.Supp. at 1280.

<sup>41</sup> We note that there would be no reasonable indication that the domestic industry is threatened with material injury by reason of the dumped and subsidized imports even if we cumulated all countries.

<sup>42</sup> Report, Table 17 at II-40.

<sup>43</sup> Report, Table 17 at II-40.

<sup>44</sup> Report at II-48.

The increased inventories in the United States have dissipated, and the level of inventories in interim 1993 is very small.<sup>45</sup> Therefore, we find that any increase was not substantial. As discussed above, we do not find significant suppressing or depressing effects on domestic prices by the imports entering the United States. There is no indication that the degree of substitutability will change in the immediate future, and therefore that future imports will affect prices adversely in the near future any more than they do now.<sup>46</sup>

There are no "other demonstrable adverse trends" that indicate that imports will be the cause of actual injury, nor are there "actual and potential negative effects on existing development and production efforts of the domestic industry."<sup>47</sup> Based on this evidence, we find no reasonable indication that the domestic industry producing PA is threatened with material injury by reason of the allegedly LTFV imports of PA from Brazil.

## **2. Hungary**

There is no evidence of any increase in production capacity or unused capacity in Hungary likely to result in a significant increase in imports of PA to the United States.<sup>48</sup> Capacity utilization levels of the Hungarian producers were high and increased during the period of investigation.<sup>49</sup> We find no indication of a rapid increase in U.S. market penetration of PA from Hungary, nor is there a likelihood that the penetration will increase to an injurious level. The market share held by shipments of Hungarian PA imports to the U.S. never exceeded 0.1 percent of apparent U.S. consumption over the period of investigation, and there is no evidence of record to suggest a reversal of this trend in the immediate future.<sup>50</sup>

There are no "other demonstrable adverse trends" that indicate that imports will be the cause of actual injury, nor are there "actual and potential negative effects on existing development and production efforts of the domestic industry."<sup>51</sup> Based on this evidence, we find no reasonable indication that the domestic industry producing PA is threatened with material injury by reason of the allegedly LTFV imports of PA from Hungary.

## **3. Israel**

There is no evidence of any increase in production capacity or unused capacity in Israel likely to result in a significant increase in imports of PA to the United States. Capacity utilization levels of the Israeli producer were extremely high throughout the period of investigation.<sup>52</sup> The rapid increase in market penetration of PA from Israel is a function of an extremely small base, and therefore is not a substantial increase. Nor is there a likelihood that the penetration will increase to an injurious level. The market share held by shipments of Israeli PA imports to the U.S. never exceeded 0.7 percent of apparent U.S.

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<sup>45</sup> Report, Table 16 at II-38.

<sup>46</sup> See 19 U.S.C. § 1677(7)(F)(i)(IV).

<sup>47</sup> See 19 U.S.C. §§ 1677(7)(F)(i)(VII) and (X).

<sup>48</sup> Report, Table 17 at II-40.

<sup>49</sup> Report, Table 17 at II-40.

<sup>50</sup> Report at II-48.

<sup>51</sup> See 19 U.S.C. §§ 1677(7)(F)(i)(VII) and (X).

<sup>52</sup> Report, Table 17 at II-40.

consumption over the period of investigation, and there is no evidence of record to suggest that penetration will increase substantially in the immediate future.<sup>53</sup>

The record does not support a finding that there has been a substantial increase in inventories in the United States.<sup>54</sup> As discussed above, we do not find significant suppressing or depressing effects on domestic prices by the imports entering the United States. There is no indication that the degree of substitutability will change in the immediate future, and therefore that future imports will affect prices adversely in the near future any more than they do now.<sup>55</sup>

Commerce has initiated an investigation, but has not made a determination on the alleged Israeli subsidies. Upon review of these alleged subsidies, we are not certain they will be determined by Commerce to be countervailable export subsidies. However, we find that even if they are, they do not constitute sufficient evidence that the threat of material injury is real and that actual injury is imminent, due to the extremely small Israeli share of the U.S. market and the small volume for Israeli imports.

We have considered petitioner's assertion that the Australia antidumping finding against Israel poses a threat of material injury to the domestic PA industry. Since the final Australian decision was reached in early 1992, however, we find that any diversion of Israeli PA to the United States would already have occurred.<sup>56</sup>

There are no "other demonstrable adverse trends" that indicate that imports will be the cause of actual injury, nor are there "actual and potential negative effects on existing development and production efforts of the domestic industry."<sup>57</sup> Based on this evidence, we find no reasonable indication that the domestic industry producing PA is threatened with material injury by reason of the allegedly LTFV and subsidized imports of PA from Israel.

#### 4. Mexico and Venezuela

There is no evidence of any increase in production capacity or unused capacity in Mexico and Venezuela likely to result in a significant increase in imports of PA to the United States.<sup>58</sup> Capacity utilization levels of these foreign producers were extremely high throughout the period of investigation.<sup>59</sup> There is also evidence that capacity will be reduced substantially in the future, when a large Mexican operation shuts down.<sup>60</sup>

The record does not support a finding that there will be any rapid increase in United States market penetration of PA from Mexico and Venezuela, or a likelihood that the

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<sup>53</sup> Report at II-48.

<sup>54</sup> Report at II-38, Table 16. The Israeli producer indicated that it does not maintain inventories in the United States. Tr. at 93.

<sup>55</sup> See 19 U.S.C. § 1677(7)(F)(i)(IV).

<sup>56</sup> The Australian Anti-Dumping Authority completed its final finding inquiry into phthalic anhydride from the Argentine Republic, the Federative Republic of Brazil, Israel, and the Republic of Korea and determined that dumping duties should be imposed on exports of phthalic anhydride from Israel and the Republic of Korea. Australian Anti-Dumping Authority Report, No. 75 (July 1992).

<sup>57</sup> See 19 U.S.C. §§ 1677(7)(F)(i)(VII) and (X).

<sup>58</sup> Report, Table 17 at II-40. In fact, based on recent developments, the evidence indicates that one of three Mexican producers will be closing down its PA facility in early 1994. Commission Briefing and Vote Tr. at 4-6.

<sup>59</sup> Report, Table 17 at II-40.

<sup>60</sup> Commission Briefing and Vote Tr. at 4-6.

penetration will increase to an injurious level.<sup>61</sup> The market share held by shipments of Mexican and Venezuelan PA imports to the U.S. never exceeded 6 percent of apparent U.S. consumption over the period of investigation. Demand for Mexican and Venezuelan PA is limited because it is commercially available only in flake form. It would be mere supposition to suggest that imports will increase rapidly.

For the reasons outlined above, we find subject imports had no significant price suppressing or depressing effects in the domestic market. There is no indication that the degree of substitutability will change in the immediate future, and therefore that future imports will affect prices adversely in the near future any more than they do now.<sup>62</sup> In addition, the increase in inventories is from a very small base, and there is no evidence that this increase poses a threat to the domestic industry.<sup>63</sup>

Commerce has not made a determination on the alleged Mexican and Venezuelan subsidies. Assuming such subsidies are countervailable, they do not constitute sufficient evidence that a threat of material injury is real and that actual injury is imminent due to the relatively small market share and the small volume of imports. In particular, given the robust and improving performance of the domestic industry, we find no evidence that actual injury to the domestic industry is imminent. While one might be able to imagine some scenario in which the domestic industry could be materially injured by the subject imports in the future, it would be based on mere conjecture and supposition. Even in a preliminary investigation, that is not the statutory standard we are instructed to apply.

Based on this evidence, we find that there is no reasonable indication that the domestic industry producing PA is threatened with material injury by reason of the allegedly LTFV and subsidized imports of PA from Mexico and Venezuela.

### III. CONCLUSION

We find that the evidence in the record regarding PA, including the small volume and market share accounted for by subject imports and the profitable condition of the domestic industry, supports a finding that there is no reasonable indication that the domestic industry producing PA is materially injured or threatened with material injury by reason of allegedly LTFV imports from Brazil, Hungary, Israel, Mexico, and Venezuela and by reason of allegedly subsidized imports from Israel, Mexico, and Venezuela.

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<sup>61</sup> Report at II-44 and Table 19 at II-47.

<sup>62</sup> See 19 U.S.C. § 1677(F)(i)(IV).

<sup>63</sup> Report at II-38, Table 16.

**SEPARATE AND DISSENTING VIEWS OF  
COMMISSIONER JANET A. NUZUM**

Based on the record in these preliminary antidumping and countervailing duty investigations, I concur with my colleagues in finding that there is no reasonable indication that a domestic industry is materially injured or threatened with material injury by reason of allegedly less than fair value ("LTFV") imports from Hungary. I find that there is a reasonable indication that a domestic industry is threatened with material injury by reason of allegedly LTFV imports from Brazil and allegedly subsidized and LTFV imports from Israel, Mexico and Venezuela.

**I. COMMON ISSUES**

**A. Like Product and Domestic Industry**

I concur with my colleagues that there is one like product in this investigation consisting of phthalic anhydride in molten or flake form. I therefore join in the discussion of "like product" as expressed in the majority's views. I further concur that the domestic industry consists of all U.S. producers of the like product and join in the discussions of "domestic industry" and "related parties" as expressed in the majority's views.

**B. Condition of the Domestic Industry**

I generally agree with the majority's discussion on condition of the domestic industry. The majority's analysis, however, does not give the same attention or weight to the flake segment of the market that I did. Therefore, I set forth here my additional views on condition of the domestic industry.

The market for phthalic anhydride comprises two submarkets: molten and flake. Although I join my colleagues in finding one like product, I paid particular attention to data for the flake submarket in light of the fact that all of the subject imports were in flake form. It is in this segment of the market where the subject imports compete most directly with domestic product and hence where evidence of adverse impact from the subject imports is most likely to be found.<sup>1</sup>

Small volume purchasers of phthalic anhydride ("PA") use the flake form of the product exclusively.<sup>2</sup> Large volume purchasers, by contrast, generally purchase the molten form because they have molten handling systems.<sup>3</sup> The molten form constitutes approximately 90 percent of total apparent domestic consumption of PA.<sup>4</sup>

The record indicates that a few large volume purchasers have some degree of flexibility to use either the flake or molten form. On the whole, however, it appears there is only moderate substitutability between flake and molten phthalic anhydride.<sup>5</sup> It is not economically feasible for many customers to switch from one form to the other because of the changes they would have to make in their production equipment. Since PA is imported

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<sup>1</sup> For example, the domestic industry lost a small portion of the total merchant market during late 1992 and during interim 1993. Domestic producers lost a more significant portion, however, of the merchant flake PA market during this period. See Report at Tables C-2 and C-3.

<sup>2</sup> See Report at II-6.

<sup>3</sup> Id.; see also Transcript of Staff Conference (hereinafter "Tr.") at 69.

<sup>4</sup> Derived from data in Report, Tables C-1, C-2, and C-3; see also Tr. at 78-79.

<sup>5</sup> See Report at p. II-6.

only in flake form, it would appear that much of the domestic industry's market is relatively insulated from import competition.

Nevertheless, during the period of investigation, consumption of flake PA increased steadily, while consumption of molten PA fluctuated and showed an overall decline.<sup>6</sup> Domestic consumption of flake PA increased by 6 percent during 1990-92 and by 21 percent in interim 1993 compared with interim 1992. Notwithstanding this growing market, however, domestic producers' flake PA shipments decreased by 22 percent during 1990-92 and by 12 percent during interim 1993. Domestic producers' market share showed a corresponding decline, from 82.9 percent of the flake PA market in 1990 to 61.3 percent in 1992, and from 65.6 percent in interim 1992 to 47.8 percent in interim 1993.<sup>7</sup>

Domestic capacity for flake PA production declined by 11 percent during 1990-92. Although flake PA production capacity was cut back, capacity utilization declined during the period of investigation, decreasing by 23 percentage points during 1990-92. This decline in capacity utilization tracked the decline in domestic production during the period. Employment also showed a downward trend, as the number of flake PA production related workers decreased by 38 percent during 1990-92, gaining slightly in the interim periods.<sup>8</sup>

Productivity in the flake PA segment of the industry fluctuated sharply, increasing in 1991, before dropping in 1992. Productivity continued to decline during the interim periods, decreasing by 18 percent in interim 1993.<sup>9</sup>

Although the domestic producers of flake PA saw their market share and shipments decline steadily throughout the period of investigation, these declines did not appear to cause significant financial difficulties for the first three years of the period of investigation. Even though the quantity of net sales declined throughout, the value of those sales increased from 1990 to 1991 before also declining in 1992 to a level below that reached in 1990. Net sales in terms of value declined further between the interim periods.<sup>10</sup>

After incurring operating losses in 1990, domestic flake PA producers saw their operating income increase steadily in 1991 and 1992. Both cost of goods sold and SG&A expenses fell steadily. In interim 1993, however, these trends changed; domestic producers once again incurred operating losses as cost of goods sold as a percentage of net sales increased. Moreover, domestic producers' unit values decreased in the interim period for the first time in the period examined.<sup>11</sup> This decrease corresponded to declines in prices in interim 1993, following steady increases throughout 1992.<sup>12</sup>

In evaluating the data in these investigations, I gave greater weight to the interim data than I sometimes have in other investigations for several reasons. First, the interim data in these investigations covered three quarters. Second, the data indicated that the domestic industry was experiencing both adverse volume effects and adverse price effects at a time when both domestic consumption and imports were increasing. Finally, I consider the data from the end of the period of investigation to be more probative in evaluating the issue of threat. Although the industry had very positive performance throughout much of the period of investigation, that performance showed deterioration in the interim period. Based on that evidence, I conclude that the domestic PA industry, particularly in the flake PA segment of the market, is vulnerable to the effects of allegedly dumped and subsidized imports.

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<sup>6</sup> I find the record is presently inconclusive as to the reasons for these divergent consumption trends.

<sup>7</sup> See Report at Tables C-1, C-2, and C-3.

<sup>8</sup> Derived from data in Report at Table 7.

<sup>9</sup> Id.

<sup>10</sup> Report at Table C-2.

<sup>11</sup> Id.

<sup>12</sup> See Report at Tables 20-24.

### C. Cumulation

In determining whether there is material injury by reason of allegedly unfair imports, the Commission is required to assess cumulatively the volume and effect of imports from two or more countries of like products subject to investigation, if such imports compete with each other and with like products of the domestic industry in the U.S. market.<sup>13</sup>

I find there exists a reasonable overlap of competition both between the subject imports from each of the five countries and between the imports and domestically-produced phthalic anhydride. Imported flake phthalic anhydride is essentially a fungible commodity which even respondents acknowledged directly competes with domestically-produced phthalic anhydride.<sup>14</sup> Further, the imported and domestic products share similar channels of distribution.<sup>15</sup> As discussed below, however, I have determined not to cumulate imports from certain countries (i.e., Israel and Hungary).

#### 1. Imports from Israel

The statute requires the Commission to examine imports from Israel somewhat differently from other subject imports.<sup>16</sup> Specifically, where the Commission determines that the domestic industry is not materially injured by reason of imports from Israel, it may decline to cumulate those imports with other subject imports. Based on my analysis and determination that imports from Israel are not causing present material injury to the domestic industry, I decline to cumulate the imports from Israel with other subject imports for purposes of evaluating either present material injury or threat.<sup>17</sup>

#### 2. Imports from Hungary

The Commission has discretion under the statute not to cumulate imports from a particular country if those imports are negligible and have no discernible adverse impact on the domestic industry.<sup>18</sup> Based on the record in these investigations, I conclude that the subject imports from Hungary are negligible and have no discernible adverse impact on the domestic industry. As discussed in more detail below, the volumes of subject imports from Hungary were very small throughout the period examined. These subject imports did not demonstrate any sharp increases at any point during the period examined, in either the PA market as a whole or the flake PA submarket.<sup>19</sup> I find these imports simply to be too small to have had any discernible adverse effect on the domestic industry. Therefore, I have not cumulated them with imports from other countries for purposes of evaluating either present material injury or threat.

#### 3. Imports from Brazil, Mexico and Venezuela

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<sup>13</sup> See 19 U.S.C. § 1677(7)(C)(iv).

<sup>14</sup> See Tr. at 110, 112.

<sup>15</sup> See Report at II-11.

<sup>16</sup> See 19 U.S.C. § 1677(7)(C)(v); see also H.R. Rep. No. 576, 100th Congress, 2d. Sess. (1988) at 621.

<sup>17</sup> See discussion *infra* at 121-123.

<sup>18</sup> See 19 U.S.C. § 1677(7)(C)(v).

<sup>19</sup> See discussion *infra* at 127-128.

I do not find that imports of phthalic anhydride from either Brazil, Mexico, and Venezuela were negligible, and therefore cumulated these subject imports. Imports from Brazil, Mexico, and Venezuela accounted for, respectively, 0.3 percent, 2.3 percent, and 1.6 percent of the total U.S. phthalic anhydride market in 1992 and 2.6 percent, 20.7 percent, and 14.2 percent of the flake submarket.<sup>20</sup> Mexico was the largest supplier of PA throughout the period, with market shares that did not fall below 0.9 percent in the total market or 9.1 percent in the flake submarket. The volumes of imports from Mexico and Venezuela each increased throughout the period. The volume of imports from Brazil increased during 1990-92, then decreased in interim 1993, as a result of a temporary short supply of ortho-xylene in Brazil. That shortage is expected, however, to be alleviated by the end of 1993.<sup>21</sup>

In addition to these volume trends, price comparisons for the Brazilian, Mexican, and Venezuelan products showed consistent underselling. This evidence is particularly relevant in evaluating the likelihood of any discernible adverse effect in a fungible commodity-type market.

## **II. AFFIRMATIVE DETERMINATION WITH RESPECT TO IMPORTS FROM ISRAEL**

I find that there is not a reasonable indication that the domestic industry is materially injured by reason of imports from Israel, but that there is a reasonable indication of a threat of material injury by reason of those imports.

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

The volume of imports from Israel fluctuated throughout the period of investigation, declining by 100 percent in 1991 before increasing in 1992 to more than double the level of 1990. Imports increased dramatically, however, in interim 1993, rising by more than 13 times.<sup>22</sup>

As a share of the total market for phthalic anhydride, imports from Israel declined from 0.0004 percent (in terms of quantity) in 1990 to zero in 1991 before increasing to 0.1 percent in 1992. The increase in the volume of imports during the interim period was reflected in the increase in market share from 0.1 percent in January-September 1992 to 0.7 percent in the same nine months of 1993.<sup>23</sup>

As a share of the flake market, imports from Israel declined from 0.4 percent in 1990 to zero percent in 1991 before increasing to 0.9 percent in 1992. Israel's share of the flake market increased from 0.4 percent during the first nine months of 1992 to 5.2 percent in the first nine months of 1993.<sup>24</sup>

Given the significant share of the total market (flake and molten PA) held by the domestic industry and the fact that the market for flake PA constitutes approximately ten percent of the total market, I find that the volume of imports from Israel – which are wholly flake phthalic anhydride – is not particularly significant, either in absolute terms or relative to domestic consumption. However, I find the increase in imports from Israel since 1991 to be significant, particularly in light of the evidence of some downturn in the domestic industry's performance in the flake segment of the market during the most recent portions of the period of investigation.

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<sup>20</sup> See Report at Tables C-2 and C-3.

<sup>21</sup> See Post-Conference Brief of Petitioners, Table 1.

<sup>22</sup> See Report at Tables C-2 and C-3.

<sup>23</sup> See Report at Tables C-1, C-2, and C-3.

<sup>24</sup> Id.



## B. Price Effects

As was the case for all products from all countries, prices for phthalic anhydride from Israel trended downward during 1992 and the interim 1993 period. With respect to underselling, I observed that the imports from Israel undersold the domestic product in each of the six quarterly comparisons by an average margin of 12.2 percent.<sup>25</sup> Five of these six quarterly comparisons covered the most recent portion of the period of investigation. Based on the size of the underselling margins, the consistent occurrence of underselling, and declining price trends, all during the latter part of the period, I find sufficient evidence that imports from Israel are having adverse effects on domestic prices.

## C. Impact on the Domestic Industry

As already noted, the domestic industry enjoyed positive financial performance for most of the period of investigation, in terms both of all PA and of flake PA specifically. In light of that fact and the relatively low levels of imports from Israel for most of the period examined, I do not find that imports from Israel had an adverse impact on the domestic industry that amounts to present material injury. I find that the record with regard to threat of material injury, however, supports an affirmative determination. The rapid increase in imports from Israel during the second half of 1992 and interim 1993, following the imposition of antidumping duties on Israel exports to Australia, establishes, in my view, sufficient evidence of a threat of material injury for purposes of a preliminary determination.

In analyzing threat of material injury, the Commission is required to consider several factors. With respect to the nature of the alleged subsidies,<sup>26</sup> I note that petitioners argued that the Israeli producer receives certain export subsidies. Respondent asserts that some of the subsidy programs cited in the petition, including the export subsidies, have been terminated, and have attached statements by representatives of the Government of Israel in support of their position. Apart from the notice of initiation of its countervailing duty investigation, the Commerce Department has not provided any additional information on these subsidies.

The Commission is also required, in analyzing threat of material injury, to consider excess or underutilized capacity.<sup>27</sup> Although Israeli PA production capacity increased modestly during the first two years of the period of investigation as a result of a catalyst change and debottlenecking operations,<sup>28</sup> capacity utilization was very high throughout the whole period, generally exceeding 90 percent.<sup>29</sup> Thus, there does not appear to be significant excess capacity or underutilized capacity that could be used to produce more phthalic anhydride for sale in the United States. This factor is offset, however, by the potential for diversion created by the Australian antidumping duty order.

The Commission must also consider whether there are substantial increases in importers' inventories.<sup>30</sup> Prior to the first nine months of 1993, the United States was not a significant market for Israeli phthalic anhydride. Exports to the United States constituted less than five percent of Israel's total exports of phthalic anhydride in 1992.<sup>31</sup> Given the low level of exports to the United States for most of the period of investigation, it is not surprising that there were no reported importers' inventories of phthalic anhydride from Israel for the period examined.<sup>32</sup>

<sup>25</sup> See Report at Table 22. The average margin of underselling is derived from confidential data contained in this table.

<sup>26</sup> See 19 U.S.C. § 1677(F)(i)(I).

<sup>27</sup> See 19 U.S.C. § 1677(F)(i)(II), (VI).

<sup>28</sup> See Report at p. II-44 and Table 17.

<sup>29</sup> Derived from data in Report at Table 17.

<sup>30</sup> 19 U.S.C. § 1677(F)(i)(III) and (V)..

<sup>31</sup> See Report at Table 17.

<sup>32</sup> See Report at Table 16.

In 1993, the proportion of Israel's exports of the subject merchandise to the United States increased sharply, from less than five percent in the first nine months of 1992 to more than 15 percent in the same period in 1993. I note that this sudden and relatively sharp increase in imports from Israel followed the imposition of antidumping duties in Australia on imports of phthalic anhydride from Israel in July 1992.<sup>33</sup> The coincidence of these events is evidence of the ability by the Israeli producer to shift very quickly its exports from one market to another. The imposition of antidumping duties creates an economic incentive for a producer to shift its exports to another market where such duties are not being imposed. In my analysis of threat by reason of imports from Israel, I gave much weight to this factor, which significantly distinguishes the situation with respect to imports from Israel from the situation with respect to imports from Hungary.

The Commission must also consider whether imports of Israeli products are likely to enter the United States at prices that will have price suppressing or depressing effects.<sup>34</sup> Given the relatively sharp increase in these imports in the first nine months of 1993, as well as the domestic industry's downturn in the flake PA segment of the market and declining domestic prices for flake PA during that same period, I cannot say that there is no likelihood that evidence of continuing adverse price effects will arise in a final investigation.

The statute also directs the Commission to consider whether there is evidence of other demonstrable adverse trends that indicate that importation of the subject merchandise will be the cause of actual injury.<sup>35</sup> Here too, I find the record to be inconclusive. It is not clear why the consumption of flake phthalic anhydride increased while consumption of molten phthalic anhydride fluctuated and showed an overall decrease during the period examined. More detailed information from purchasers may provide a more complete understanding of the molten and flake PA segments of the market and the potential (and reasons) for expansion of the flake PA segment.

Therefore, given the sharp increase in imports from Israel during the interim period in 1993 following the imposition of antidumping duties in Australia, and the evidence of early difficulties in the domestic industry towards the end of the period of investigation, I conclude that there is a reasonable indication of a threat of material injury to the domestic industry by reason of the subject imports from Israel.

### **III. NEGATIVE DETERMINATION WITH RESPECT TO IMPORTS FROM HUNGARY**

I do not find a reasonable indication that a domestic industry is materially injured or threatened with material injury by reason of the subject imports from Hungary.

As noted above, I find that subject imports from Hungary were negligible and had no discernible adverse impact on the domestic industry. Thus, I have examined the subject imports from Hungary on a non-cumulated basis for both present injury and threat.

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

The record contains two different sets of data concerning the volume of imports from Hungary. Although U.S. importers of PA reported that there were no imports of Hungarian PA until 1992, information provided by the Hungarian producer indicated that it exported subject product from Hungary to the United States during the entire period of investigation.<sup>36</sup> Notwithstanding this discrepancy, the level of the imports from Hungary during the period

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<sup>33</sup> See Post-Conference Brief on Behalf of Gadot Petrochemical Industries, Ltd., at 27-29 and Attachment 11. The existence of dumping findings and orders in third country markets is another statutory factor that must be assessed in making a threat determination. 19 U.S.C. § 1677(F)(iii).

<sup>34</sup> See 19 U.S.C. § 1677(F)(i)(IV).

<sup>35</sup> See 19 U.S.C. § 1677(F)(i)(VII).

<sup>36</sup> See Report at Tables 16, C-2.

was extremely small relative to the other subject imports as well as to domestic consumption and production. If the Hungarian producer's data are used, imports from Hungary reportedly increased in volume by 70 percent during 1990-92. During interim 1993, these imports increased by 15 percent.<sup>37</sup> Nonetheless, the Hungarian imports generally accounted for only 0.1-0.2 percent of the U.S. phthalic anhydride market during the period of investigation. In the flake segment of the market, the Hungarian product's market share equalled 0.3 percent in 1992 and marginally increased from 0.3 percent to 0.4 percent during the interim periods.<sup>38</sup>

The statute directs the Commission to consider whether the volume of subject imports, or any increase in that volume, either in absolute terms or relative to domestic consumption or production, is significant.<sup>39</sup> In absolute terms, neither the volume nor the slight increase in volume of the Hungarian products was significant. Unlike the subject imports from Israel, the subject imports from Hungary did not show a sudden increase in the interim period. Relative to domestic consumption or production, I also find neither the volume of imports from Hungary nor the marginal increase in those imports to be significant.

### B. Price Effects

Although there was consistent underselling by the imports from Hungary in the six quarterly comparisons, the Hungarian product's average margin of underselling, 8.3 percent, was the smallest of all the subject imports.<sup>40</sup> In light of this fact coupled with the extremely low volume of subject imports, I find there is not significant underselling or significant price suppressing or depressing effects by reason of the subject imports from Hungary.

### C. Impact on the Domestic Industry

With respect to the impact of the subject imports on the domestic industry, as has already been noted, the domestic industry's financial performance was strong and improved considerably throughout most of the period of investigation. Although there was evidence of a downturn in the flake segment of the market towards the end of the period of investigation, the imports from Hungary were simply too small for me to conclude that they contributed to that downturn. Given the absence of significant volume or price effects attributable to the imports from Hungary, I find there is no reasonable indication that a domestic industry is experiencing present material injury by reason of those imports.

Turning to threat, I also find no reasonable indication of a likely increase in imports from Hungary that would result in actual injury to the domestic industry. Although production capacity in Hungary was stable throughout most of the period of investigation, capacity declined during the interim periods.<sup>41</sup> Further, a significant portion of Hungary's production capacity is dedicated to molten phthalic anhydride, which was not exported from Hungary during the period examined. Hungary's capacity utilization for all PA exceeded 90 percent and increased throughout the period of investigation. Thus, there is no evidence of significant excess or underutilized capacity.<sup>42</sup>

There also is no evidence that the United States is a major market for Hungarian exports of phthalic anhydride. To the contrary, exports to the United States ranged from less than one percent to no more than four percent of total exports during 1990-92. The largest shares of Hungarian exports of phthalic anhydride were to other European countries. During interim 1993, the proportion of exports that went to the United States increased to no more

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<sup>37</sup> Derived from data in Report at Table 16.

<sup>38</sup> See Report at Table C-2.

<sup>39</sup> See 19 U.S.C. § 1677(7)(C)(i).

<sup>40</sup> See Report at Table 21. The average margin of underselling is derived from confidential data contained in this table.

<sup>41</sup> See Report at Table 17.

<sup>42</sup> See 19 U.S.C. § 1677(7)(F)(II)(VI).

than seven percent.<sup>43</sup> Thus, unlike the imports from Israel, there was no evidence of a sharp upturn in imports from Hungary or of an incentive to shift exports from one export market to another. I also note there is no evidence of any antidumping orders imposed in third countries on Hungarian phthalic anhydride.

Given the trends of these very small volumes of subject imports and the absence of any sharp increases in these imports, I also do not find that these imports are likely to enter the United States at prices that will have a suppressing or depressing effect on domestic prices.<sup>44</sup>

Throughout most of the period of investigation, there were no inventories of Hungarian product in the United States. There were some end-of-period importers' inventories of Hungarian phthalic anhydride in the first nine months of 1993.<sup>45</sup> However, the volume of those inventories was very small and did not, in my view, constitute a substantial increase.<sup>46</sup>

Finally, I do not find any other demonstrable adverse trends indicating that imports from Hungary will be the cause of actual injury in the near future.<sup>47</sup> Based on the information available, including the relative insignificance of the United States market to the Hungarian producers and the absence of any evidence that there is either incentive or intention to shift exports to the United States in any significant degree, I conclude there is no likelihood that contrary evidence supporting an affirmative determination will arise in any final investigation. Therefore, I determine there is no reasonable indication that the domestic industry is threatened with material injury by reason of the subject imports from Hungary.

#### **IV. AFFIRMATIVE DETERMINATIONS WITH RESPECT TO IMPORTS FROM BRAZIL, MEXICO AND VENEZUELA**

##### **A. Volume of imports**

In terms of quantity, U.S. imports of phthalic anhydride on a cumulated basis from Brazil, Mexico, and Venezuela (hereinafter referred to as "cumulated imports") increased 36 percent from 1990 to 1991 and another 74 percent from 1991 to 1992. These imports continued to increase another 67 percent in interim 1993 as compared to interim 1992.<sup>48</sup> The cumulated imports represented 1.7 percent of total domestic consumption of all phthalic anhydride in 1990, 2.5 percent in 1991, and 4.1 percent in 1992, for an overall increase of 2.4 percentage points – more than doubling its market share during the three-year period.<sup>49</sup> The cumulated imports also saw their market share increase from 3.6 percent in interim 1992 to 6.1 percent in interim 1993.<sup>50</sup> Conversely, U.S. producers' share of the total phthalic anhydride market declined from 98.2 percent in 1990 to 95.8 percent in 1992, and from 96.3 percent in interim 1992 to 93.1 percent in interim 1993.<sup>51</sup>

Import penetration in the total phthalic anhydride market was relatively small as compared to the domestic industry's market share. However, if one examines the volume effect in the flake PA submarket, the picture is considerably different. Domestic producers' market shares declined during 1990-92 from 83 percent to 61 percent.<sup>52</sup> During this same period, import penetration by the cumulated imports increased from 17 percent in 1990 to 38 percent in 1992 – more than doubling its market share at the expense of the domestic

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<sup>43</sup> Derived from data in Report at Table 17.

<sup>44</sup> See 19 U.S.C. § 1677(7)(F)(IV).

<sup>45</sup> See Report at Table 16.

<sup>46</sup> See 19 U.S.C. § 1677(7)(F)(i)(V).

<sup>47</sup> See 19 U.S.C. § 1677(7)(F)(i)(VIII).

<sup>48</sup> Derived from data in Report at Table C-3.

<sup>49</sup> Id.

<sup>50</sup> Id.

<sup>51</sup> Id.

<sup>52</sup> See Report at Table C-2.

industry.<sup>33</sup> Under these circumstances, I find that the increase in volume of the subject imports relative to domestic production is significant.

### B. Price effects

The pricing data showed significant margins of underselling by the cumulated imports. Imports from Brazil consistently undersold domestic product in all nine quarterly price comparisons, with an average margin of 16.7 percent. Imports from Venezuela also consistently undersold domestic product in all 15 out of 15 quarterly price comparisons, with an average margin of 17.4 percent. Imports from Mexico also showed consistent underselling in 15 out of 15 price comparisons, with an average margin of 17.8 percent. Both domestic prices and prices of the cumulated imports declined during the latter portion of the period examined, beginning the end of 1992.<sup>34</sup>

### C. Impact on the domestic industry

I find that the record does not establish a reasonable indication that the domestic industry producing phthalic anhydride is materially injured by reason of the cumulated imports. I base this finding primarily on the substantial market share held by domestic producers coupled with the domestic industry's strong financial performance during most of the period examined.

During the latter part of 1992 and interim 1993, however, the condition of the domestic industry took a downturn as cumulated imports increased and took a larger share of a larger market. I therefore determine that there is a reasonable indication of a threat of material injury from cumulated imports of phthalic anhydride from Brazil, Mexico, and Venezuela.

In analyzing threat of material injury, the Commission is required to consider a number of factors. One such factor is the nature of any subsidies.<sup>35</sup> I note that, at this point prior to any determination by the Department of Commerce, the information is only that contained in the petition. The alleged subsidies involving imports from Mexico include preferential pricing of feedstock, certain financing programs, and an accelerated depreciation allowance. In regard to Venezuela, the alleged subsidies include preferential pricing of feedstock, as well as certain short-term and long-term export loans, excessive tariff drawbacks, and preferential tax exemptions under the 1966 Income Tax Law.<sup>36</sup>

Another factor for us to consider is foreign capacity and unused/underutilized capacity.<sup>37</sup> Production capacity was unchanged in Brazil for the entire period examined, declined slightly for Mexico and increased steadily for Venezuela.<sup>38</sup> Brazilian capacity utilization fluctuated throughout the period, but remained relatively high. Venezuelan capacity utilization was high throughout the period of investigation and increased steadily. Mexico's capacity utilization also appears to have been very high throughout the period of investigation.<sup>39</sup>

With respect to increases in market penetration,<sup>40</sup> market share of the cumulated imports more than doubled during the period examined and continued to grow significantly during interim 1993. If one examines the flake PA market alone, the effect is even greater, with the cumulated imports attaining 38 percent of the market, an increase of 22 percentage

<sup>33</sup> Derived from data in Report at Table C-2.

<sup>34</sup> See Report at Tables 20, 23, 24. Average margins of underselling derived from confidential data contained in these tables.

<sup>35</sup> See 19 U.S.C. § 1677(7)(F)(i)(I).

<sup>36</sup> Report at II-5.

<sup>37</sup> See 19 U.S.C. § 1677(7)(F)(i)(III),(VI).

<sup>38</sup> See Report at Table 17.

<sup>39</sup> *Id.*

<sup>40</sup> See 19 U.S.C. § 1677(7)(F)(i)(III).

points from 1990 to 1992. As in the overall market, the cumulated imports' share of the flake PA market continued to increase even further during interim 1993, reaching 47 percent market penetration.<sup>41</sup> I find these increases in import penetration at the expense of the domestic industry to be even more significant in light of the increasing consumption of flake phthalic anhydride during the period of investigation; in other words, the cumulated imports, sold at allegedly dumped and subsidized prices, took a larger share of a larger market.

The Commission also considers whether subject imports are likely to enter the United States at prices that will have suppressing or depressing effects on domestic prices.<sup>42</sup> Given the significant increase in the cumulated imports throughout the three full years of the period of investigation and the continuing significant increase in the interim period, as well as the domestic industry's downturn in the flake PA segment of the market and declining domestic prices for flake PA during that same period, I cannot say that there is no likelihood that evidence of continuing adverse price effects will arise in a final investigation.

There also was a significant increase in the level of U.S. inventories of the imports from Mexico and Venezuela during 1991-92 and during interim 1993, while inventories from Brazil increased a little. Inventories from Mexico increased by more than 140 percent from 1990 to 1992, before declining by about 20 percent from interim 1992 to interim 1993. Inventories of imports from Venezuela increased by 73 percent during 1991-92 and by 134 percent during interim 1993. Imports from Venezuela accounted for the majority of inventories of the cumulated imports.<sup>43</sup> The respondents argued that this increase was primarily the result of importers buying more of the imported product in anticipation of the potential elimination of duty-free treatment for these products under the provisions of the Generalized System of Preferences. I note, however, that the U.S. inventories of imports from Venezuela have been increasing during the entire period.<sup>44</sup>

### **CONCLUSION**

For the reasons discussed above, I find there is no reasonable indication that a domestic industry producing phthalic anhydride is materially injured or threatened with material injury by reason of allegedly LTFV imports from Hungary. My finding that the subject imports from Hungary were negligible and had no discernible adverse impact on the domestic industry was dispositive to the outcome of my analysis.

I find there is a reasonable indication that a domestic industry producing phthalic anhydride is threatened with material injury by reason of allegedly LTFV imports from Brazil and allegedly subsidized and LTFV imports from Israel, Mexico and Venezuela. In analyzing the data in these investigations, I am mindful of the legal standard that the Commission has traditionally applied in preliminary investigations. Specifically, the Commission will make a negative determination in a preliminary investigation where "the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury. . . and . . . no likelihood exists that contrary evidence will arise in a final investigation."<sup>45</sup> My affirmative determinations were based heavily on the evidence of a downturn in the domestic industry's financial performance and declining market share towards the end of 1992 and throughout the first nine months of 1993, and increasing volumes of subject imports as well as declining domestic and import prices. Given the evidence from the end of 1992 and interim 1993 periods, I am satisfied that there is a reasonable indication of a threat of material injury by reason of the subject imports from Brazil, Israel, Mexico and Venezuela.

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<sup>41</sup> Derived from data in Report at Table C-2.

<sup>42</sup> See 19 U.S.C. § 1677(7)(F)(i)(IV).

<sup>43</sup> Derived from data in Report at Table 16.

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

<sup>45</sup> American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986).

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**PART II**  
**INFORMATION OBTAINED IN THE INVESTIGATIONS**

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## INTRODUCTION

On October 22, 1993, petitions were filed with the U.S. International Trade Commission (Commission) and the U.S. Department of Commerce (Commerce) by counsel on behalf of Aristech Chemical Corporation, Pittsburgh, PA; BASF Corporation, Parsippany, NJ; Koppers Industries, Inc., Pittsburgh, PA; and Stepan Company, Northfield, IL. The petitions allege that imports of phthalic anhydride<sup>1</sup> (PAN) from Brazil, Israel, Mexico, and Venezuela are being subsidized by the Governments of these countries, that imports of phthalic anhydride from Brazil, Hungary, Israel, Mexico, and Venezuela are being sold in the United States at less than fair value (LTFV), and that an industry in the United States is materially injured and threatened with material injury by reason of such imports.

Accordingly, effective October 22, 1993, the Commission instituted preliminary countervailing duty and antidumping investigations under the applicable provisions of the Tariff Act of 1930 ("the Act") to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports of such merchandise. The following tabulation shows the countervailing duty and antidumping investigations applicable to each of the subject countries:

<u>Country</u>	<u>Countervailing duty</u>	<u>Antidumping</u>
Brazil . . . . .	701-TA-356 (Preliminary) <sup>1</sup>	731-TA-664 (Preliminary)
Hungary . . . . .	Not applicable	731-TA-665 (Preliminary)
Israel . . . . .	701-TA-357 (Preliminary)	731-TA-666 (Preliminary)
Mexico . . . . .	701-TA-358 (Preliminary)	731-TA-667 (Preliminary)
Venezuela . . . . .	303-TA-24 (Preliminary) <sup>2</sup>	731-TA-668 (Preliminary)

<sup>1</sup> Because Commerce did not initiate a countervailing duty investigation against Brazil, the Commission's investigation was terminated.

<sup>2</sup> Venezuela is a contracting party to the General Agreements on Tariff and Trade (GATT) but is not a signatory of the GATT Subsidies Code and thus is not a "country under the Agreement" pursuant to sec 701(b) of the Act. However, the Commission is required to conduct an injury investigation for Venezuela under sec. 303 of the Act for subject articles that enter free of duty (whether under the GSP or under subheading 2917.35.00).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of November 1, 1993 (58 FR 58347).<sup>3</sup> The conference was held in Washington, DC, on November 15, 1993.<sup>3</sup> Effective November 18, 1993, Commerce initiated countervailing duty and antidumping investigations to determine whether the subject imports are being subsidized and are being sold or likely to be sold in the United States at LTFV. The Commission voted on these

<sup>1</sup> As defined by Commerce, PAN is an aromatic synthetic organic chemical usually produced from a primary petrochemical called orthoxylene, although it is sometimes produced from naphthalene. PAN is predominantly used in the production of plasticizers, unsaturated polyester resins, and alkyd resins, which in turn are generally used to produce plastics and paints. The subject PAN is produced in two physical forms, molten and flaked.

<sup>2</sup> Copies of the Commission's and Commerce's cited Federal Register notices are presented in app. A.

<sup>3</sup> A list of witnesses appearing at the conference is presented in app. B.

investigations on December 1, 1993, and transmitted its determinations to Commerce on December 6, 1993.

## **PREVIOUS AND RELATED INVESTIGATIONS**

There have been no previous Commission investigations of which PAN was the subject. However, as a related matter, certain petitioners in these investigations have previously filed petitions requesting the removal of the Generalized System of Preferences (GSP) duty-free status for PAN from certain of the subject countries. The most recent petition seeking such action was filed on June 1, 1993, with the GSP Subcommittee, Office of the U.S. Trade Representative, on behalf of Aristech Chemical Corporation and Stepan Company.<sup>4</sup> That petition requested the removal of PAN entered from Brazil, Mexico, and Venezuela from GSP duty-free status. The request was granted for U.S. imports of PAN entered from Mexico; however, U.S. imports from Brazil and Venezuela continue to enter the United States under duty-free status.

## **NATURE AND EXTENT OF ALLEGED SUBSIDIES AND ALLEGED SALES AT LTFV**

### **Alleged Subsidies**

Petitioners allege that producers or exporters of PAN in Israel, Mexico, and Venezuela receive benefits that constitute subsidies within the meaning of the U.S. countervailing duty law. Commerce, having examined petitioners' allegations, initiated countervailing duty investigations with respect to each of the subject countries. The programs applicable to each country under which subsidies are allegedly being bestowed and for which Commerce is investigating are summarized below.

#### **Israel**

Commerce initiated a countervailing duty investigation to determine whether producers or exporters receive benefits that constitute subsidies under the following programs:

- Encouragement of Capital Investments Law (ECIL), a program available to firms in a certain development zone (Zone C) which provides for (a) income tax exemption (b) capital grants and (c) research and development grants; and,
- Exchange Rate Risk Insurance Scheme (EIS), a program which insures exporters against exchange rate losses.

#### **Mexico**

Commerce initiated a countervailing duty investigation to determine whether producers or exporters receive benefits that constitute subsidies under the following programs:

- preferential pricing of orthoxylene feedstock;
- short-term pre-export financing from Bancomex;
- short-term import financing from Bancomex;

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<sup>4</sup> BASF Corporation and Koppers Industries, Inc. joined in support of the petition.

- PITEX, duty-free imports for companies that export; and
- accelerated depreciation allowances.

## Venezuela

Commerce initiated a countervailing duty investigation to determine whether producers or exporters receive benefits that constitute subsidies under the following programs:

- preferential pricing of orthoxylene feedstock;
- export subsidies under FINEXPO, a program that provides preferential short- and long-term export loans and excessive tariff drawbacks; and
- preferential tax exemptions under the 1966 Income Tax Law.

### Alleged Sales at LTFV

Petitioners allege that imports of PAN from Brazil, Hungary, Israel, Mexico, and Venezuela are being sold in the United States at LTFV. To calculate estimated LTFV margins, petitioners compared the United States price with foreign market value (FMV). In all instances, petitioners based United States price on the 1993 U.S. Customs value of PAN imported from the respective countries, exclusive of import duties, transportation and insurance costs, and other costs associated with shipments to the United States. In the case of Brazil, Hungary, and Venezuela, petitioners based FMV on constructed value; FMV for Israel and Mexico was based on ex-factory, home market prices, exclusive of taxes. The estimated LTFV margin or range of LTFV margins alleged by petitioners for each of the subject countries is as follows: Brazil, 65 percent; Hungary, 43 to 74 percent; Israel, 22 percent; Mexico, 30 to 40 percent; and Venezuela, 28 to 52 percent.

## THE PRODUCT

### Product Description

PAN is an aromatic synthetic organic chemical produced principally from the primary petrochemical orthoxylene (also called o-xylene).<sup>5</sup> PAN is assigned a Chemical Abstracts Service (CAS) registry number of 85-44-9. Upon the chemical addition of water (i.e., rehydration), PAN yields phthalic acid. PAN, like other organic acid anhydrides, reacts chemically with alcohols to give the corresponding mono- or diester, depending on the ratio of the amounts of anhydride and alcohol used. This latter property accounts for the principal uses of PAN.

PAN is available in two physical forms, namely, molten (or liquid) and flaked solid. Both physical forms are chemically identical and may be used interchangeably for all applications involving PAN. The chemical is molten at or above a temperature of 131°C (268°F), hence this form must be transported in insulated containers. Molten PAN is commonly shipped by road in tank trucks with a capacity of about 4,000 to 5,000 gallons and by rail in tank cars with a capacity of approximately 26,000 gallons.<sup>6</sup> Generally the molten form of this chemical is used only by large-volume consumers, and transportation distances are limited because of the need to maintain the

<sup>5</sup> Prior to the mid 1950s, commercial production of phthalic anhydride was based on the use of naphthalene as a raw material. Presently, only one U.S. producer, Koppers Industries, is capable of using either naphthalene or orthoxylene (or a mixture of both) as a feedstock for phthalic anhydride production.

<sup>6</sup> Kirk-Othmer Encyclopedia of Chemical Technology, 3rd ed., vol. 17, John Wiley and Sons, New York, NY, p. 744.

temperature of the product at or above the melting point.<sup>7</sup> Flaked PAN, the only form of the imported chemical, is shipped in multiwalled bags of various capacities. All consumers of this chemical purchase some of the flaked product. Small-volume consumers use the flaked form of the chemical exclusively, whereas large-volume consumers purchase and inventory this form in the event their liquid-handling systems become disabled.

Although flake PAN is produced worldwide and appears to be commercially substitutable, some reported quality problems with the imported flake may in some instances reduce the substitutability. Information from producers, importers, and a limited number of purchasers was mixed regarding any quality differences between imported and domestic flake PAN. Information obtained from the same sources suggests that flake PAN is not a close commercial substitute for molten PAN in most instances.

### Manufacturing Processes<sup>8</sup>

Generally, U.S. and foreign producers of PAN use a modification of either the Chemische Fabrik von Heyden (von Heyden) or BASF processes (figure 1). Both processes incorporate the fixed-bed vapor-phase oxidation of orthoxylene over a vanadium oxide/titanium oxide catalyst at temperatures of 380-400°C (716-752°F).<sup>9</sup> The reaction takes place in a multitubular fixed-bed reactor. The tubes are cooled with a molten salt heat transfer fluid. Individual producers may maximize the efficiency of their particular process by variations in the catalyst used, the input flow rates of raw material, and the specific temperature range adjustments and by other means. The controlled oxidation (or burning) of the raw material releases additional heat, that is, the reaction is exothermic. This additional heat is transferred to the salt mixture and dissipated by heat exchange between the molten salt coolant and water to generate steam. The steam may be used elsewhere in the manufacturing complex.

As it emerges from the reactor, the crude PAN produced by these processes solidifies on cooling fins in devices called switch condensers. At the appropriate time, the fins are heated and the solidified product melts and is transferred to distillation columns for purification. The crude product is distilled under vacuum, and the purified PAN is collected as a molten liquid in tanks. This molten product can then either be loaded into rail or truck tanks for shipment, stored in heated storage tanks, or transferred to a flaking facility.

Flaked PAN is produced by immersing a metal cylinder in a tank of the molten product.<sup>10</sup> The metal cylinder is then cooled internally and a layer of solidified PAN collects at the metal-liquid interface. This solidified product is removed in flakes from the cylinder using a sharp blade. The flakes are then bagged, weighed, and sealed for shipment. Because the flaked product can be stored at ambient temperatures, it is the most economical storage form of the chemical.

### Uses

PAN is used as a raw material in the manufacture of plasticizers (50 percent), unsaturated polyester resins (25 percent), alkyd resins (20 percent), and other miscellaneous products (5 percent). Plasticizers are used to modify the physical properties of plastics resins, such as flexibility. Alkyd

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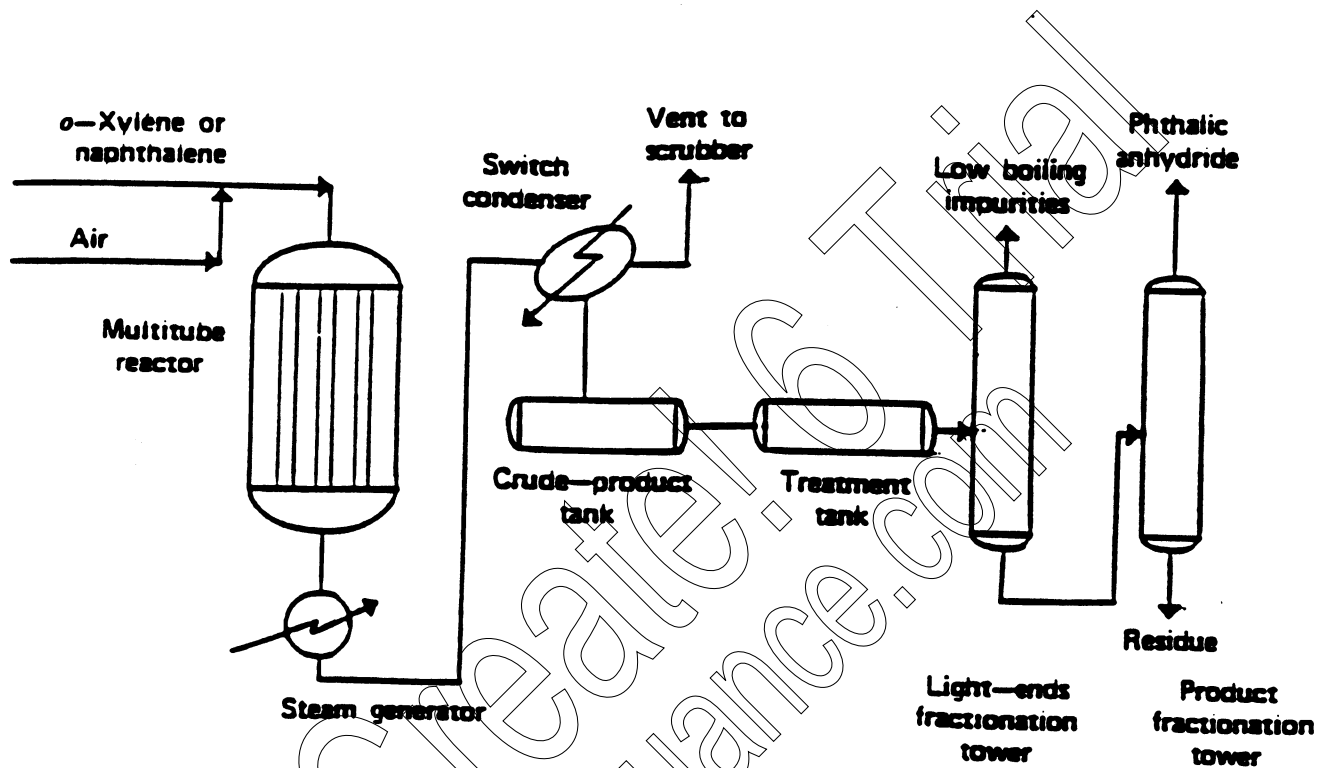
<sup>7</sup> According to one industry source, molten PAN is shipped at 350°F (177°C), or 82°F above its melting point temperature. This is done to ensure that the chemical arrives at its destination in the liquid form.

<sup>8</sup> Information for this section is derived from Kirk-Othmer Encyclopedia of Chemical Technology, 3rd ed., vol. 17, John Wiley and Sons, New York, NY, pp. 732-746, unless otherwise noted.

<sup>9</sup> Koppers uses a modification of the BASF process that enables the reactor to be charged with either orthoxylene, naphthalene, or a mixture of the two raw materials.

<sup>10</sup> See petition of U.S. PAN producers (petition, p. 28).

**Figure 1**  
Simplified flow diagram of PAN production process.



**SOURCE:** Kirk-Othmer Encyclopedia of Chemical Technology, 3rd ed., John Wiley and Sons, New York, NY, volume 17, p. 741.

resins are used as the base for surface coatings. Unsaturated polyester resins are used principally as the matrix for reinforced thermoset plastics such as fiberglass plastics.

### **Plasticizers**

The major use of PAN in plasticizers is in the production of phthalate esters from the chemical reaction of molten PAN with certain alcohols. The largest class of phthalate ester plasticizers and the most commercially important are the dioctyl phthalates (DOP). In 1991, the total value of all DOP produced amounted to approximately \$410 million, or 67 percent of all PAN plasticizers produced during this period.<sup>11</sup> The major portion of annual DOP production is consumed by the producers of polyvinyl chloride (PVC) plastics resins.

### **Unsaturated Polyester Resins**

Unsaturated polyesters are produced by the chemical reaction between unsaturated acids or their anhydrides, such as PAN, and a polyhydric alcohol, such as ethylene or propylene glycol. When these polyesters are dissolved in a monomer such as styrene, a resin is produced. Unsaturated polyester resins are rarely used without the addition of a filler or other reinforcing material. The most common reinforcing additive is glass fiber. The glass fiber reinforced resin can be molded, cast, laminated, or gel-coated. This composite material is used extensively in the land and marine transportation industries and in the construction industry. Cast unsaturated polyester resins are not reinforced with glass fibers but contain other fillers. These products are used in manufacturing many common items such as simulated marble for bathrooms and countertops, bowling balls, floor tile, furniture parts, and automobile patching compounds.

### **Alkyd Resins**

Alkyd resins are a special group of polyester resins modified by the addition of monobasic fatty acids, however one group of these resins, designated as nonoil or oil-free alkyd, is produced by reacting the unsaturated polybasic acid or anhydride with an excess of polyhydric alcohols. Because of their excellent hardness and durability, alkyd resins made with PAN are widely used in the paints and coatings industry. These alkyd based paints and coatings do use various volatile solvents and thinners; hence, large volume industrial use of these products is on the decline because of recent federal legislation on air pollution. Alkyd resin producers are developing water-based resins to replace the volatile solvent-containing products.

### **Other Uses**

PAN is also used as a raw material in the manufacture of many more complex chemical products such as dyes, pesticides, and pharmaceuticals. For example, PAN is used to manufacture certain dyes, such as 2-chloroanthraquinone and phthalocyanine blues, quinoline yellow, and anthracene brown; it is also used as a raw material to produce another intermediate chemical called isatoric anhydride, which is used in turn to manufacture the artificial sweetener saccharin. Phenolphthalein, used as a laxative in over-the-counter medicinal preparations and as a laboratory reagent chemical, is also produced from PAN.

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<sup>11</sup> U.S. International Trade Commission, Synthetic Organic Chemicals, United States Production and Sales, 1991, USITC publication 2607, Feb. 1993.

## Tariff Treatment

PAN is currently classified in subheading 2917.35.00 of the Harmonized Tariff Schedule of the United States (HTS). The column-1-general rate of duty is 2.6 cents per kilogram plus 8.6 percent ad valorem. The column 2 rate of duty is 15.4 cents per kilogram plus 49 percent ad valorem. Imports of this chemical are duty free under the provisions of the GSP, applicable to imports from Venezuela, and under the United States-Canada Free-Trade Agreement (CFTA), the Caribbean Basin Economic Recovery Act (CBERA), the United States-Israel Free-Trade Implementation Act of 1985 (IFTA), and the Andean Trade Preference Act (APTA).

## THE U.S. MARKET

### U.S. Producers

Having gone through a period of consolidation and rationalization in the 1980s, resulting in part from overcapacity, the U.S. industry producing PAN has been reduced to five firms.<sup>12</sup> The Commission sent questionnaires to all five firms and received responses from each. The names of these producers, their position with respect to the petition, the location of their production facilities, and their shares of PAN production in 1992 are shown in table 1.

#### Aristech Chemical Corporation

Aristech Chemical Corporation (Aristech), a subsidiary of Aristech Middle Corporation,<sup>13</sup> employs about 1,800 people and generates sales of over \$800 million annually. Because Aristech also produces plasticizers and unsaturated polyester resins, a significant portion (\*\*\*) percent in 1992) of its PAN production is captively consumed in those derivative products. As shown in table 1, Aristech produces PAN at two U.S. locations. Aristech produces molten PAN at its plant in Pasadena, TX, and produces the flake product at its facility in Neville Island, PA.

#### BASF Corporation/Sterling Chemicals, Inc.

Under an agreement that extends to the year \*\*\*, BASF Corporation (BASF) both consumes for its own internal use and markets the PAN produced at Sterling Chemicals, Inc.'s (Sterling) plant facility. Of its total production of molten PAN in 1992, \*\*\* percent was captively consumed to make derivative products. The company closed its own PAN production facility in Kearny, NJ, in 1990.<sup>14</sup> \*\*\*.<sup>15</sup> The BASF/Sterling plant in Texas City, TX, produces molten PAN exclusively.

#### Exxon Chemical Americas

Exxon Chemical Americas (Exxon) operates as a division of Exxon Chemical Company, which is a division of Exxon Corporation. Roughly \*\*\* percent of Exxon's production of PAN, which is produced at its plant in Baton Rouge, LA, is consumed internally for its production of plasticizers.

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<sup>12</sup> Petition, p. 75; conference transcript (TR), p. 11.

<sup>13</sup> Aristech Middle Corp. is owned by ACC Holding Co., which in turn is \*\*\* percent owned by Mitsubishi Corporation of Japan.

<sup>14</sup> TR, p. 35.

<sup>15</sup> Telephone conversation with Gary Gebeau, BASF Corp., Nov. 18, 1993.

Table 1

PAN: U.S. producers, position on petition, location of production facility, and shares of production in 1992

Firm	Position on petition	Location of production facility	Share of production (1992)	
			Molten	Flake
			Percent	
Aristech Chemical Corp. . . . .	Petitioner	Neville Island, PA Pasadena, TX	***	***
BASF Corp./Sterling Chemicals, Inc. . . . .	Petitioner	Texas City, TX	***	(2)
Exxon Chemical Americas . . . . .	(1)	Baton Rouge, LA	***	(2)
Koppers Industries, Inc. . . . .	Petitioner	Cicero, IL	***	***
Stepan Company . . . . .	Petitioner	Millsdale, IL	***	***

<sup>1</sup> In its response to the Commission's questionnaire, Exxon stated in part "\*\*\*\*."

<sup>2</sup> Does not produce flake.

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

**Koppers Industries, Inc.**

Koppers Industries, Inc. (Koppers) is a subsidiary of Koppers Holdings Corporation, which is \*\*\* owned by Koppers Australia. Koppers has sales of more than \$400 million annually and employs about 1,900 people companywide. Koppers is the only domestic PAN producer that uses coal-based naphthalene in place of or in addition to oil-based orthoxylene as a feedstock for part of its PAN production.<sup>16</sup> Koppers's captive use of molten PAN to make flake PAN totaled \*\*\* percent of its molten production in 1992.

**Stepan Company**

Stepan Company (Stepan) is a major manufacturer of basic and intermediate chemical products. The company manufactures three principal groups of products: surfactants, polymers, and specialty chemicals. All three groups of products generated worldwide sales of nearly \$436 million in 1992. Stepan's Millsdale, IL, plant, where it produces PAN, is one of four plants that it operates in the United States. The company also operates plants in Grenoble, France; Longford Mills, Ontario, Canada; and Matamoros, Mexico.<sup>17</sup> None of these facilities, however, produces PAN.

<sup>16</sup> Naphthalene is a byproduct of refined chemical oil, itself a byproduct of coal tar, both of which are produced by Koppers at its Illinois plant. Koppers ships chemical oil to its plant in Follansbee, WV, where naphthalene is recovered and shipped to the Illinois plant, where it becomes the feedstock for PAN.

<sup>17</sup> Stepan Company, Form 10-K, Securities and Exchange Commission, fiscal year ended Dec. 31, 1992. Also, Stepan Company, 1992 Annual Report, Serving Customers Worldwide.



About \*\*\* percent of Stepan's production of molten PAN in 1992 was used to make flake PAN. Another \*\*\* percent of molten production was used to make other products.

### U.S. Importers

The Commission sent importer's questionnaires to a total of 27 firms, including the 12 firms identified in the petition. Importer's questionnaires were also sent to the U.S. producers named in the petitions. Of the 27 firms sent questionnaires, 8 did not respond, 10 responded by indicating that they did not import the subject merchandise during the period for which information was requested, 1 responded by letter but supplied no useful information, and 8, accounting for an estimated 82 percent of imports in 1992, supplied complete or nearly complete information. Two U.S. producers (Koppers and Stepan) also supplied information on their imports of PAN.

Of the eight U.S. importers that supplied useful information, three are owned either directly or indirectly by foreign entities. Bexytol (USA), Inc. (Bexytol), headquartered in Stamford, CT, is wholly-owned by the Dutch firm Bexytol (Netherlands) b.v. which, in turn, is owned by the sole Israeli PAN producer, Gadot Petrochemical Industries, Ltd. Bexytol imports the subject PAN from no other source than Israel. Two Japanese firms \*\*\* Itochu Specialty Chemicals, Inc. (Itochu) of Hawthorne, NY. Itochu has also a Korean-based affiliate that produces PAN. According to its questionnaire response, Itochu imported PAN only from \*\*\* during the period for which information was requested. The third U.S. importer having foreign ownership is Reichhold Chemicals, Inc. (Reichhold). Reichhold's parent firm is Dainippon Ink and Chemicals, Inc. of Japan. Reichhold manufactures polyester and alkylene resins in 10 U.S. plants and is, therefore, a major user of PAN.<sup>18</sup> As such, Reichhold imports PAN to satisfy its own internal needs and reported no merchant sales of the product it imports. Two other U.S. importers also import the subject merchandise for the same reason. Cargill (Wayzata, MN) and Unitek Chemical Corporation (Greensboro, NC) indicated in their questionnaire responses that they also import PAN for captive use in their own production.

The largest U.S. importer of PAN, Kalama International (Houston, TX), has no captive use of the product and markets the product it imports entirely to the merchant market.

### Channels of Distribution

The channels of distribution for domestically produced and imported PAN are generally the same, that is, it is sold directly from the U.S. producer or importer to the end user customer. All of the imported PAN comprises the flake material, accounting for about 10 percent of apparent U.S. consumption. The following tabulation shows the shares of shipments of molten and flake PAN by channel of distribution for both U.S. producers and U.S. importers in 1992 (in percent):

	<u>Distributors</u>	<u>End users<sup>1</sup></u>
U.S. producers:		
Molten PAN .....	0.3	99.7
Flake PAN .....	***	***
Total .....	***	***
U.S. importers:		
Molten PAN .....	∞	∞

See footnotes at end of tabulation.

<sup>18</sup> TR, p. 64.

<b>Flake PAN:</b>		
Brazil . . . . .	***	***
Hungary . . . . .	***	***
Israel . . . . .	***	***
Mexico . . . . .	***	***
Venezuela . . . . .	***	***
Average . . . . .	<u>14.0</u>	<u>86.0</u>

<sup>1</sup> Includes intercompany transfers of U.S. producers of product that was captively consumed.

<sup>2</sup> There were no imports of molten PAN.

### Apparent U.S. Consumption

Data on apparent U.S. consumption of PAN are presented in table 2 and figure 2. Because molten PAN comprises the predominant share of aggregate domestic consumption, the consumption trend for molten establishes the trend for overall PAN consumption. Like molten, the quantity of aggregate apparent U.S. consumption of molten and flake PAN fell by 7 percent from 1990 to 1991, increased by the same margin from 1991 to 1992, and declined by 1 percent from January-September 1992 to January-September 1993. The value of aggregate U.S. consumption, however, increased steadily from 1990 to 1992, rising by slightly more than 11 percent over the 3-year period, but then fell from January-September 1992 to January-September 1993 by 5 percent.

#### Molten PAN

The quantity of apparent U.S. consumption dipped from 1990 to 1991 and again from January-September 1992 to the comparable 9-month period in 1993. From 1990 to 1991, apparent U.S. consumption fell from 822.8 million pounds, valued at \$218.6, to 756.1 million pounds, valued at \$218.7. Although the quantity of apparent U.S. consumption increased by 7.3 percent from 1991 to 1992, the 1992 volume of 810.9 million pounds was below the 1990 level by nearly 12 million pounds. The value of apparent U.S. consumption rose by an even greater margin from 1991 to 1992, increasing by 10.0 percent to \$\*\*\*. The quantity and value of apparent U.S. consumption fell from January-September 1992 to January-September 1993 by 4.1 percent in quantity and by 6.5 percent in value.

#### Flake PAN

The quantity and value of apparent U.S. consumption of flake PAN rose steadily during the period for which information was requested, increasing from \*\*\* pounds, valued at \$\*\*\*, in 1990 to \*\*\* pounds, valued at \$\*\*\*, in 1992 and increasing from \*\*\* pounds, valued at \$\*\*\*, in January-September 1992 to \*\*\* pounds, valued at \$\*\*\*, in January-September 1993.

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

The information in this section of the report was compiled from responses to questionnaires of the U.S. International Trade Commission. The five firms that supplied information, Aristech,

Table 2

PAN: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, by products, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.--	
				1992	1993
<b>Quantity (1,000 pounds)</b>					
Molten PAN:					
Apparent U.S. consumption <sup>1</sup> .....	822,763	756,050	810,928	621,873	596,634
Flake PAN:					
Producers' U.S. shipments .....	***	***	***	***	***
Importers' U.S. shipments:					
Brazil .....	***	***	***	***	***
Hungary .....	***	***	***	***	***
Israel .....	***	***	***	***	***
Mexico .....	***	***	***	***	***
Venezuela .....	***	***	***	***	***
Subtotal .....	***	***	***	***	***
Other sources .....	***	***	***	***	***
Total .....	***	***	***	***	***
Apparent U.S. consumption .....	***	***	***	***	***
Total:					
Producers' U.S. shipments .....	***	***	***	***	***
Importers' U.S. shipments:					
Brazil .....	***	***	***	***	***
Hungary .....	***	***	***	***	***
Israel .....	***	***	***	***	***
Mexico .....	***	***	***	***	***
Venezuela .....	***	***	***	***	***
Subtotal .....	***	***	***	***	***
Other sources .....	***	***	***	***	***
Total .....	***	***	***	***	***
Apparent U.S. consumption .....	***	***	***	***	***
<b>Value (1,000 dollars)</b>					
Molten PAN					
Apparent U.S. consumption <sup>1</sup> .....	218,559	218,663	240,516	184,613	172,659
Flake PAN:					
Producers' U.S. shipments .....	***	***	***	***	***
Importers' U.S. shipments:					
Brazil .....	***	***	***	***	***
Hungary .....	***	***	***	***	***

See footnotes at end of table.

Table 2--Continued

PAN: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, by products, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.--	
				1992	1993
	Value (1,000 dollars)				
Israel . . . . .	***	***	***	***	***
Mexico . . . . .	***	***	***	***	***
Venezuela . . . . .	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***
Other sources . . . . .	***	***	***	***	***
Total . . . . .	***	***	***	***	***
Apparent consumption . . . . .	***	***	***	***	***
Total:					
Producers' U.S. shipments . . . . .	***	***	***	***	***
Importers' U.S. shipments:					
Brazil . . . . .	***	***	***	***	***
Hungary . . . . .	***	***	***	***	***
Israel . . . . .	***	***	***	***	***
Mexico . . . . .	***	***	***	***	***
Venezuela . . . . .	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***
Other sources . . . . .	***	***	***	***	***
Total . . . . .	***	***	***	***	***
Apparent consumption . . . . .	***	***	***	***	***

<sup>1</sup> Because no U.S. imports of molten PAN exist, apparent U.S. consumption is comprised entirely of U.S. producers' U.S. shipments minus quantities consumed by U.S. producers to make flake. According to testimony presented at the Commission's conference, only under test situations have any quantities of molten PAN been imported into the United States. (See TR pp. 98 and 99).

<sup>2</sup> Positive figure, but less than significant digits displayed.

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

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

Figure 2

PAN: Apparent U.S. consumption, by products, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

BASF/Sterling, Exxon, Koppers, and Stepan, are believed to account for 100 percent of U.S. production of PAN.<sup>19</sup> Aristech, Koppers, and Stepan produce both molten and flake PAN, whereas BASF/Sterling and Exxon produce only the molten product.<sup>20</sup>

The information that follows is based on the questionnaire responses of the five firms mentioned above. Summary information supplied by the five firms is also presented in appendix C.

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

#### Molten PAN

Domestic production of molten PAN fell unevenly from 936.2 million pounds in 1990 to 896.3 million pounds in 1992 and declined from 679.9 million pounds in January-September 1992 to 647.3 million pounds in January-September 1993 (table 3). Reflecting the closing of BASF's Kearny, NJ, plant, U.S. producers' reported capacity declined by 11 percent from 1990 to 1991. Capacity then increased by 2 percent from 1991 to 1992 and rose by 3 percent from January-September 1992 to January-September 1993. As stated by \*\*\* and \*\*\*, the two firms accounting for the increased capacity, the increases were due almost entirely to improved production efficiencies rather than the addition of new machinery and equipment. The domestic industry's capacity utilization rate rose steadily from 1990 to 1992, increasing from 85 percent to 90 percent. The rate fell from 93 percent in January-September 1992 to 86 percent in January-September 1993.

#### Flake PAN

Again, the decrease in the domestic industry's production and production capacity of flake PAN from 1990 to 1991, as shown in table 3, can be attributed principally to the closure of BASF's Kearny, NJ, plant. Although the industry's capacity remained unchanged from 1991 to 1992 and from January-September 1992 to January-September 1993, domestic production fell by \*\*\* pounds, or by \*\*\* percent, from 1991 to 1992 and decreased further by 7 percent from January-September 1992 to January-September 1993. This declining trend was also reflected in the industry's capacity utilization, which fell from \*\*\* percent in 1991 to 51 percent in 1992 and declined from \*\*\* percent in January-September 1992 to \*\*\* percent in January-September 1993.

### U.S. Producers' Shipments

Data on U.S. producers' shipments of molten and flake PAN are shown in table 4. Based on the data shown, between 8 and 13 percent of U.S. producers' total shipments of molten PAN were consumed within the reporting establishments for the production of flake PAN. An additional 38 to 45 percent of U.S. producers' total molten PAN shipments were used captively to produce derivative products, such as plasticizers and unsaturated polyester resins. Slightly less than half of U.S.

<sup>19</sup> BASF and Sterling submitted a combined questionnaire response.

<sup>20</sup> BASF produced flake PAN at its Kearny, NJ, plant during the last year (1990) in which that plant was in operation.

Table 3

PAN: U.S. capacity, production, and capacity utilization, by products, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.--	
				1992	1993
<u>Average-of-period capacity (1,000 pounds)<sup>1</sup></u>					
Molten PAN .....	1,098,750	975,000	995,000	731,250	753,750
Flake PAN .....	159,875	143,000	143,000	***	***
<u>Production (1,000 pounds)</u>					
Molten PAN <sup>2</sup> .....	936,202	872,193	896,278	679,887	647,284
Flake PAN .....	117,906	***	72,850	57,892	53,838
<u>Average-of-period capacity utilization (percent)</u>					
Molten PAN .....	85.2	89.5	90.1	93.0	85.9
Flake PAN .....	73.7	***	50.9	***	***

<sup>1</sup> U.S. producers' molten PAN capacity was reported on the basis of operating an average of 168 hours per week with a range of \*\*\* to \*\*\* weeks per year; flake PAN capacity was reported on the basis of operating from \*\*\* hours per week, \*\*\* weeks per year for \*\*\* to \*\*\* hours per week, \*\*\* to \*\*\* weeks per year for \*\*\* and \*\*\*, respectively.

<sup>2</sup> Includes production of molten used to make flake.

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

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

Table 4  
 PAN: U.S. producers' shipments, by types, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.--	
				1992	1993
<b>Quantity (1,000 pounds)</b>					
<b>Molten PAN:</b>					
Company transfers:					
Internal consumption . . . . .	***	***	***	***	***
Other . . . . .	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***
Domestic shipments . . . . .	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***
Exports . . . . .	***	***	***	***	***
Total . . . . .	***	***	***	***	***
<b>Flake PAN:</b>					
Company transfers . . . . .	***	***	***	***	***
Domestic shipments . . . . .	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***
Exports . . . . .	***	***	***	***	***
Total . . . . .	***	***	***	***	***
<b>Total:</b>					
Company transfers . . . . .	***	***	***	***	***
Domestic shipments . . . . .	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***
Exports . . . . .	***	***	***	***	***
Total . . . . .	***	***	***	***	***
<b>Value (1,000 dollars)</b>					
<b>Molten PAN:</b>					
Company transfers:					
Internal consumption . . . . .	***	***	***	***	***
Other . . . . .	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***
Domestic shipments . . . . .	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***
Exports . . . . .	***	***	***	***	***
Total . . . . .	***	***	***	***	***
<b>Flake PAN:</b>					
Company transfers . . . . .	***	***	***	***	***
Domestic shipments . . . . .	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***
Exports . . . . .	***	***	***	***	***
Total . . . . .	***	***	***	***	***
<b>Total:</b>					
Company transfers . . . . .	***	***	***	***	***
Domestic shipments . . . . .	***	***	***	***	***

Continued on next page.

Table 4—Continued

PAN: U.S. producers' shipments, by types, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.—	
				1992	1993
<b>Value (1,000 dollars)</b>					
Subtotal	***	***	***	***	***
Exports	***	***	***	***	***
Total	***	***	***	***	***
<b>Unit value (per pound)</b>					
<b>Molten PAN:</b>					
<b>Company transfers:</b>					
Internal consumption	\$0.27	\$0.39	\$0.29	\$0.30	\$0.28
Other	.26	.28	.28	.28	.28
Average	.26	.31	.28	.28	.28
<b>Domestic shipments</b>					
Average	.27	.30	.30	.30	.29
<b>Exports</b>					
Average	.26	.30	.34	.34	.36
<b>Flake PAN:</b>					
<b>Company transfers</b>					
Domestic shipments	.28	.33	.31	.31	.33
Average	.30	.34	.35	.35	.32
<b>Exports</b>					
Average	.23	.28	.22	.23	.17
<b>Total:</b>					
<b>Company transfers</b>					
Domestic shipments	.26	.28	.28	.28	.28
Average	.27	.29	.30	.30	.29
<b>Exports</b>					
Average	.23	.29	.22	.24	.18
<b>Share of total shipment quantity (percent)</b>					
<b>Molten PAN:</b>					
<b>Company transfers:</b>					
Internal consumption	***	***	***	***	***
Other	***	***	***	***	***
Subtotal	***	***	***	***	***
<b>Domestic shipments</b>					
Subtotal	***	***	***	***	***
<b>Exports</b>					
Total	100.0	100.0	100.0	100.0	100.0
<b>Flake PAN:</b>					
<b>Company transfers</b>					
Domestic shipments	***	***	***	***	***

Continued on next page.



Table 4—Continued

PAN: U.S. producers' shipments, by types, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.—	
				1992	1993
<b>Share of total shipment quantity (percent)</b>					
Subtotal . . . . .	***	***	***	***	***
Exports . . . . .	***	***	***	***	***
Total . . . . .	100.0	100.0	100.0	100.0	100.0
Total:					
Company transfers . . . . .	***	***	***	***	***
Domestic shipments . . . . .	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***
Exports . . . . .	***	***	***	***	***
Total . . . . .	100.0	100.0	100.0	100.0	100.0
<b>Share of total shipment value (percent)</b>					
Molten PAN:					
Company transfers:					
Internal consumption . . . . .	***	***	***	***	***
Other . . . . .	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***
Domestic shipments . . . . .	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***
Exports . . . . .	***	***	***	***	***
Total . . . . .	100.0	100.0	100.0	100.0	100.0
Flake PAN:					
Company transfers . . . . .	***	***	***	***	***
Domestic shipments . . . . .	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***
Exports . . . . .	***	***	***	***	***
Total . . . . .	100.0	100.0	100.0	100.0	100.0
Total:					
Company transfers . . . . .	***	***	***	***	***
Domestic shipments . . . . .	***	***	***	***	***
Subtotal . . . . .	***	***	***	***	***
Exports . . . . .	***	***	***	***	***
Total . . . . .	100.0	100.0	100.0	100.0	100.0

Note —Because of rounding, shares may not add to the totals shown. Unit values are calculated using data of firms supplying both quantity and value information.

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

producers' total shipments of the molten product went to market or merchant sales, compared with between 66 percent and 82 percent of their shipments of flake PAN.

### **Molten PAN**

The volume of U.S. producers' total shipments (excluding exports) of molten PAN fluctuated downward from 942.3 million pounds in 1990 to 885.1 million pounds in 1992 and fell from 680.8 million pounds in January-September 1992 to 650.2 million pounds in January-September 1993. The value of such shipments, however, rose steadily from 1990 to 1992, increasing to \$258.5 million in the latter year, but then declined by 7 percent, or by \$14.5 million, from January-September 1992 to January-September 1993. The quantity of U.S. producers' domestic market shipments (excluding company transfers) fell unevenly by 7 percent from 1990 to 1992 and dropped by nearly 10 percent from January-September 1992 to the corresponding period in 1993. After falling slightly from 1990 to 1991, the value of such shipments rose by 10 percent from 1991 to 1992, but then decreased by 13 percent from January-September 1992 to January-September 1993. The average unit value of U.S. producers' domestic shipments rose by 4 cents per pound, increasing from 27 cents per pound to 31 cents per pound, from 1990 to 1992 and dropped by a penny per pound from the 9-month 1992 period to the comparable 9-month period in 1993. Although U.S. producers' exports showed irregular trends, both in terms of quantity and value, such exports accounted for less than 1 percent of their total shipments.

### **Flake PAN**

The domestic industry's U.S. shipments of flake PAN fell from \*\*\* pounds, valued at \$\*\*\*, in 1990 to \*\*\* pounds, valued at \$\*\*\*, in 1992 and declined from \*\*\* pounds, valued at \$\*\*\*, in January-September 1992 to \*\*\* pounds, valued at \$\*\*\*, in January-September 1993. The shutdown of BASF's plant in late 1990 contributed in part to the 1990-93 decrease. Also, \*\*\* reported a nearly \*\*\* percent drop in its domestic shipments from 1991 to 1992. U.S. producers' exports of flake PAN fell sharply from 1990 to 1992, notwithstanding a slight upturn in the value of such exports from 1990 to 1991. Although the volume of U.S. producers' exports reversed its downward trend from January-September 1992 to January-September 1993, the value of such exports fell by 21 percent over the same period.

### **U.S. Producers' Inventories**

U.S. producers' total end-of-period inventories of PAN, the bulk of which consisted of molten product, rose irregularly from 1990 to 1992, increasing from 35.6 million pounds to 45.7 million pounds, or by 28 percent (table 5). Such inventories rose even more sharply between the interim periods, increasing by 39 percent from January-September 1992 to January-September 1993.

### **Molten PAN**

U.S. producers' inventories of molten PAN declined slightly by less than 3 percent from 1990 to 1991, but then increased sharply from 1991 to 1992 and from the interim 1992 period to the interim period in 1993. The ratio of U.S. producers' inventories to production and shipments rose steadily throughout the period for which information was requested, increasing from 3.4 and \*\*\* percent in 1990 to 4.7 and \*\*\* percent, respectively, in 1992 and increasing from 3.1 and \*\*\* percent in the interim 1992 period to 4.5 and \*\*\* percent in the interim 1993 period.

Table 5

PAN: End-of-period inventories of U.S. producers, by products, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.-	
				1992	1993
<b>Quantity (1,000 pounds)</b>					
Molten PAN .....	31,810	31,048	42,453	27,819	39,173
Flake PAN .....	3,839	3,548	3,268	3,361	4,262
Total .....	35,649	34,596	45,721	31,180	43,435
<b>Ratio to production (percent)</b>					
Molten PAN .....	3.4	3.6	4.7	3.1	4.5
Flake PAN .....	3.3	***	4.5	4.4	5.9
Average .....	-	-	-	-	-
<b>Ratio to U.S. shipments (percent)</b>					
Molten PAN .....	***	***	***	***	***
Flake PAN .....	***	***	***	***	***
Average .....	***	***	***	***	***
<b>Ratio to total shipments (percent)</b>					
Molten PAN .....	***	***	***	***	***
Flake PAN .....	***	***	***	***	***
Average .....	***	***	***	***	***

Note.—Ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

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

**Flake PAN**

U.S. producers' inventories of flake PAN fell by 15 percent from 1990 to 1992, but increased by 27 percent from January-September 1992 to January-September 1993. The ratio of inventories to production dipped slightly to \*\*\* percent in 1991, but then increased to 4.5 percent in 1992 and rose to 5.9 percent in January-September 1993, up from 4.4 percent in the corresponding 1992 period. The ratio of inventories to shipments followed a similar trend, showing little or no change from 1990 to 1991, rising from 1991 to 1992 and increasing further from the interim period in 1992 to the interim period in 1993.

## U.S. Producers' Purchases

U.S. producers generally purchase PAN from other domestic producers or from other domestic sources during times of plant outages, whether scheduled or unscheduled. At least one shutdown is scheduled during the year for routine maintenance. Other unforeseen events may trigger additional shutdowns, such as occurred at \*\*\*.<sup>21</sup> During these periods of outages, U.S. producers must rely on other sources either to supply their own internal needs or to supplement existing market orders. \*\*\* accounted for all U.S. producers' purchases of PAN during the period for which information was requested. Data on these three firms' purchases are shown in table 6.

As shown in table 6, the bulk of the purchases by \*\*\* comprised molten PAN. These firms' total purchases fell from \*\*\* pounds, valued at \$\*\*\*, in 1990 to \*\*\* pounds, valued at \$\*\*\*, in 1992. Such purchases \*\*\* from January-September 1992 to January-September 1993, \*\*\* from \*\*\* pounds, valued at \$\*\*\*, in the interim 1992 period to \*\*\* pounds, valued at \$\*\*\*, in the interim 1993 period.

Table 6  
PAN: U.S. producers' purchases, by sources and by products, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept. - 1992	1993
------	------	------	------	----------------------	------

\* \* \* \* \*

### Employment, Wages, and Productivity

All five producing firms supplied virtually complete employment information with respect to their U.S. establishments in which PAN is produced. As noted earlier, three of the five producing firms produce both molten and flake PAN and two firms produce only the molten product. Production and related workers (PRWs) employed by U.S. producers in all but one plant location are covered on union contracts. The one plant in which such workers are not covered by a union contract is \*\*\*. For reasons previously stated, BASF was the only producer to indicate that it had experienced a reduction in the number of PRWs it employed during the period for which information was requested. Employment data as reported by all producers are presented in table 7.

In terms of overall establishment employment, the number of PRWs employed in producing all products within the reporting establishments fluctuated only slightly during the period for which information was requested. The number of hours worked by those same PRWs, however, fell by nearly 20 percent from 1990 to 1992 and stabilized somewhat from January-September 1992 to January-September 1993. Compensation paid to those same PRWs, measured in terms of hourly and total wages and compensation paid, generally increased throughout the period for which information was requested.

<sup>21</sup> \*\*\*.

Table 7

Average number of total employees and production and related workers in U.S. establishments wherein PAN is produced, hours worked,<sup>1</sup> wages and total compensation paid to such employees, and hourly wages, productivity, and unit production costs,<sup>2</sup> by products, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993<sup>3</sup>

Item	1990	1991	1992	Jan.-Sept.--	
				1992	1993
<b>Number of employees</b>					
All products . . . . .	817	706	714	712	703
<b>Number of production and related workers (PRWs)</b>					
Molten PAN . . . . .	184	164	162	163	153
Flake PAN . . . . .	***	***	***	***	***
Total . . . . .	***	***	***	***	***
All products . . . . .	343	345	341	340	333
<b>Hours worked by PRWs (1,000 hours)</b>					
Molten PAN . . . . .	419	364	352	271	270
Flake PAN . . . . .	***	***	***	***	***
Total . . . . .	***	***	***	***	***
All products . . . . .	1,063	866	853	597	601
<b>Wages paid to PRWs (1,000 dollars)</b>					
Molten PAN . . . . .	7,019	6,023	6,280	4,638	4,909
Flake PAN . . . . .	630	475	416	308	356
Total . . . . .	7,649	6,498	6,696	4,946	5,265
All products . . . . .	11,688	12,006	12,257	9,080	9,670
<b>Total compensation paid to PRWs (1,000 dollars)</b>					
Molten PAN . . . . .	9,472	7,952	8,306	6,125	6,591
Flake PAN . . . . .	817	617	514	381	467
Total . . . . .	10,289	8,569	8,820	6,506	7,058
All products . . . . .	14,544	15,169	15,402	11,401	12,245
<b>Hourly wages paid to PRWs</b>					
Molten PAN . . . . .	\$16.75	\$16.55	\$17.84	\$17.11	\$18.18
Flake PAN . . . . .	***	***	***	***	***
Average . . . . .	***	***	***	***	***
All products . . . . .	14.32	14.86	15.42	6.38	17.33

See footnotes at end of table.

Table 7--Continued

Average number of total employees and production and related workers in U.S. establishments wherein PAN is produced, hours worked,<sup>1</sup> wages and total compensation paid to such employees, and hourly wages, productivity, and unit production costs,<sup>2</sup> by products, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993<sup>3</sup>

Item	1990	1991	1992	Jan.-Sept.--	
				1992	1993
<b>Hourly total compensation paid to PRWs</b>					
Molten PAN .....	\$22.61	\$21.85	\$23.60	\$22.60	\$24.41
Flake PAN .....	***	***	***	***	***
Average .....	***	***	***	***	***
All products .....	17.82	18.77	19.37	8.01	21.94
<b>Productivity (pounds per hour)</b>					
Molten PAN .....	2,234.4	2,396.1	2,546.2	2,508.8	2,397.3
Flake PAN .....	***	***	***	***	***
Average .....	***	***	***	***	***
<b>Unit labor costs (per pound)</b>					
Molten PAN .....	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01
Flake PAN .....	.01	.01	.01	.01	.01
Average .....	.01	.01	.01	.01	.01

<sup>1</sup> Includes hours worked plus hours of paid leave time.

<sup>2</sup> On the basis of total compensation paid.

<sup>3</sup> Firms providing employment data accounted for 100 percent of reported total U.S. shipments (based on quantity) in 1992.

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

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

**Molten PAN**

The employment trends for U.S. producers on their molten PAN operations generally turned downward from 1990 to 1992, with some improvement from January-September 1992 to January-September 1993. The number of PRWs employed in producing molten PAN as well as the number of hours worked by such workers fell by 12 percent and 16 percent, respectively, from 1990 to 1992. The number of PRWs continued to fall in the interim period of 1993, dropping by 6 percent from January-September in 1992. The number of hours worked by such workers was virtually unchanged over the interim periods. In terms of worker compensation, wages paid and total compensation paid to those same PRWs declined from 1990 to 1991 and recovered somewhat from

1991 to 1992 while still remaining below the 1990 levels. From January-September 1992 to January-September 1993, wages and total compensation paid to such PRWs rose by 6 percent and 8 percent, respectively. Similarly, hourly total compensation paid to such PRWs dipped from 1990 to 1991, rose from 1991 to 1992, and increased again from January-September 1992 to January-September 1993. Productivity of PRWs producing molten PAN rose by 14 percent from 1990 to 1992 but then declined by 4 percent from January-September 1992 to January-September 1993. U.S. producers' unit labor costs were unchanged throughout the period for which information was requested.

### **Flake PAN**

U.S. producers' employment indicators for flake PAN were generally lower in 1992 than in 1990 and were generally higher in January-September 1993 than in the corresponding 1992 period. From 1990 to 1992, the number of PRWs producing flake PAN fell by 38 percent; the number of hours worked by such workers declined by 30 percent; wages and total compensation paid to such workers fell by 34 percent and 37 percent, respectively; and hourly total compensation paid to such workers declined by 10 percent. These employment indicators turned upward from January-September 1992 to January-September 1993. Productivity of these same PRWs fluctuated downward from 1990 to 1992 and declined by 18 percent from January-September 1992 to January-September 1993. Unit labor costs remained constant at a penny per pound throughout the period for which information was requested.

### **Financial Experience of U.S. Producers**

Five U.S. producers—Aristech, BASF, Exxon, Koppers, and Stepan—accounting for all U.S. production of PAN, provided income-and-loss data on their U.S. operations on molten PAN, flake PAN, and total PAN. BASF closed its Kearny, NJ, plant in September of 1990. BASF supplies orthoxylene to Sterling to produce molten PAN under a toll agreement. The toll agreement includes, in addition to a toll fee for conversion, a fixed fee to use plant facilities for production plus a complex formula for profit split on all products, including molten PAN produced by Sterling.

All the reporting firms keep accounting data on their total PAN operations; they do not maintain separate data on molten PAN and flake PAN operations. Detailed cost data on molten PAN and flake PAN operations are not presented because they are not comparable among the companies. Overall establishment data are lacking because (1) Stepan did not allocate selling, general, and administrative expenses to its establishment operations, (2) BASF did not provide such data because of the shut-down of its plant and tolling operations, and (3) Exxon's establishment data are the same as its molten PAN operations.

### **Molten PAN Operations**

The income-and-loss data of the five firms on their molten PAN operations are presented in table 8, and key financial data by firms are shown in table 9. Total net sales increased by 7.0 percent from \$251.8 million in 1990 to \$269.4 million in 1992. Such sales declined by 6.5 percent from \$207.8 million in January-September 1992 to \$194.2 million in January-September 1993. Total net sales in pounds dropped by 6.2 percent from 1990 to 1992 and further fell by 4.3 percent from January-September 1992 to January-September 1993. The value of trade net sales declined by about 2.0 percent from 1990 to 1991, but then rose by 10.3 percent from 1991 to 1992. Such sales fell by 13.0 percent from January-September 1992 to January-September 1993. Trade net sales in pounds followed a somewhat similar trend, declining by 11.2 percent from 1990 to 1991 and then rising by 4.8 percent from 1991 to 1992. Such sales fell by 9.9 percent from January-September 1992 to

Table-8

Income-and-loss experience of U.S. producers on their operations producing molten PAN, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993<sup>1</sup>

Item	1990	1991	1992	Jan.-Sept.--	
				1992	1993
<b>Quantity (1,000 pounds)</b>					
Net sales:					
Trade .....	***	***	***	***	***
Company transfers .....	***	***	***	***	***
Total .....	943,448	869,175	884,751	680,650	651,642
<b>Value (1,000 dollars)</b>					
Net sales:					
Trade .....	***	***	***	***	***
Company transfers .....	***	***	***	***	***
Total .....	251,757	256,430	269,378	207,804	194,198
Cost of goods sold .....	221,264	204,129	206,833	160,868	143,957
Gross profit .....	30,493	52,301	62,545	46,936	50,241
Selling, general, and administrative expenses .....	11,114	8,956	9,592	7,299	7,343
Operating income .....	19,379	43,345	52,953	39,637	42,898
Startup or shutdown expense .....	***	0	0	0	0
Interest expense .....	***	266	336	234	***
Other income or (expense), net .....	***	951	(493)	192	***
Net income before income taxes .....	851	44,030	52,124	39,595	40,095
Depreciation and amortiza- tion .....	19,190	11,324	12,204	9,549	10,533
Cash flow <sup>2</sup> .....	20,041	55,354	64,328	49,144	50,628
<b>Value (per pound)</b>					
Net sales .....	\$0.27	\$0.30	\$0.30	\$0.31	\$0.30
Cost of goods sold .....	0.23	0.23	0.23	0.24	0.22
Gross profit .....	0.03	0.06	0.07	0.07	0.08
Selling, general, and administrative expenses .....	0.01	0.01	0.01	0.01	0.01
Operating income .....	0.02	0.05	0.06	0.06	0.07
<b>Ratio to net sales (percent)</b>					
Cost of goods sold .....	87.9	79.6	76.8	77.4	74.1
Gross profit .....	12.1	20.4	23.2	22.6	25.9
Selling, general, and administrative expenses .....	4.4	3.5	3.6	3.5	3.8

See footnotes at end of table.



Table 8—Continued

Income-and-loss experience of U.S. producers on their operations producing molten PAN, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993<sup>1</sup>

Item	1990	1991	1992	Jan.-Sept.—	
				1992	1993
	Ratio to net sales (percent)				
Operating income .....	7.7	16.9	19.7	19.1	22.1
Net income before income taxes .....	0.3	17.2	19.3	19.1	20.6
	Number of firms reporting				
Operating losses .....	1	0	0	0	0
Net losses .....	1	0	0	0	0
Data .....	5	5	5	5	5

<sup>1</sup> Producers are Aristech, BASF, Exxon, Koppers, and Stepan. Each of the firms' fiscal year ends on Dec. 31.

<sup>2</sup> Cash flow is defined as net income or loss plus depreciation and amortization.

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

Table 9

Income-and-loss experience of U.S. producers on their operations producing molten PAN, by firms, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

January-September 1993. Company transfers include molten PAN consumed to produce flake PAN as well as other products. These company transfers are valued at market prices.

Operating income as a share of net sales rose from 7.7 percent in 1990 to 16.9 percent in 1991, 19.7 percent in 1992, and 22.1 percent in January-September 1993. The average net sales value per pound increased from 1990 to 1992, but slightly declined in January-September 1993 compared with that in January-September 1992. The average per-pound cost of goods sold remained the same during 1990-92 and decreased by more than the decline in average net sales value during January-September 1992-93. Average selling, general, and administrative expenses per pound remained the same throughout the period for which data were obtained. This resulted in increasing operating income margins during the period. Pre-tax net income-or-loss margins followed a similar trend as the operating income margins.

### Flake PAN Operations

The income-and-loss data of the five firms on their flake PAN operations are presented in table 10, and key financial data by firms are shown in table 11. Total net sales increased by 8.3

**Table 10**  
**Income-and-loss experience of U.S. producers on their operations producing flake PAN, 1990-92,**  
**Jan.-Sept. 1992, and Jan.-Sept. 1993<sup>1</sup>**

Item	1990	1991	1992	Jan.-Sept.—	
				1992	1993
<b>Quantity (1,000 pounds)</b>					
Net sales:	***	***	***	***	***
Trade .....	***	***	***	***	***
Company transfers .....	***	***	***	***	***
Total .....	***	***	***	***	***
<b>Value (1,000 dollars)</b>					
Net sales:	***	***	***	***	***
Trade .....	***	***	***	***	***
Company transfers .....	***	***	***	***	***
Total .....	***	***	***	***	***
Cost of goods sold .....	***	***	***	***	***
Gross profit or (loss) .....	***	***	***	***	***
Selling, general, and administrative expenses .....	***	***	***	***	***
Operating income or (loss) .....	***	***	***	***	***
Startup or shutdown expense .....	***	0	0	0	0
Interest expense .....	***	***	***	***	***
Other income, net .....	***	***	***	***	***
Net income or (loss) before income taxes .....	***	***	***	***	***
Depreciation and amortiza- tion .....	1,883	***	***	***	***
Cash flow <sup>2</sup> .....	(1,996)	***	***	***	***
<b>Value (per pound)</b>					
Net sales .....	\$***	\$***	\$***	\$***	\$***
Cost of goods sold .....	***	***	***	***	***
Gross profit or (loss) .....	***	***	***	***	***
Selling, general, and administrative expenses .....	***	***	***	***	***
Operating income or (loss) .....	***	***	***	***	***
<b>Ratio to net sales (percent)</b>					
Cost of goods sold .....	***	***	***	***	***
Gross profit or (loss) .....	***	***	***	***	***
Selling, general, and administrative expenses .....	***	***	***	***	***

See footnotes at end of table.

Table 10—Continued

Income-and-loss experience of U.S. producers on their operations producing flake PAN, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993<sup>1</sup>

Item	1990	1991	1992	Jan.-Sept.—	
				1992	1993
	<b>Ratio to net sales (percent)</b>				
Operating income or (loss) . . . . .	(7.7)	4.6	6.3	4.0	(4.2)
Net income or (loss) before income taxes . . . . .	(11.8)	4.4	6.1	3.9	(4.5)
	<b>Number of firms reporting</b>				
Operating losses . . . . .	3	0	0	0	2
Net losses . . . . .	3	0	0	0	2
Data . . . . .	4	3	3	3	3

<sup>1</sup> Producers are Aristech, BASF, Koppers, and Stepan. Each of the firms' fiscal year ends on Dec. 31.

<sup>2</sup> Cash flow is defined as net income or loss plus depreciation and amortization.

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

Table 11

Income-and-loss experience of U.S. producers on their operations producing flake PAN, by firms, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

percent from \$\*\*\* in 1990 to \$\*\*\* in 1991, but then fell by 32.4 percent to \$\*\*\* in 1992. Such sales further declined by 19.0 percent from \$\*\*\* in January-September 1992 to \$\*\*\* in January-September 1993. Total net sales in pounds dropped by 38.1 percent from 1990 to 1992 and further fell by 9.0 percent from January-September 1992 to January-September 1993. Company transfers to make other products were less than 2.1 percent of total quantities sold during the period covered. These company transfers are valued at market prices.

The industry reported an aggregate operating loss margin of 7.7 percent in 1990. During 1991 and 1992, the financial experience on flake operations improved since the responding firms reported aggregate operating income margins of 4.6 percent and 6.3 percent, respectively. The industry again suffered an aggregate operating loss margin of 4.2 percent in January-September 1993. The average net sales value per pound increased from 1990 to 1992 but then declined in January-September 1993. The average per-pound cost of goods sold increased from 1990 to 1991 and then remained the same during 1991 to January-September 1993. Average selling, general, and administrative expenses per pound remained steady except in 1991 when they declined. Pre-tax net income-or-loss margins followed a similar trend as the operating income margins.

## Total PAN Operations

The income-and-loss data of the five firms on their total PAN operations are presented in table 12, and key financial data by firms are shown in table 13. Total net sales increased by 7.6 percent from \$251.9 million in 1990 to \$271.1 million in 1992. Such sales declined by 7.2 percent from \$208.8 million in January-September 1992 to \$193.7 million in January-September 1993. Total net sales in pounds dropped by 7.8 percent from 1990 to 1991 and then increased by 1.8 percent from 1991 to 1992. Such sales fell by 4.4 percent from January-September 1992 to January-September 1993. Net trade sales rose in value by 0.7 percent from 1990 to 1992 and then fell by 13.8 percent from January-September 1992 to January-September 1993. However, net trade sales in pounds declined by 13.4 percent from 1990 to 1992 and further fell by 9.6 percent from January-September 1992 to January-September 1993. Company transfers to make other products accounted for 38.5 percent of total quantities sold in 1990 and then increased in each period to 45.2 percent in January-September 1993. These company transfers are valued at market prices.

Operating income as a share of net sales rose from 1.7 percent in 1990 to 11.7 percent in 1991, 15.8 percent in 1992, and 17.7 percent in January-September 1993. The average net sales value per pound increased from 1990 to 1992, but declined slightly in January-September 1993. The average per-pound cost of goods sold remained the same during 1990-92 and decreased even further than the decline in the average net sales value during January-September 1992-93. Average selling, general, and administrative expenses per pound remained the same throughout the period for which data were obtained. This resulted in increasing operating income margins during the period. Pre-tax net income-or-loss margins followed a similar trend as the operating income margins.

The Commission requested cost data for raw materials, direct labor, and other factory costs, the major components of cost of goods sold. Stepan did not provide direct labor separately, since it included such expenses in its other factory costs. BASF reported toll fees as its direct labor and fixed fees as its other factory costs. All firms reported raw materials costs. The only raw material used to produce PAN is either orthoxylene or naphthalene. Because some firms use both of these items and other firms use only orthoxylene, the only cost per pound of each firm for raw materials, which include both orthoxylene and naphthalene, are presented in the following tabulation:

\* \* \* \* \*

Stepan noted in its 1992 Annual Report that--

"Polymers, too, enjoyed its second best year, largely due to improved margins in our phthalic anhydride [on page 2]. Phthalic anhydride, which represents 56 percent of polymer volume, experienced a nine percent increase in sales due primarily to higher selling prices as volume only increased slightly (on page 12)."

## Investment in Productive Facilities

The investment in property, plant, and equipment and return on assets are shown in table 14. BASF pays Sterling to produce its PAN under a toll agreement; it did not report any assets. Aristech restated its fixed asset values per FAS 109 effective January 1993 as of September 1993. The operating and net returns on all types of PAN operations generally followed the same trend as did the ratios of net income to total net sales in all reporting periods.

**Table 12**  
**Income-and-loss experience of U.S. producers on their operations producing all PAN, 1990-92,**  
**Jan.-Sept. 1992, and Jan.-Sept. 1993<sup>1</sup>**

Item	1990	1991	1992	Jan.-Sept.-	
				1992	1993
<b>Quantity (1,000 pounds)</b>					
Net sales:					
Trade .....	***	***	***	***	***
Company transfers .....	***	***	***	***	***
Total .....	942,156	868,851	884,617	680,461	650,278
<b>Value (1,000 dollars)</b>					
Net sales:					
Trade .....	***	***	***	***	***
Company transfers .....	***	***	***	***	***
Total .....	251,943	258,326	271,099	208,827	193,709
Cost of goods sold .....	234,815	217,610	217,679	169,606	151,173
Gross profit .....	17,128	40,716	53,420	39,221	42,536
Selling, general, and administrative expenses .....	12,904	10,518	10,692	8,166	8,193
Operating income .....	4,224	30,198	42,728	31,055	34,343
Startup or shutdown expense .....	***	0	0	0	0
Interest expense .....	***	***	***	***	***
Other income or (expense), net .....	***	***	***	***	***
Net income or (loss) before income taxes .....	(15,675)	30,820	41,862	30,983	31,501
Depreciation and amortiza- tion .....	21,073	12,472	13,035	10,221	11,145
Cash flow <sup>2</sup> .....	5,398	43,292	54,897	41,204	42,646
<b>Value (per pound)</b>					
Net sales .....	\$0.27	\$0.30	\$0.31	\$0.31	\$0.30
Cost of goods sold .....	0.25	0.25	0.25	0.25	0.23
Gross profit .....	0.02	0.05	0.06	0.06	0.07
Selling, general, and administrative expenses .....	0.01	0.01	0.01	0.01	0.01
Operating income .....	0.01	0.03	0.05	0.05	0.05
<b>Ratio to net sales (percent)</b>					
Cost of goods sold .....	93.2	84.2	80.3	81.2	78.0
Gross profit .....	6.8	15.8	19.7	18.8	22.0

See footnotes at end of table.

Table 12—Continued

Income-and-loss experience of U.S. producers on their operations producing all PAN, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993<sup>1</sup>

Item	1990	1991	1992	Jan.-Sept.—	
				1992	1993
	Ratio to net sales (percent)				
Selling, general, and administrative expenses . . . . .	5.1	4.1	3.9	3.9	4.2
Operating income . . . . .	1.7	11.7	15.8	14.9	17.7
Net income or (loss) before income taxes . . . . .	(6.2)	11.9	15.4	14.8	16.3
	Number of firms reporting				
Operating losses . . . . .	2	0	0	0	0
Net losses . . . . .	2	0	0	0	0
Data . . . . .	5	5	5	5	5

<sup>1</sup> Producers are Aristech, BASF, Exxon, Koppers, and Stepan. Each of the firms' fiscal year ends on Dec. 31.

<sup>2</sup> Cash flow is defined as net income or loss plus depreciation and amortization.

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

Table 13

Income-and-loss experience of U.S. producers on their operations producing all PAN, by firms, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

\* \* \* \* \*

**Table 14**  
**Value of assets and return on assets of U.S. producers' operations producing PAN, 1990-92,**  
**Jan.-Sept. 1992, and Jan.-Sept. 1993**

Item	As of the end of calendar year--			As of Sept. 30--	
	1990	1991	1992	1992	1993
	Value (1,000 dollars)				
<b>All products:</b>					
<b>Fixed assets:</b>					
Original cost .....	388,556	407,694	430,509	422,837	476,826
Book value .....	256,816	253,877	249,078	247,688	269,296
Total assets <sup>1</sup> .....	674,676	655,671	646,414	***	***
<b>Molten PAN:</b>					
<b>Fixed assets:</b>					
Original cost .....	176,992	184,518	193,333	192,538	216,245
Book value .....	114,719	113,584	108,806	110,721	119,384
Total assets <sup>2</sup> .....	316,868	307,150	295,211	219,594	207,061
<b>Flake PAN:</b>					
<b>Fixed assets:</b>					
Original cost .....	3,309	3,404	3,421	3,406	4,354
Book value .....	2,686	2,534	2,325	2,348	***
Total assets <sup>2</sup> .....	***	***	***	***	***
<b>PAN:</b>					
<b>Fixed assets:</b>					
Original cost .....	180,301	187,921	196,754	195,924	220,599
Book value .....	117,405	116,118	111,131	113,069	***
Total assets <sup>2</sup> .....	***	***	***	***	***
	Return on book value of fixed assets (percent) <sup>3</sup>				
<b>All products:</b>					
Operating return <sup>4</sup> .....	28.7	35.8	41.9	40.4	38.3
Net return <sup>5</sup> .....	28.5	36.2	41.9	40.5	38.4
<b>Molten PAN:</b>					
Operating return <sup>4</sup> .....	20.3	32.7	40.7	40.0	39.6
Net return <sup>5</sup> .....	20.3	33.3	40.6	40.0	39.3
<b>Flake PAN:</b>					
Operating return <sup>4</sup> .....	(53.2)	64.3	64.7	44.1	***
Net return <sup>5</sup> .....	(55.8)	61.8	63.1	42.4	***
<b>PAN:</b>					
Operating return <sup>4</sup> .....	7.2	20.7	30.6	29.1	***
Net return <sup>5</sup> .....	7.2	21.2	30.5	29.0	***
	Return on total assets (percent) <sup>3</sup>				
<b>All products:</b>					
Operating return <sup>4</sup> .....	10.9	13.9	16.1	***	***
Net return <sup>5</sup> .....	10.8	14.0	16.2	***	***

See footnotes at end of table.

Table 14—Continued

Value of assets and return on assets of U.S. producers' operations producing PAN, calendar years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	As of the end of calendar year—			As of Sept. 30—	
	1990	1991	1992	1992	1993
	<b>Return on total assets (percent)<sup>3</sup></b>				
<b>Molten PAN:</b>					
Operating return <sup>4</sup> . . . . .	7.3	12.1	15.0	15.1	20.3
Net return <sup>5</sup> . . . . .	7.4	12.3	15.0	15.0	20.1
<b>Flake PAN:</b>					
Operating return <sup>4</sup> . . . . .	***	***	***	***	***
Net return <sup>5</sup> . . . . .	***	***	***	***	***
<b>PAN:</b>					
Operating return <sup>4</sup> . . . . .	***	***	***	***	***
Net return <sup>5</sup> . . . . .	***	***	***	***	***

<sup>1</sup> Defined as book value of fixed assets plus current and noncurrent assets.  
<sup>2</sup> Total establishment assets are apportioned, by firm, to product groups on the basis of the ratios of the respective book values of fixed assets.  
<sup>3</sup> Computed using data from only those firms supplying both asset and income-and-loss information and, as such, may not be derivable from data presented. Data for the partial-year periods are calculated using annualized income-and-loss information.  
<sup>4</sup> Defined as operating income or loss divided by asset value.  
<sup>5</sup> Defined as net income or loss divided by asset value.

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

**Capital Expenditures**

Capital expenditures by U.S. PAN producers are shown in table 15.

**Research and Development Expenses**

None of the firms incurred research and development expenses for their flake PAN operations. BASF \*\*\*. The remaining four firms' research and development expenses for their molten PAN operations are shown in the following tabulation (in 1,000 dollars):

Item	1990	1991	1992	Jan.-Sept.- 1992	1993
Molten PAN . . . . .	***	***	***	***	473



**Table 15**  
**Capital expenditures by U.S. producers of PAN, by products, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993<sup>1</sup>**

(In 1,000 dollars)

Item	1990	1991	1992	Jan.-Sept. -	
				1992	1993
<b>All products:</b>					
Land and land improvements .....	***	***	***	***	***
Building and leasehold improvements .....	***	***	***	***	***
Machinery, equipment, and fixtures .....	***	***	***	***	***
Total .....	38,356	35,747	35,393	23,434	15,712
<b>Molten PAN:</b>					
Land and land improvements .....	0	***	0	0	0
Building and leasehold improvements .....	0	0	0	0	0
Machinery, equipment, and fixtures .....	***	***	***	***	***
Total .....	***	***	***	***	***
<b>Flake PAN:</b>					
Land and land improvements .....	0	0	0	0	0
Building and leasehold improvements .....	0	0	0	0	0
Machinery, equipment, and fixtures .....	***	***	***	***	***
Total .....	***	***	***	***	***
<b>PAN:</b>					
Land and land improvements .....	0	***	0	0	0
Building and leasehold improvements .....	0	0	0	0	0
Machinery, equipment, and fixtures .....	7,486	***	9,025	***	2,711
Total .....	7,486	9,723	9,025	***	2,711

<sup>1</sup> Producers are Aristech, Exxon, Koppers, and Stepan. BASF \*\*\*. The capital expenditures reported by BASF were \$\*\*\* each for 1990, 1992, and Jan.-Sept. 1992; \$\*\*\* for 1991; and \$\*\*\* for Jan.-Sept. 1993 for molten PAN operations. These amounts are not included in the above data.

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

## Capital and Investment

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of PAN from Brazil, Hungary, Israel, Mexico, and Venezuela on their growth, investment, ability to raise capital, or existing development and production efforts (including efforts to develop a derivative or improved version of PAN). Their responses are presented in appendix D.

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

Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. § 1677(7)(F)(i)) provides that--

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the merchandise, the Commission shall consider, among other relevant economic factors<sup>22</sup>--

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

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<sup>22</sup> Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

products subject to investigation(s) under section 701 or 731 or to final orders under section 706 or 736, are also used to produce the merchandise under investigation,

(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.<sup>23</sup>

The available information on the nature of the subsidies involved (item I) is presented in the section entitled "Nature and Extent of Alleged Subsidies and Alleged Sales at LTFV." The available information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury;" and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in appendix D. Available information on U.S. inventories of the subject products (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), and (VIII) above); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets, follows. Item IX is not applicable.

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

Data on U.S. importers' inventories of flake PAN are shown in table 16. In the aggregate, U.S. importers' inventories from the five subject countries trebled from 1990 to 1992 and rose equally significantly from January-September 1992 to the corresponding period in 1993. The ratio of U.S. importers' inventories to U.S. shipments of imports fluctuated from 13 percent in 1990 to 18 percent in 1991, but remained constant at 12 percent from January-September 1992 to the corresponding 1993 period. The ratio of such inventories to U.S. importers' total shipments fluctuated similarly.

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

The information presented below pertaining to foreign producers in Israel, Mexico, and Venezuela was provided by counsel for certain producers in those countries. The information pertaining to Brazil and Hungary was provided directly by the respective foreign producers in those countries. Telegrams were also sent to the respective U.S. embassies in the countries subject to the

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<sup>23</sup> Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

Table 16  
 Flake PAN:<sup>1</sup> End-of-period inventories of U.S. importers, by products and by sources, 1990-92,  
 Jan.-Sept. 1992, and Jan.-Sept. 1993

Source	1990	1991	1992	Jan.-Sept.--	
				1992	1993
<b>Quantity (1,000 pounds)</b>					
Brazil	***	***	***	***	***
Hungary	***	***	***	***	***
Israel	***	***	***	***	***
Mexico	***	***	***	***	***
Venezuela	***	***	***	***	***
Subtotal	1,271	2,110	3,909	2,630	4,179
Other sources	-	-	-	-	-
Total	1,271	2,110	3,909	2,630	4,179
<b>Ratio to imports (percent)</b>					
Brazil	***	***	***	***	***
Hungary	***	***	***	***	***
Israel	***	***	***	***	***
Mexico	***	***	***	***	***
Venezuela	***	***	***	***	***
Average	12.0	16.6	14.7	11.9	12.1
Other sources	-	-	-	-	-
Average	12.0	16.6	14.7	11.9	12.1
<b>Ratio to U.S. shipments of imports (percent)</b>					
Brazil	***	***	***	***	***
Hungary	***	***	***	***	***
Israel	***	***	***	***	***
Mexico	***	***	***	***	***
Venezuela	***	***	***	***	***
Average	13.2	17.8	15.8	12.4	12.3
Other sources	-	-	-	-	-
Average	13.2	17.8	15.8	12.4	12.3
<b>Ratio to total shipments of imports (percent)</b>					
Brazil	***	***	***	***	***
Hungary	***	***	***	***	***
Israel	***	***	***	***	***
Mexico	***	***	***	***	***

See footnotes at end of table.

Table 16—Continued  
 Flake PAN:<sup>1</sup> End-of-period inventories of U.S. importers, by products and by sources, 1990-92,  
 Jan.-Sept. 1992, and Jan.-Sept. 1993

Source	1990	1991	1992	Jan.-Sept.—	
				1992	1993
Ratio to total shipments of imports (percent)					
Venezuela . . . . .	***	***	***	***	***
Average . . . . .	12.7	17.8	15.8	12.3	12.3
Other sources . . . . .	-	-	-	-	-
Average . . . . .	12.7	17.8	15.8	12.3	12.3

<sup>1</sup> Except for a small quantity (\*\*\*) pounds) imported from Mexico in Jan.-Sept. 1993 for test purposes, molten PAN is not exported to United States from any source.

Note.—Ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

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

investigations requesting information on the foreign industries. Although incomplete, that information is also presented.

#### Brazil

Two Brazilian producers of PAN were identified in the petition. Since the Commission did not receive a response to its telegram from the U.S. embassy in Brasilia, the number of producers could not be verified. Oxypar Industrias Quimicas S.A. (Oxypar), one of the two producers listed in the petition, did respond to the Commission's foreign producers' questionnaire, which was faxed directly to the firm. Information on Oxypar's production capacity, production, and shipments is presented in table 17.

An estimated \*\*\* percent of Oxypar's total sales was accounted for by sales of PAN, the bulk of which occur in its home market. Oxypar's production capacity remained constant during 1990-92 and is expected not to increase in 1993-94. Production, however, \*\*\*. Exports to the United States are expected to \*\*\* over the same period.

#### Hungary

Nitrokemia Industrial Works (NIKE) was the only Hungarian producer identified in the petition. The U.S. embassy in Budapest confirmed that NIKE indeed is the sole PAN producer in Hungary. Information obtained from NIKE was supplied in response to the Commission's foreign producers' questionnaire, faxed directly to the company. NIKE's PAN production capacity is expected to \*\*\* in 1993 and \*\*\* in 1994. The 1993 \*\*\*. NIKE's total PAN production \*\*\* from 1990 to 1992, and is expected to \*\*\* from 1993 to 1994. NIKE's exports to the United States are projected to \*\*\* somewhat from 1993 to 1994 although its total exports are expected to \*\*\*. Some of NIKE's other export markets include \*\*\*.

Table 17

PAN: Production capacity, production, and shipments of producers in Brazil, Hungary, Israel, Mexico, and Venezuela, by products and by sources, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993<sup>1</sup>

(In 1,000 pounds)

Item	Jan.-Sept.--				
	1990	1991	1992	1992	1993
<b>Production capacity:</b>					
Brazil	***	***	***	***	***
Hungary	***	***	***	***	***
Israel	***	***	***	***	***
Mexico	***	***	***	***	***
Venezuela	***	***	***	***	***
Total	425,306	429,328	436,476	325,844	365,258
<b>Production:</b>					
<b>Molten PAN:</b>					
Brazil	***	***	***	***	***
Hungary	***	***	***	***	***
Israel	***	***	***	***	***
Mexico	***	***	***	***	***
Venezuela	***	***	***	***	***
Total	98,318	81,021	80,619	60,697	55,105
<b>Flake PAN:</b>					
Brazil	***	***	***	***	***
Hungary	***	***	***	***	***
Israel	***	***	***	***	***
Mexico	***	***	***	***	***
Venezuela	***	***	***	***	***
Total	319,152	327,959	334,830	253,736	343,542
<b>Total, all PAN:</b>					
Brazil	***	***	***	***	***
Hungary	***	***	***	***	***
Israel	***	***	***	***	***
Mexico	***	***	***	***	***
Venezuela	***	***	***	***	***
Total	417,470	408,976	415,449	314,433	343,542
<b>Shipments:</b>					
<b>Home market:</b>					
<b>Molten PAN:</b>					
Brazil	***	***	***	***	***
Hungary <sup>2</sup>	***	***	***	***	***
Israel	***	***	***	***	***
Mexico	***	***	***	***	***
Venezuela	***	***	***	***	***
Total	26,703	26,962	26,781	19,057	18,484

See footnotes at end of table.

Table 17--Continued

PAN: Production capacity, production, and shipments of producers in Brazil, Hungary, Israel, Mexico, and Venezuela, by products and by sources, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993<sup>1</sup>

(In 1,000 pounds)

Item	1990	1991	1992	Jan.-Sept.--	
				1992	1993
<b>Flake PAN:</b>					
Brazil . . . . .	***	***	***	***	***
Hungary . . . . .	***	***	***	***	***
Israel . . . . .	***	***	***	***	***
Mexico . . . . .	***	***	***	***	***
Venezuela . . . . .	***	***	***	***	***
<b>Total . . . . .</b>	<b>75,947</b>	<b>72,836</b>	<b>79,590</b>	<b>60,181</b>	<b>51,193</b>
<b>Total home market shipments:</b>					
Brazil . . . . .	***	***	***	***	***
Hungary . . . . .	***	***	***	***	***
Israel . . . . .	***	***	***	***	***
Mexico . . . . .	***	***	***	***	***
Venezuela . . . . .	***	***	***	***	***
<b>Total . . . . .</b>	<b>102,650</b>	<b>99,798</b>	<b>106,372</b>	<b>79,238</b>	<b>69,677</b>
<b>Exports to the United States:</b>					
<b>Molten PAN:</b>					
Brazil . . . . .	0	0	0	0	0
Hungary . . . . .	0	0	0	0	0
Israel . . . . .	0	0	0	0	0
Mexico . . . . .	0	0	0	0	***
Venezuela . . . . .	0	0	0	0	0
<b>Total . . . . .</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>***</b>
<b>Flake PAN:</b>					
Brazil . . . . .	***	***	***	***	***
Hungary . . . . .	***	***	***	***	***
Israel . . . . .	***	***	***	***	***
Mexico . . . . .	***	***	***	***	***
Venezuela . . . . .	***	***	***	***	***
<b>Total . . . . .</b>	<b>21,747</b>	<b>29,437</b>	<b>48,934</b>	<b>35,230</b>	<b>44,681</b>
<b>Total exports to the United States:</b>					
Brazil . . . . .	***	***	***	***	***
Hungary . . . . .	***	***	***	***	***
Israel . . . . .	***	***	***	***	***
Mexico . . . . .	***	***	***	***	***
Venezuela . . . . .	***	***	***	***	***
<b>Total . . . . .</b>	<b>21,747</b>	<b>29,437</b>	<b>48,934</b>	<b>35,230</b>	<b>44,725</b>

See footnotes at end of table.

Table 17—Continued

PAN: Production capacity, production, and shipments of producers in Brazil, Hungary, Israel, Mexico, and Venezuela, by products and by sources, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993<sup>1</sup>

(In 1,000 pounds)

Item	1990	1991	1992	Jan.-Sept.—	
				1992	1993
<b>Exports to all other ex-</b>					
<b>port markets:</b>					
<b>Molten PAN:</b>					
Brazil . . . . .	***	***	***	***	***
Hungary . . . . .	***	***	***	***	***
Israel . . . . .	***	***	***	***	***
Mexico . . . . .	***	***	***	***	***
Venezuela . . . . .	***	***	***	***	***
<b>Total . . . . .</b>	<b>8,604</b>	<b>1,267</b>	<b>4,497</b>	<b>3,505</b>	<b>607</b>
<b>Flake PAN:</b>					
Brazil . . . . .	***	***	***	***	***
Hungary . . . . .	***	***	***	***	***
Israel . . . . .	***	***	***	***	***
Mexico . . . . .	***	***	***	***	***
Venezuela . . . . .	***	***	***	***	***
<b>Total . . . . .</b>	<b>124,441</b>	<b>117,809</b>	<b>106,875</b>	<b>79,986</b>	<b>110,455</b>
<b>Total exports to all other</b>					
<b>export markets:</b>					
Brazil . . . . .	***	***	***	***	***
Hungary . . . . .	***	***	***	***	***
Israel . . . . .	***	***	***	***	***
Mexico . . . . .	***	***	***	***	***
Venezuela . . . . .	***	***	***	***	***
<b>Total . . . . .</b>	<b>133,045</b>	<b>119,076</b>	<b>111,832</b>	<b>83,491</b>	<b>111,062</b>
<b>Total exports:</b>					
<b>Molten PAN:</b>					
Brazil . . . . .	***	***	***	***	***
Hungary . . . . .	***	***	***	***	***
Israel . . . . .	***	***	***	***	***
Mexico . . . . .	***	***	***	***	***
Venezuela . . . . .	***	***	***	***	***
<b>Total . . . . .</b>	<b>8,604</b>	<b>1,267</b>	<b>4,497</b>	<b>3,505</b>	<b>651</b>
<b>Flake PAN:</b>					
Brazil . . . . .	***	***	***	***	***
Hungary . . . . .	***	***	***	***	***
Israel . . . . .	***	***	***	***	***
Mexico . . . . .	***	***	***	***	***
Venezuela . . . . .	***	***	***	***	***
<b>Total . . . . .</b>	<b>146,187</b>	<b>147,247</b>	<b>155,809</b>	<b>115,216</b>	<b>155,180</b>

See footnotes at end of table.



Table 17--Continued

PAN: Production capacity, production, and shipments of producers in Brazil, Hungary, Israel, Mexico, and Venezuela, by products and by sources, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993<sup>1</sup>

(In 1,000 pounds)

Item	1990	1991	1992	Jan.-Sept.--	
				1992	1993
<b>Total, all PAN:</b>					
Brazil .....	***	***	***	***	***
Hungary .....	***	***	***	***	***
Israel .....	***	***	***	***	***
Mexico .....	***	***	***	***	***
Venezuela .....	***	***	***	***	***
<b>Total</b> .....	<b>154,791</b>	<b>148,514</b>	<b>160,306</b>	<b>118,721</b>	<b>155,831</b>
<b>Total shipments:</b>					
<b>Molten PAN:</b>					
Brazil .....	***	***	***	***	***
Hungary .....	***	***	***	***	***
Israel .....	***	***	***	***	***
Mexico .....	***	***	***	***	***
Venezuela .....	***	***	***	***	***
<b>Total</b> .....	<b>35,307</b>	<b>28,229</b>	<b>31,278</b>	<b>22,562</b>	<b>19,135</b>
<b>Flake PAN:</b>					
Brazil .....	***	***	***	***	***
Hungary .....	***	***	***	***	***
Israel .....	***	***	***	***	***
Mexico .....	***	***	***	***	***
Venezuela .....	***	***	***	***	***
<b>Total</b> .....	<b>222,635</b>	<b>220,085</b>	<b>235,399</b>	<b>175,997</b>	<b>206,334</b>
<b>Total, all PAN:</b>					
Brazil .....	***	***	***	***	***
Hungary .....	***	***	***	***	***
Israel .....	***	***	***	***	***
Mexico .....	***	***	***	***	***
Venezuela .....	***	***	***	***	***
<b>Total</b> .....	<b>257,942</b>	<b>248,314</b>	<b>266,677</b>	<b>198,559</b>	<b>225,469</b>

<sup>1</sup> The data shown are for the following firms: Oxypar, Brazil; NIKE, Hungary; Gadot, Israel; Celanese, Grupo, and Sintesis, Mexico; and, Oxidor and Petrochemica, Venezuela.

<sup>2</sup> Includes captive use.

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

## Israel

Gadot Petrochemical Industries Ltd. (Gadot) is the only producer of PAN in Israel. After a catalyst change and debottlenecking operations, Gadot's production capacity rose by about \*\*\* percent from 1990 to 1991. Gadot began exporting PAN to the United States in late 1992. Although its exports to the United States rose significantly in the 9-month period January-September 1993, compared with the corresponding period in 1992, Gadot's other export markets, primarily Europe and Asia, reportedly will continue to be the company's focus.

## Mexico

The petition identified three producers in Mexico that produce the subject PAN. Responses to the Commission's request for information were received through counsel from all three producers, which include Celanese Mexicana, S.A. (Celanese); Grupo Primex, S.A. de C.V. (Grupo); and Sintesis Organicas, S.A. de C.V. (Sintesis). Aggregate production capacity for the three firms remained relatively constant during 1990-92 and is projected to remain unchanged through 1994.<sup>24</sup> All three producers project increases in production and home market shipments in 1994 over 1993. Two of the three also project increased exports to the United States over the same period.

## Venezuela

Oxidaciones Organicas, C.A. (Oxidor) was the only Venezuelan producer of PAN named in the petition. Responding to the Commission's request for information, counsel provided information on the PAN operations of Oxidor and of a second producer, Petroquímica Sima, C.A. (Petroquímica). Both producers are nearly equal in their PAN production capability, although Petroquímica gained a significant edge in 1993 when \*\*\*. \*\*\* Petroquímica's PAN production capability. Based on the information received, both producers had relatively high capacity utilization rates during 1990-92 and experienced \*\*\* in their flake PAN production.<sup>25</sup> Oxidor projects that its production in 1994 will \*\*\* over 1993, whereas Petroquímica projects \*\*\* over the same period. In terms of exports to the United States, Oxidor is the more significant of the two firms, accounting for \*\*\* percent of the combined exports of the two in 1992. Relative to their PAN exports to the United States, neither producer expects that its exports in 1994 will be any higher than those in 1993. Other Latin American countries dominate the combined exports of both producers.

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

#### U.S. Imports

Because molten PAN must be maintained at a relative high temperature while in transport so as not to solidify, U.S. imports of molten PAN are nonexistent. Based on responses to the Commission questionnaires, the quantity and value of combined U.S. imports from the five subject countries rose throughout the period for which information was requested. Such imports increased from 17.1 million pounds, valued at \$4.5 million, in 1990 to 43.4 million pounds, valued at \$13.6 million, in 1992 and increased from 28.5 million pounds, valued at \$9.1 million, in January-

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<sup>24</sup> Celanese noted in its response that, depending on an analysis currently underway, its PAN production facility could be shut down. The producer noted also that if the plant continues to operate, most of its exports would be directed to the United States. (See also TR, pp. 73 and 74.)

<sup>25</sup> See also TR, pp. 96 and 97.

September 1992 to 49.7 million pounds, valued at \$12.2 million, in the corresponding 1993 period (table 18).

Two U.S. producers (Koppers and Stepan) imported PAN during the period for which information was requested. Koppers imported flake PAN from Venezuela, and Stepan imported the same from Mexico. Generally, U.S. producers import to cover production shortfalls that may occur during scheduled and unscheduled shutdowns.<sup>26</sup> In 1992, Koppers accounted for \*\*\* percent of the total quantity of imports from Venezuela, whereas Stepan accounted for \*\*\* percent of the total from Mexico.

#### Market Penetration of Imports

Shares of apparent U.S. consumption of PAN accounted for by U.S. importers' U.S. shipments are shown in table 19. U.S. importers of PAN from the five countries subject to these investigations captured no share of the U.S. market for molten PAN. In terms of flake PAN, U.S. importers' market share by quantity increased from 17 percent in 1990 to 39 percent in 1992 and rose from 34 percent in January-September 1992 to 52 percent in the corresponding period of 1993. The value of U.S. importers' U.S. shipments as a share of the value of apparent consumption of flake PAN rose from 16 percent in 1990 to 37 percent in 1992 and increased from 33 percent in January-September 1992 to 48 percent in January-September 1993. Although U.S. importers' shipments as a share of the quantity and value of apparent U.S. consumption of molten and flake PAN combined rose similarly throughout the period, such market shares equaled or exceeded 5 percent in only one period, January-September 1993.

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<sup>26</sup> TR, pp. 74 and 82.

**Table 18**  
**Flake PAN: U.S. imports, by sources, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993<sup>1</sup>**

Source	1990	1991	1992	Jan.-Sept.--	
				1992	1993
<b>Quantity (1,000 pounds)</b>					
Brazil . . . . .	***	***	***	***	***
Hungary . . . . .	***	***	***	***	***
Israel . . . . .	***	***	***	***	***
Mexico . . . . .	***	***	***	***	***
Venezuela . . . . .	***	***	***	***	***
Subtotal . . . . .	17,112	22,270	43,350	28,461	49,733
Other sources . . . . .	0	0	0	0	0
Total . . . . .	17,112	22,270	43,350	28,461	49,733
<b>Value (1,000 dollars)</b>					
Brazil . . . . .	***	***	***	***	***
Hungary . . . . .	***	***	***	***	***
Israel . . . . .	***	***	***	***	***
Mexico . . . . .	***	***	***	***	***
Venezuela . . . . .	***	***	***	***	***
Subtotal . . . . .	4,541	6,443	13,613	9,119	12,188
Other sources . . . . .	0	0	0	0	0
Total . . . . .	4,541	6,443	13,613	9,119	12,188
<b>Unit value (per pound)</b>					
Brazil . . . . .	∞	\$0.32	\$0.28	\$0.27	\$0.24
Hungary . . . . .	∞	∞	.29	.29	.23
Israel . . . . .	\$0.25	∞	.31	.32	.28
Mexico . . . . .	.25	.28	.33	.34	.24
Venezuela . . . . .	.28	.30	.29	.29	.25
Average . . . . .	.27	.29	.31	.32	.25
Other sources . . . . .	∞	∞	∞	∞	∞
Average . . . . .	.27	.29	.31	.32	.25

<sup>1</sup> Except for test quantities, there were no imports of molten PAN during the period for which information was requested.

<sup>2</sup> Not applicable.

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

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

Table 19

PAN: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, by products, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.-	
				1992	1993
Share of the quantity of U.S. consumption (percent)					
Molten PAN:					
Producers' U.S. shipments . . . . .	100.0	100.0	100.0	100.0	100.0
Flake PAN:					
Producers' U.S. shipments . . . . .	82.9	77.7	61.3	65.6	47.8
Importers' U.S. shipments:					
Brazil . . . . .	0	.6	2.6	2.6	1.4
Hungary . . . . .	0	0	.3	.3	.4
Israel . . . . .	.4	0	.9	.5	5.2
Mexico . . . . .	9.1	11.8	20.7	17.1	31.5
Venezuela . . . . .	7.6	9.9	14.2	13.9	13.6
Subtotal . . . . .	17.1	22.3	38.7	34.4	52.2
Other sources . . . . .	0	0	0	0	0
Total . . . . .	17.1	22.3	38.7	34.4	52.2
Total:					
Producers' U.S. shipments . . . . .	98.2	97.5	95.8	96.3	93.1
Importers' U.S. shipments:					
Brazil . . . . .	0	.1	.3	.3	.2
Hungary . . . . .	0	0	( <sup>a</sup> )	( <sup>a</sup> )	.1
Israel . . . . .	( <sup>a</sup> )	0	.1	.1	.7
Mexico . . . . .	.9	1.3	2.3	1.8	4.1
Venezuela . . . . .	.8	1.1	1.6	1.5	1.8
Subtotal . . . . .	1.8	2.5	4.2	3.7	6.9
Other sources . . . . .	0	0	0	0	0
Total . . . . .	1.8	2.5	4.2	3.7	6.9
Share of the value of U.S. consumption (percent)					
Molten PAN:					
Producers' U.S. shipments . . . . .	100.0	100.0	100.0	100.0	100.0
Flake PAN:					
Producers' U.S. shipments . . . . .	83.8	78.8	62.8	67.1	52.1
Importers' U.S. shipments:					
Brazil . . . . .	0	.6	2.5	2.5	1.3
Hungary . . . . .	0	0	.3	.3	.4
Israel . . . . .	.3	0	.8	.4	4.9
Mexico . . . . .	8.6	11.0	20.0	16.2	28.3
Venezuela . . . . .	7.2	9.6	13.6	13.5	13.0
Subtotal . . . . .	16.2	21.2	37.2	32.9	47.9
Other sources . . . . .	0	0	0	0	0
Total . . . . .	16.2	21.2	37.2	32.9	47.9

See footnotes at end of table.

Table 19—Continued

PAN: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, by products, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.—	
				1992	1993
Share of the value of U.S. consumption (percent)					
<b>Total:</b>					
Producers' U.S. shipments . . . . .	98.1	97.3	95.4	96.0	93.6
Importers' U.S. shipments:					
Brazil . . . . .	0	.1	.3	.3	.2
Hungary . . . . .	0	0	<sup>(a)</sup>	<sup>(a)</sup>	<sup>(a)</sup>
Israel . . . . .	<sup>(a)</sup>	0	.1	.1	.7
Mexico . . . . .	1.0	1.4	2.5	2.0	3.8
Venezuela . . . . .	.8	1.2	1.7	1.6	1.7
Subtotal . . . . .	1.9	2.7	4.6	4.0	6.4
Other sources . . . . .	0	0	0	0	0
<b>Total . . . . .</b>	<b>1.9</b>	<b>2.7</b>	<b>4.6</b>	<b>4.0</b>	<b>6.4</b>

<sup>1</sup> Positive figure, but less than significant digits displayed.

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

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

### Prices

#### Market Characteristics

U.S. producers of PAN use a significant share of their PAN to produce such downstream products as phthalate plasticizers and unsaturated polyesterresins. U.S. producers also sell their PAN, mostly in molten form and primarily to end users. Some of these end users produce downstream products that compete with those of the U.S. PAN producers.<sup>27</sup> The subject imports of PAN are all in the form of flake, and are sold primarily to end users or imported directly by end users.<sup>28</sup>

U.S. sales of the domestic PAN are transacted most frequently under annual or multiyear sales contracts, some of which are just general agreements to supply PAN. The sales contracts may or may not specify quantities and typically allow prices to be adjusted on a monthly basis. Most price agreements include a meet-or-release price provision that assures price flexibility, particularly for those contracts that attempt to fix prices for periods longer than a month. U.S. sales of the subject imported flake PAN are made principally on a spot basis.

<sup>27</sup> During January 1990-September 1993, U.S. producers used 41 percent of their domestically produced PAN (all molten) to make various downstream products and sold domestically or exported the remaining 59 percent. About \*\*\* percent of their U.S. sales of the domestically produced PAN during this period was molten, and \*\*\* percent was flake. About 89 percent of U.S. producers' total PAN production during this period remained as molten and almost 11 percent was converted into flake.

<sup>28</sup> \*\*\*.

U.S. producers typically quote prices of their molten PAN on a f.o.b. plant, freight-collect basis; \*\*\*. U.S. producers also generally quote prices of their flake PAN on a f.o.b. plant, freight-collect basis.<sup>29</sup> U.S. producers reported that they freight-equalize to the domestic plant nearest their customers.<sup>30</sup> On the other hand, importers reported that they generally sell their flake PAN on a delivered price basis to U.S. customers, typically arranging and prepaying the freight to their customers.

U.S. producers and importers reported in their questionnaire responses that the price of PAN was strongly influenced by the price of orthoxylene, the principal feedstock used to produce molten and flake PAN.<sup>31</sup> Some purchasers commented that their PAN price agreements with U.S. producers are on an "orthoxylene plus" basis—the current month's price of PAN is adjusted by any change in the previous month's price of orthoxylene plus a fixed conversion factor.<sup>32</sup>

### *Transportation and packaging*

U.S. producers and importers reported in their questionnaire responses that U.S. shipping costs accounted for 1 to 10 percent of the delivered price of PAN, depending on the distance shipped. The importance of shipping costs is reflected in the U.S. producers' practice of freight equalizing, and is a factor that may limit the marketing range for some U.S. producers and importers. Two U.S. producers, \*\*\*, and three importers, \*\*\*, reported selling their PAN in specific areas of the United States;<sup>33</sup> the other U.S. producers and importers reported selling nationwide.<sup>34</sup> \*\*\* and \*\*\* reported selling PAN only from their plants in \*\*\* and \*\*\*, respectively, while \*\*\*, \*\*\*, and \*\*\* reported selling both from their plants and from U.S. warehouses.<sup>35</sup> Importers shipped their imported flake PAN directly from the U.S. port-of-entry and from U.S. warehouses.<sup>36</sup>

U.S. producers and importers typically arranged U.S. inland transportation to their customers' locations. Molten PAN is sold in bulk in heated railcars or trucks that must maintain temperatures of about 300°F. Flake PAN is typically sold in 1-ton disposable supersacks or 50-pound bags and is shipped by rail or truck.

### *Product comparisons*

U.S. producer and importer questionnaires requested that the responding firms discuss any differences between the domestic and subject imported PAN that would explain differences in prices. Although the U.S. producers and importers indicated that the subject imported flake PAN competed

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<sup>29</sup> U.S. producers reported that they generally arrange transportation to ship molten and flake PAN to their customers' locations but often do not prepay the freight. In these situations, the carrier bills the purchaser for the shipping costs and the U.S. PAN producers reportedly do not know the customers' actual freight costs.

<sup>30</sup> When BASF closed its New Jersey plant in 1990, the freight equalization point for customers on the East coast moved west and, as a result, the purchasers reportedly began to pay more freight for PAN shipments from U.S. producers.

<sup>31</sup> U.S. orthoxylene prices change frequently and are published monthly by several firms, including Chem Data and ICIS, both of Houston, TX. The published prices are usually contract prices of orthoxylene sold on a U.S. f.o.b. Gulf Port basis. These published orthoxylene prices are often referenced in PAN price agreements.

<sup>32</sup> Telephone conversations with \*\*\*.

<sup>33</sup> \*\*\*.

<sup>34</sup> Based on sales to U.S. customers, U.S. producers appear to have sold their PAN over greater distances from their U.S. shipping points than the importers did.

<sup>35</sup> In addition to their plants, U.S. producers reported shipping domestic PAN to their customers from warehouses located in \*\*\*.

<sup>36</sup> U.S. importers reported shipping the subject foreign flake PAN to U.S. customers from the following warehouse locations: \*\*\*.

with the domestic product, importers noted some quality differences. Generally the importers believed that the imported flake tended to harden and compact to a greater degree than the domestic flake. One importer, \*\*\*, indicated that domestic flake PAN had more favorable heat stability colors than the imported \*\*\*.<sup>37</sup> On the other hand, \*\*\*, an end user, indicated that it has used flake PAN from \*\*\* and does not perceive quality advantages or disadvantages with this product vis-a-vis domestic flake.

The questionnaire also requested information regarding the degree to which flake substitutes for molten PAN. The more closely these two forms of PAN substitute for each other, the more likely will a change in the relative price of one form affect the demand for the other form. Although most U.S. producers believed the two forms were substitutable, they also noted some factors that limit such substitution. \*\*\* indicated that flake will substitute for molten only when the price of flake is less than the price of molten. \*\*\* reported that flake requires additional handling, melt time, and bag disposal, while \*\*\* indicated that such switching was limited by the ability of customers' equipment to handle flake. On the other hand, \*\*\* indicated that any switching to flake was unlikely by the major phthalate plasticizer producers because flake requires increased handling, lost capacity, increased energy costs to heat flake, and possible costs to modify or purchase equipment to handle flake. At the conference, BASF indicated that the firm uses only molten PAN and would not use flake.<sup>38</sup>

Importers generally believed that the two forms of PAN were not closely substitutable and noted that molten PAN is purchased by large end users and flake PAN is purchased primarily by smaller end users that do not have capital intensive molten systems. One importer, \*\*\*, noted that some large molten users also store flake PAN in case their molten pipes clog, molten delivery is delayed, or to use when making small PAN additions to a batch of work in process. Another importer, \*\*\*, noted that the price of flake would have to be less than the price of molten PAN before end users would consider switching to flake. Two importers, \*\*\*, listed the following disadvantages in using flake versus molten PAN that they assert require flake to be priced lower than molten PAN: (1) flake involves more workhours to handle and use—supersacks must be unloaded, stored in a dry area, moved from storage to the reactor, and then take up to 6 hours to feed a truck load of flake into the reactor versus 1-1/2 hours for molten, (2) threat of injury and/or spill, (3) caking and torn supersacks can lead to production interruptions, (4) proper disposal of supersacks and pallets, (5) product loss in spillage, and (6) adverse worker exposure to the chemical product.

Discussions with purchasers identified in lost revenue/sales allegations also indicated that any switchover from molten to flake was limited and would depend on end users' molten equipment. Two end users, \*\*\*, indicated that they can switch about \*\*\* percent of their molten use to flake because they have both flake and molten facilities and some of their molten plants can accommodate some flake use. On the other hand, \*\*\* use only the molten form. A complete discussion of conversations with purchasers is found in the lost revenue and lost sales sections of the report.<sup>39</sup>

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<sup>37</sup> Whiteness is an important attribute of PAN for many end uses.

<sup>38</sup> TR, pp. 36-37.

<sup>39</sup> In 1992, U.S. producer's sales of molten PAN accounted for about \*\*\* percent of apparent U.S. consumption of all PAN, whereas their use of molten accounted for about \*\*\* percent and their sales of domestic flake accounted for about \*\*\* percent. Sales of imported flake accounted for the remaining \*\*\* percent of the U.S. PAN market. U.S. producers indicated at the conference that they would not switch their captive molten use to flake. As a result, only their molten sales, accounting for \*\*\* percent of the U.S. PAN market or \*\*\* percent of their total PAN production in 1992, are potentially subject to a switchover to flake. Based on discussions with purchasers, it appears that less than \*\*\* percent of U.S. producers' molten sales are subject to such a switchover, which could include domestic as well as imported flake PAN.



## Questionnaire Price Data

The Commission requested U.S. quarterly pricing data for shipments of flake and of molten PAN.<sup>40</sup> The Commission requested U.S. producers and importers to provide U.S. quarterly selling price data for these two forms of PAN shipped to end users during January 1990-September 1993. The price data were requested on net U.S. f.o.b. and delivered bases for the firms' largest quarterly shipments to end users and on a net delivered price basis for their total quarterly shipments to end users. Four domestic producers provided the Commission with useable price data for U.S.-produced flake and molten PAN, but not necessarily for each form or every quarter requested.<sup>41</sup> Nine importers, which included one U.S. producer and three end users, provided the Commission with useable price data for the subject imported flake PAN, but not necessarily for every country or every quarter requested. Three U.S. PAN producers and one importer also reported U.S. prices of orthoxylene.<sup>42</sup>

The four responding U.S. producers provided price data for products accounting for \*\*\* percent of the total quantity of domestic shipments of U.S.-produced PAN during January 1990-September 1993. During this period, the responding U.S. importers provided price information for products accounting for \*\*\* percent of the total quantity of reported U.S. shipments of imports of PAN from Brazil, \*\*\* percent from Hungary, \*\*\* percent from Israel, \*\*\* percent from Mexico, and \*\*\* percent from Venezuela.

Although U.S. importers of PAN typically sell their flake on a U.S. delivered price basis, they were also able to estimate and report their sales prices on a U.S. f.o.b. point-of-shipment basis. U.S. producers, who typically sell their PAN on a U.S. f.o.b., freight-collect basis, were not always able to report delivered prices. As a result, questionnaire price trends and comparisons are discussed on a U.S. f.o.b. basis.

### *Price trends*

Price trends were based on net weighted-average quarterly U.S. f.o.b. selling prices of PAN reported by U.S. producers and importers in their questionnaire responses. Price trends for the domestic molten and flake PAN are shown in figure 3 and table E-1. Price trends for the subject imported flake PAN are shown in figure 3 and tables E-2 through E-6. U.S. f.o.b. selling prices of orthoxylene are shown in figure 3 and table E-7.

Quarterly prices of the domestic and subject imported PAN products generally followed the movement in prices of orthoxylene during January 1990-September 1993. U.S. prices of domestic and imported PAN first rose sharply, reached a period high during October-December 1990 or January-March 1991; and fell sharply through July-September 1991. Prices generally rose during the rest of 1991 and through the end of 1992 or the beginning of 1993, but fell thereafter (figure 3).<sup>43</sup> U.S. producers' prices of flake PAN remained above prices of their molten PAN, but the gap, which

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<sup>40</sup> In addition, U.S. producers were requested to report U.S. prices of orthoxylene during Jan. 1990-Sept. 1993.

<sup>41</sup> \*\*\*.

<sup>42</sup> Two U.S. PAN producers and one importer reported U.S. f.o.b. prices of orthoxylene, and one U.S. PAN producer reported delivered purchase prices of orthoxylene. All the reported prices of orthoxylene were on a monthly basis for the period Jan. 1990-Sept. 1993. The f.o.b. orthoxylene prices were reported from different sources by the three firms and, although prices typically changed from month to month, the three firms reported the same prices as each other for most periods.

<sup>43</sup> Purchasers indicated that their prices of molten and flake PAN are heavily influenced by the prices of orthoxylene, with a 1-month lag between the change in the price of orthoxylene and the following month's change in the price of PAN.

Figure 3

Selling price trends: Weighted-average net f.o.b. prices for sales of PAN and orthoxylene reported by U.S. PAN producers and importers, by quarters, Jan. 1990-Sept. 1993

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had significantly widened during October-December 1990, tended to narrow during January-September 1993. During January 1990-September 1993, U.S. producers' net f.o.b. selling prices of their molten PAN averaged \$\*\*\* per pound above U.S. f.o.b. prices of orthoxylene.

**United States.**—The U.S. producers' net weighted-average f.o.b. selling prices of molten PAN sold to end users generally rose from \$\*\*\* per pound in January-March 1990 to a period high of \$\*\*\* per pound in January-March 1991, or by \*\*\* percent. Prices of molten PAN then fell sharply to \$\*\*\* per pound by July-September 1991, or by \*\*\* percent, and then generally rose to \$\*\*\* per pound by January-March 1993, or by \*\*\* percent. Prices then fell to end the period at \$\*\*\* per pound, or \*\*\* percent higher than the initial-period value.

U.S. producers' average net f.o.b. prices of flake PAN sold to end users first rose sharply from \$\*\*\* per pound in January-March 1990 to \$\*\*\* per pound in October-December 1990, or by \*\*\* percent. Prices of flake PAN then fell sharply to \$\*\*\* per pound by July-September 1991, or by \*\*\* percent, but rose steadily to \$\*\*\* per pound by October-December 1992, or by \*\*\* percent. Prices then fell to end the period at \$\*\*\* per pound or \*\*\* percent below the initial-period value.

U.S. producers' net f.o.b. selling prices of their flake PAN were consistently above the net f.o.b. selling prices of their molten PAN, but the gap generally narrowed during January 1990-March 1993, falling from \$\*\*\* per pound in January-March 1990 to \$\*\*\* per pound in July-September 1993. In turn, the premium in U.S. producers' net f.o.b. selling prices of their molten PAN above U.S. f.o.b. selling prices of orthoxylene during January 1990-September 1993 fluctuated, but generally increased from \$\*\*\* per pound in January-March 1990 to \$\*\*\* per pound in April-June 1993 before falling somewhat to \$\*\*\* in July-September 1993. The latter premium ranged from \$\*\*\* to \$\*\*\* per pound (averaged \$\*\*\* per pound) during January 1990-September 1993.<sup>44</sup> These two price relationships are shown in figure 4.

**Brazil.**—The sole reporting importer's net U.S. f.o.b. prices of flake PAN imported from Brazil and sold to end users first rose from \$\*\*\* per pound in April-June 1991, the first period reported, to \$\*\*\* per pound in July-September 1992, or by \*\*\* percent. Prices of the imported flake PAN then fell sharply to end the period at \$\*\*\* per pound, or \*\*\* percent below the initial-period value. In comparison, quarterly net f.o.b. prices of domestic flake PAN sold to end users fell by \*\*\* percent during April 1991-September 1993.

**Hungary.**—The reporting importers' net weighted-average U.S. f.o.b. prices of flake PAN imported from Hungary and sold to end users generally fell during the few quarters reported from \$\*\*\* per pound in January-March 1992 to \$\*\*\* per pound in July-September 1993, or by \*\*\* percent. In comparison, quarterly net f.o.b. prices of domestic flake PAN sold to end users fell by \*\*\* percent during January 1992-September 1993.

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<sup>44</sup> The spread between U.S. prices of molten PAN and orthoxylene during Jan. 1990-Sept. 1993 appears to be historically high. Based on published and \*\*\*.

Figure 4

Selling price premiums: Net weighted-average U.S. f.o.b. selling price premiums for U.S.-produced flake over molten PAN and for U.S.-produced molten PAN over orthoxylene reported by U.S. PAN producers and importers, by quarters, Jan. 1990-Sept. 1993

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*Israel.*—The reporting importers' net weighted-average U.S. f.o.b. prices of flake PAN imported from Israel and sold to end users were \$\*\*\* per pound in January-March 1990 and were \$\*\*\* per pound during July-September 1992, the next quarter reported, or \*\*\* percent higher. Prices generally fell thereafter to end the period at \$\*\*\* per pound in July-September 1993, or \*\*\* percent above the initial-period price. In comparison, quarterly net f.o.b. prices of domestic flake PAN sold to end users fell by \*\*\* percent during January 1990-September 1993.

*Mexico.*—The reporting importers' net U.S. f.o.b. prices of flake PAN imported from Mexico and sold to end users first rose sharply from \$\*\*\* per pound in January-March 1990 to a period high of \$\*\*\* per pound in January-March 1991, or by \*\*\* percent. Prices of the imported flake PAN then fell sharply to \$\*\*\* per pound by July-September 1991, or by \*\*\* percent. Prices of the imported flake PAN then generally rose to \$\*\*\* per pound by October-December 1992, or by \*\*\* percent. Prices fell thereafter to end the period at \$\*\*\* per pound, or \*\*\* percent above the initial-period value. In comparison, quarterly net f.o.b. prices of domestic flake PAN sold to end users fell by \*\*\* percent during January 1990-September 1993.

*Venezuela.*—The reporting importers' net U.S. f.o.b. prices of flake PAN imported from Venezuela and sold to end users first rose sharply from \$\*\*\* per pound in January-March 1990 to a period high of \$\*\*\* per pound in January-March 1991, or by \*\*\* percent. Prices of the imported flake PAN then fell sharply to \$\*\*\* per pound by July-September 1991, or by \*\*\* percent. Prices of the imported flake PAN then rose steadily to \$\*\*\* per pound by July-September 1992, or by \*\*\* percent. Prices fell steadily thereafter to end the period at \$\*\*\* per pound, or \*\*\* percent above the initial-period value. In comparison, quarterly net f.o.b. prices of domestic flake PAN sold to end users fell by \*\*\* percent during January 1990-September 1993.

#### *Price comparisons*

Quarterly price comparisons between U.S.-produced flake PAN and the product imported from the subject countries were developed from net U.S. f.o.b. selling prices reported in the producer and importer questionnaires. Because of the importance of U.S.-inland freight, delivered prices may be a better basis for comparing prices of the domestic and imported flake PAN, but such comparisons were not possible with the data reported.<sup>45</sup> A total of 51 quarterly f.o.b. price comparisons were possible. All 51 price comparisons showed underselling by the subject imported flake PAN, with margins of underselling averaging 15.7 percent. The quarterly net U.S. f.o.b. selling price comparisons between the domestic and subject imported flake PAN are discussed below by the individual subject foreign countries.

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<sup>45</sup> In addition, reported prices of the subject imported flake PAN may show an overselling bias when compared with U.S. producers' prices, as the imported product was sold primarily on a spot basis and the domestic flake was sold on a combination of spot and contract bases.

**Brazil.**—A total of 9 quarterly U.S. f.o.b. price comparisons were possible between domestic and imported Brazilian flake PAN during April 1991 and September 1993 (table 20). All 9 price comparisons showed that the imported product was priced less than the domestic product, with margins of underselling averaging 16.7 percent.

**Hungary.**—A total of 6 quarterly U.S. f.o.b. price comparisons were possible between domestic and imported Hungarian flake PAN during January 1992 and September 1993 (table 21). All 6 price comparisons showed that the imported product was priced less than the domestic product, with margins of underselling averaging 8.3 percent.

**Israel.**—A total of 6 quarterly U.S. f.o.b. price comparisons were possible between domestic and imported Israeli flake PAN during January 1990 and September 1993 (table 22). All 6 price comparisons showed that the imported product was priced less than the domestic product, with margins of underselling averaging 12.2 percent.

**Mexico.**—A total of 15 quarterly U.S. f.o.b. price comparisons were possible between domestic and imported Mexican flake PAN during January 1990 and September 1993 (table 23). All 15 price comparisons showed that the imported product was priced less than the domestic product, with margins of underselling averaging 17.8 percent.

**Venezuela.**—A total of 15 quarterly U.S. f.o.b. price comparisons were possible between domestic and imported Venezuelan flake PAN during January 1990 and September 1993 (table 24). All 15 price comparisons showed that the imported product was priced less than the domestic product, with margins of underselling averaging 17.4 percent.

### Exchange Rates

Quarterly data reported by the International Monetary Fund for the five subject countries indicate that the values of the reported currencies generally depreciated significantly in nominal terms relative to the U.S. dollar between January 1990 and June 1993, or through the most recent period for which data were available. Depending on the rates of inflation in these countries vis-a-vis rates in the United States, however, values of the reported currencies in real terms depreciated less or appreciated in value against the U.S. dollar. Exchange-rate changes for the five countries are shown in figure 5 and table F-1 and are discussed below.<sup>46</sup>

#### Brazil

The nominal value of the Brazilian cruzeiro reais depreciated by almost 100 percent against the U.S. dollar between January 1990 and March 1993, the most recent period such data were available. Due to inflation of 52,980 percent in Brazil compared with 3.3 percent in the United States during this period, however, the real value of the cruzeiro reais depreciated much less, by 28.6 percent.

#### Hungary

The nominal value of the Hungarian forint depreciated by 21.5 percent against the U.S. dollar between January 1990 and December 1992, the most recent period such data were available.

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<sup>46</sup> *International Financial Statistics*, Oct. 1993.

**Table 20**

**Net U.S. f.o.b. selling prices of U.S.-produced and imported Brazilian flake PAN and margins of underselling, by quarters, Apr. 1991-Sept. 1993**

\* \* \* \* \*

**Table 21**

**Net U.S. f.o.b. selling prices of U.S.-produced and imported Hungarian flake PAN and margins of underselling, by quarters, Jan. 1992-Sept. 1993**

\* \* \* \* \*

**Table 22**

**Net U.S. f.o.b. selling prices of U.S.-produced and imported Israeli flake PAN and margins of underselling, by quarters, Jan. 1990-Sept. 1993**

\* \* \* \* \*

**Table 23**

**Net U.S. f.o.b. selling prices of U.S.-produced and imported Mexican flake PAN and margins of underselling, by quarters, Jan. 1990-Sept. 1993**

\* \* \* \* \*

**Table 24**

**Net U.S. f.o.b. selling prices of U.S.-produced and imported Venezuelan flake PAN and margins of underselling, by quarters, Jan. 1990-Sept. 1993**

\* \* \* \* \*

Due to inflation of 63.4 percent in Hungary compared with 2.9 percent in the United States during this period, the real value of the forint actually appreciated by 24.7 percent.

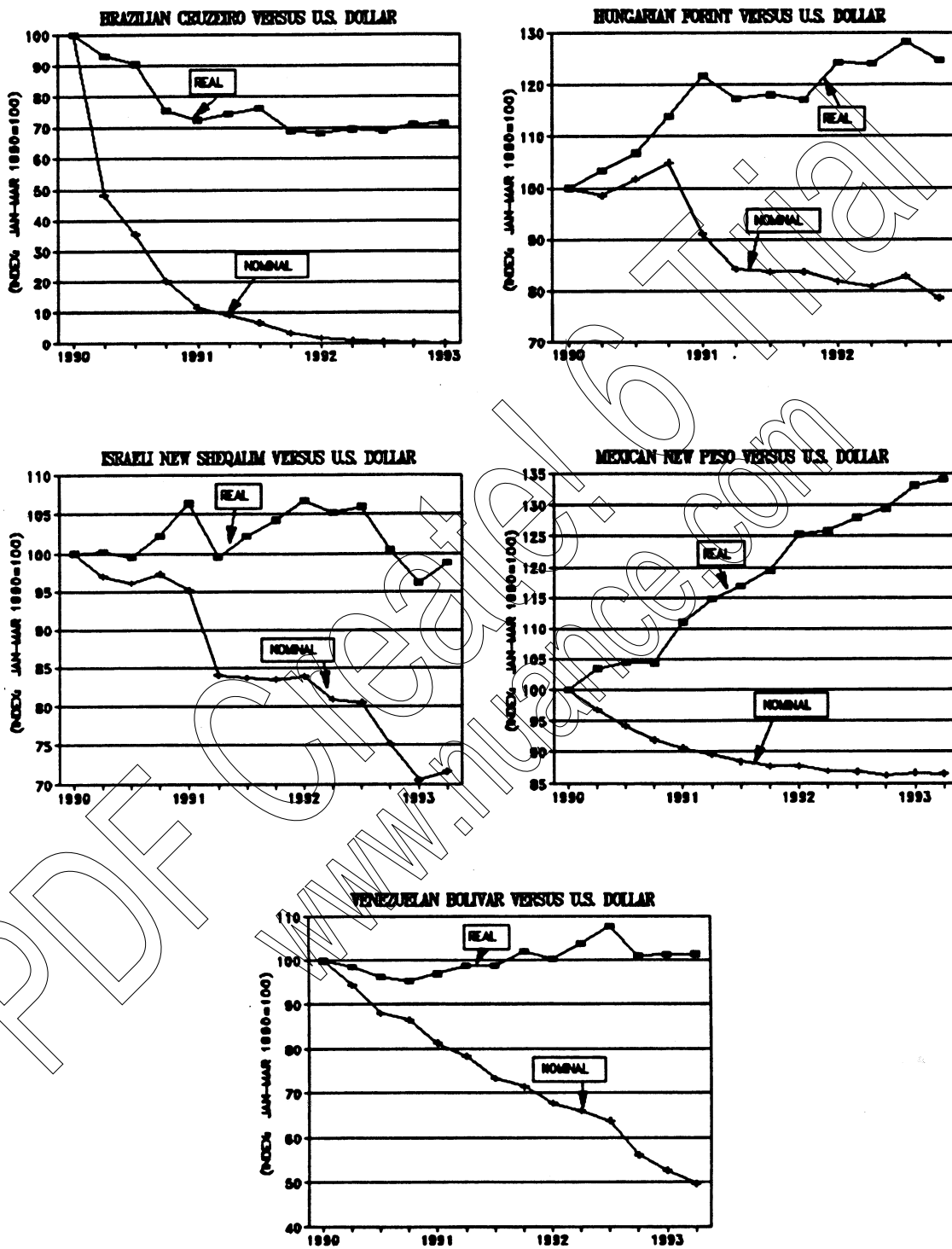
**Israel**

The nominal value of the Israeli new sheqalim depreciated by 28.4 percent against the U.S. dollar between January 1990 and June 1993, but because of inflation of 44.1 percent in Israel compared with 4.4 percent in the United States during this period, the real value of the new sheqalim depreciated by only 1.2 percent.

**Mexico**

The nominal value of the Mexican new peso depreciated by 13.6 percent against the U.S. dollar between January 1990 and June 1993. Because of inflation of 62.1 percent in Mexico compared with

**Figure 5**  
**Exchange rates: Indexes of nominal and real exchange rates of selected currencies, by quarters, Jan. 1990-June 1993**



Note: Exchange rates are in U.S. dollars per unit of foreign currency.

Source: International Financial Statistics, October 1993.

4.4 percent in the United States during this period, the real value of the new peso appreciated by 34.1 percent.

## Venezuela

The nominal value of the Venezuelan bolivar depreciated by 50.2 percent against the U.S. dollar between January 1990 and June 1993, but, because of inflation of 112.6 percent in Venezuela compared with 4.4 percent in the United States during this period, the real value of the bolivar appreciated by 1.4 percent.

### Lost Revenues

During these preliminary investigations \*\*\* reported lost revenue allegations involving competition from flake PAN imported from the five subject countries,<sup>47</sup> which totaled \$\*\*\* of alleged lost revenues on sales of \*\*\* pounds of domestic flake and molten PAN. Allegations involving sales of domestic molten PAN accounted for about \*\*\* percent of the total value of all alleged lost revenues. In many of the allegations, the U.S. producers reported that the general price level for PAN declined and, they asserted, as a result so did their revenues from sales of domestic molten and flake PAN. The alleging U.S. producers attribute the falling price level to imports of flake from the subject countries.

Conversations with purchasers identified in the lost revenue allegations and contacted by the Commission staff are discussed below.

\*\*\* alleged \*\*\* instances of lost revenue involving sales of its \*\*\* PAN to \*\*\*. In the first allegation, \*\*\* asserted that it sold \*\*\* pounds of \*\*\* PAN to \*\*\* during \*\*\*. \*\*\* reportedly offered its U.S.-produced PAN initially at \$\*\*\* per pound but asserted that to make the sale it had to lower its price to \$\*\*\* per pound because it was reportedly competing against a price of \$\*\*\* per pound for \*\*\* PAN from Brazil, Mexico, or Venezuela that it felt was offered to \*\*\*. In the second allegation, \*\*\* asserted that it sold almost \*\*\* pounds of \*\*\* PAN to \*\*\* during \*\*\*. \*\*\* reportedly offered its U.S.-produced PAN initially at \$\*\*\* per pound but asserted that to make the sale it had to lower its price to \$\*\*\* per pound because it was reportedly competing against a price of \$\*\*\* per pound for \*\*\* PAN from Brazil, Mexico, or Venezuela that it felt was offered to \*\*\*.

\*\*\*, indicated that the figures in the first allegation were not correct; he did not buy any such quantity of \*\*\* PAN during \*\*\* nor was he quoted a price for \*\*\* PAN at this time. In the second allegation he reported buying the alleged quantity of \*\*\* PAN from \*\*\* and also some from \*\*\*. He reported that \*\*\* offered the lowest price at \$\*\*\* per pound, \*\*\* price was \$\*\*\* per pound, and \*\*\* were each at \$\*\*\* per pound—\*\*\*. \*\*\* indicated that all of these final prices were initial quotes by the U.S. producers; they did not lower prices from initial quotes as asserted. He also noted \*\*\*.

\*\*\* commented that during \*\*\* his firm also purchased \*\*\* from \*\*\* at prices ranging from \$\*\*\* to \$\*\*\* per pound; \*\*\*. \*\*\* stated that his firm \*\*\*. \*\*\*. He said that \*\*\* purchases about \*\*\* pounds of \*\*\* PAN and \*\*\* pounds of \*\*\* PAN annually. According to \*\*\* , his firm \*\*\*; \*\*\*.

\*\*\* indicated that his firm is better off staying with \*\*\* PAN rather than switching to \*\*\*. Switching would require \*\*\*. \*\*\*. In addition, his firm \*\*\*. In addition, his firm \*\*\*. \*\*\* felt that his firm \*\*\*.

\*\*\* alleged an instance of lost revenue involving sales of its \*\*\* PAN to \*\*\* , \*\*\*. \*\*\* asserted that it sold about \*\*\* pounds of \*\*\* PAN to \*\*\* during \*\*\*. \*\*\* reportedly offered its U.S.-produced PAN initially at \$\*\*\* per pound but asserted that to make the sale it had to lower its price to \$\*\*\* per pound because it was reportedly competing against a price of \$\*\*\* per pound for flake PAN from one or more of the subject countries that it felt was offered to \*\*\*.

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<sup>47</sup> \*\*\*.

\*\*\*, \*\*\*, reported that his firm purchased the alleged quantity of \*\*\* PAN from \*\*\* at the \$\*\*\* per pound price,<sup>48</sup> but this price and the \$\*\*\* per pound price were not quoted by \*\*\*.<sup>49</sup> Both prices represented \*\*\* delivered purchase price for \*\*\* from \*\*\* during \*\*\*, respectively.<sup>50</sup> These prices were determined at the end of their respective quarters and were based principally on \*\*\* average delivered purchase prices for \*\*\* from the other U.S. producers during the specified quarters.<sup>51</sup> \*\*\*.

\*\*\* alleged an instance of lost revenue involving sales of its \*\*\* PAN to \*\*\*. \*\*\* asserted that it sold about \*\*\* pounds of \*\*\* PAN to \*\*\* during \*\*\*. \*\*\* reportedly offered its U.S.-produced PAN initially at \$\*\*\* per pound but asserted that to make the sale it had to lower its price to \$\*\*\* per pound because it was reportedly competing against a price of \$\*\*\* per pound for \*\*\* PAN from one or more of the subject countries that it felt was offered to \*\*\*.

\*\*\* reported that \*\*\*. \*\*\* told the U.S. producer that it had to drop its price \$\*\*\* per pound to meet \*\*\* price, which fell in response to a decline in the price of orthoxylylene.<sup>52</sup> \*\*\*.

\*\*\* alleged two instances of lost revenue involving sales of its \*\*\* PAN to \*\*\*. In the first allegation, \*\*\* asserted that it sold \*\*\* pounds of \*\*\* PAN to \*\*\* during \*\*\*. \*\*\* reportedly offered its U.S.-produced PAN initially at \$\*\*\* per pound but asserted that to make the sale it had to lower its price to \$\*\*\* per pound because it was reportedly competing against a price of \$\*\*\* per pound for flake PAN from one or more of the subject countries that it felt was offered to \*\*\*. In the second allegation, \*\*\* asserted that it sold almost \*\*\* pounds of \*\*\* PAN to \*\*\* during \*\*\*. \*\*\* reportedly offered its U.S.-produced PAN initially at \$\*\*\* per pound but asserted that to make the sale it had to lower its price to \$\*\*\* per pound because it was reportedly competing against a price of \$\*\*\* per pound for flake PAN from one or more of the subject countries that it felt was offered to \*\*\*.

\*\*\* reported \*\*\*.

\*\*\* alleged an instance of lost revenue involving sales of its \*\*\* PAN to \*\*\*. \*\*\* asserted that it sold about \*\*\* pounds of \*\*\* PAN to \*\*\* in \*\*\*. \*\*\* reportedly offered its U.S.-produced PAN initially at \$\*\*\* per pound but asserted that to make the sale it had to lower its price to \$\*\*\* per pound because it was reportedly competing against a price of \$\*\*\* per pound for \*\*\* PAN from one or more of the subject countries that it felt was offered to \*\*\*.

\*\*\* reported \*\*\*.

\*\*\*, \*\*\* gave \*\*\* a quote on \*\*\* pounds of \*\*\* PAN. The price was \$\*\*\* per pound \*\*\* based on \*\*\* buying the full amount, which \*\*\* subsequently purchased from \*\*\*. \*\*\*, \*\*\* quoted \*\*\* prices for \*\*\* pounds of \*\*\* PAN with no minimum required; \$\*\*\* per pound, f.o.b. shipping point, for \*\*\* facility and \$\*\*\* per pound for \*\*\* facility. \*\*\* indicated that his firm accepted this offer and will buy over \*\*\* pounds from \*\*\* in \*\*\*. \*\*\*, \*\*\* asked \*\*\* to continue to use \*\*\* as their primary backup supplier and quoted \*\*\* a price of \$\*\*\* per pound, f.o.b. shipping point, for \*\*\* PAN. Later in the year, \*\*\* also offered \*\*\* a rebate of \$\*\*\* per pound. \*\*\* indicated that \*\*\* price was not competitive with the other two bidding U.S. producers and, as a result, \*\*\* has not purchased any \*\*\* PAN from \*\*\* in \*\*\*.

\*\*\* alleged an instance of lost revenue involving sales of its \*\*\* PAN to \*\*\*. \*\*\* asserted that it sold \*\*\* pounds of \*\*\* PAN to \*\*\* during \*\*\*. \*\*\* reportedly offered its U.S.-produced PAN initially at \$\*\*\* per pound but asserted that to make the sale it had to lower its price to \$\*\*\* per pound because it was reportedly competing against a price of \$\*\*\* per pound for flake PAN from one or more of the subject countries that it felt was offered to \*\*\*.

\*\*\* reported that his firm purchased the alleged quantity of \*\*\* PAN from \*\*\* at the \$\*\*\* per pound price.<sup>53</sup> He noted that \*\*\* had to meet this price which was offered by \*\*\* at this time. \*\*\* was quoting a price \*\*\* and, therefore, was not considered. \*\*\* stated that \*\*\*, which uses

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48 \*\*\*.  
49 \*\*\*.  
50 \*\*\*.  
51 \*\*\*.  
52 \*\*\*.  
53 \*\*\*.



about \*\*\* pounds of PAN annually, \*\*\*,<sup>54</sup> \*\*\*. \*\*\* buys about \*\*\* percent of its annual PAN requirements from \*\*\* and most of the rest of its PAN needs from \*\*\*; \*\*\* is used for limited spot purchases. \*\*\*,<sup>55</sup> In addition, \*\*\*.

### Lost Sales

During these preliminary investigations, \*\*\* reported lost sales allegations involving competition for flake PAN imported from the five subject countries,<sup>56</sup> which totaled \$\*\*\* or \*\*\* pounds molten and flake PAN. Allegations involving domestic molten PAN accounted for almost \*\*\* percent of the total value of all alleged lost sales. In many of the allegations, the U.S. producers reported that their sales to specific customers fell and that any resulting shortfall from a previous year must have been accounted for by imports from one or more of the subject countries.

Conversations with purchasers identified in the lost sales allegations and contacted by the Commission staff are discussed below.

\*\*\* alleged that it offered to sell \*\*\* pounds of molten PAN to \*\*\* in \*\*\*. \*\*\* reportedly offered its molten PAN at \$\*\*\* per pound but asserted that it lost the sale to flake PAN from one or more of the subject countries at \$\*\*\* per pound. As he indicated in the lost revenue section, \*\*\*.

\*\*\* alleged that it offered to sell \*\*\* pounds of molten PAN to \*\*\* during \*\*\*. \*\*\* reportedly offered its molten PAN at \$\*\*\* per pound but asserted that it lost the sale to flake PAN from one or more of the subject countries at some lower but unknown price. \*\*\*.

\*\*\* alleged that it offered to sell \*\*\* pounds of molten PAN to \*\*\* during \*\*\*. \*\*\* reportedly offered its molten PAN at \$\*\*\* per pound but asserted that it lost the sale to flake PAN from Mexico at some lower but unknown price. \*\*\* stated \*\*\*.

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<sup>54</sup> \*\*\*.

<sup>55</sup> The published price of orthoxylene for the previous month is used as a basis for any price change in the current month.

<sup>56</sup> \*\*\*.

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**APPENDIX A**  
**FEDERAL REGISTER NOTICES**

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**Investigations Nos. 303-TA-24  
(Preliminary), 701-TA-356-358  
(Preliminary), and 731-TA-664-668  
(Preliminary)]**

**Phthalic Anhydride From Brazil,  
Hungary, Israel, Mexico, and Venezuela**

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

**ACTION: Institution and scheduling of  
preliminary countervailing duty and  
antidumping investigations.**

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**SUMMARY: The Commission hereby gives  
notice of the institution of preliminary  
countervailing duty investigations Nos.  
303-TA-24 (Preliminary) under section  
303 of the Tariff Act of 1930 (19 U.S.C.  
1903) and 701-TA-356-358  
(Preliminary) under section 703(a) of the  
Tariff Act of 1930 (19 U.S.C. 1671b(a))  
and of preliminary antidumping  
investigations Nos. 731-TA-664-668  
(Preliminary) under section 733(a) of the  
Tariff Act of 1930 (19 U.S.C. 1673b(a))  
to determine whether there is a  
reasonable indication that an industry  
in the United States is materially  
injured, or is threatened with material  
injury, or the establishment of an  
industry in the United States is  
materially retarded, by reason of  
imports from Brazil, Israel, Mexico, and  
Venezuela of phthalic anhydride.<sup>1</sup>**

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<sup>1</sup> The merchandise covered by these investigations is phthalic anhydride, an aromatic synthetic organic chemical usually produced from a primary petrochemical called ortho-xylene. The

Continued

provided for in subheading 2017.35.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Governments of Brazil, Israel, Mexico, and Venezuela, and by reason of imports of such product from Brazil, Hungary, Israel, Mexico, and Venezuela that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary countervailing duty and antidumping investigations in 45 days, or in this case by December 8, 1993.

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

**EFFECTIVE DATE:** October 22, 1993.

**FOR FURTHER INFORMATION CONTACT:** Woodley Timberlake (202-205-3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

**SUPPLEMENTARY INFORMATION:**

**Background**

These investigations are being instituted in response to a petition filed on October 22, 1993, by Aristech Chemical Corporation, Pittsburgh, PA; BASF Corporation, Parsippany, NJ; Koppers Industries, Inc., Pittsburgh, PA; and Stepan Company, Northfield, IL.

**Participation in the investigations and public service list**

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

subject phthalic anhydride is available in two physical forms, namely, molten (or liquid) and solid, and has application in the production of plasticizers, polyester resins, allyl resins, certain dyes and pigments, pesticides, and other specialty chemicals.

upon the expiration of the period for filing entries of appearance.

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

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

**Conference**

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on November 15, 1993, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Woodley Timberlake (202-205-3188) not later than November 10, 1993, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A company who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

**Written Submissions**

As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before November 18, 1993, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.8, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely

filed. The Secretary will not accept a document for filing without a certificate of service.

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

**Issued:** October 27, 1993.

By order of the Commission.

Donna E. Koehnke,  
Secretary.

[FR Doc. 93-28833 Filed 10-29-93; 8:45 am]  
GALILEO CASE 788-66-7

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[C-809-809, C-801-818, C-807-810]

**Initiation of Countervailing Duty Investigations: Phthalic Anhydride From Israel, Mexico and Venezuela**

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

**EFFECTIVE DATE:** November 18, 1993.

**FOR FURTHER INFORMATION CONTACT:** The following officials of the Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, Washington, DC 20230, may be contacted for further information: Gary Bettger (202) 482-2239 for Israel; Stephanie Hager (202) 482-5055 for Mexico; and Elizabeth Graham (202) 482-4105 for Venezuela.

**The Petition**

On October 22, 1993, we received petitions in proper form filed by Aristech Chemical Corporation; BASF Corporation; Koppers Industries, Inc.; and Stepan Company on behalf of the

United States phthalic anhydride (PA) industry. In accordance with 19 CFR 355.12, petitioners allege that manufacturers, producers, or exporters of the subject merchandise in Israel, Mexico and Venezuela receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act).

#### Injury Test

Israel and Mexico are each a "country under the Agreement" within the meaning of section 701(b) of the Act. Title VII of the Act applies to these investigations. Accordingly, the U.S. International Trade Commission (ITC) must determine whether imports of the subject merchandise from Israel and Mexico materially injure, or threaten material injury to, a U.S. industry.

On August 31, 1990, Venezuela became a contracting party to the General Agreements on Tariffs and Trade (GATT). Since qualification as a "country under the Agreement" under section 701(b)(3) requires a finding that the GATT does not apply between the United States and the country from which the subject merchandise is imported, Venezuela is no longer eligible for treatment as a "country under the Agreement" within the meaning of section 701(b)(3). However, because Venezuela is a GATT contracting party and the merchandise within the scope of the petition which is imported under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2917.35.00, enters duty-free, the ITC is required to determine whether, pursuant to section 303(a)(2) of the Act, imports of this merchandise from Venezuela materially injure, or threaten material injury to, a U.S. industry.

#### Standing

Petitioners have stated that they are interested parties, as defined in section 771(9)(C) of the Act, and that they have filed the petitions on behalf of the U.S. industry producing the merchandise subject to these investigations. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, such party should file a written notification with the Assistant Secretary for Import Administration, in accordance with 19 CFR 355.51.

#### Exclusion Requests

Under the Department's regulations, any producer or reseller seeking exclusion from a potential countervailing duty order must submit its request for exclusion within 30 days of the date of publication of this notice.

The procedures and requirements regarding the filing of such requests are contained in 19 CFR 355.14.

#### Scope of Investigation

For purposes of these investigations, PA is an aromatic synthetic organic chemical usually produced from a primary petrochemical called orthoxylene, although sometimes it is produced from naphthalene. PA is predominately used in the production of plasticizers, unsaturated polyester resins, and alkyd resins, which in turn are generally used to produce plastics and paints. The subject PA is produced in two physical forms, molten and flaked.

The PA subject to these investigations is currently classified under subheading 2917.35.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

#### Allegations of Subsidies

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that (1) alleges the elements necessary for the imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

#### Initiation of Investigations

The Department has examined the petitions on PA from Israel, Mexico and Venezuela and found that they comply with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702 of the Act, we are initiating countervailing duty investigations to determine whether manufacturers, producers or exporters of PA receive countervailable subsidies. The following programs are included in our investigations.

#### Israel

1. Encouragement of Capital Investments Law (ECIL) of 1950
  - a. Income tax exemptions
  - b. Capital grants
  - c. Research and development grants
2. Exchange Rate Risk Insurance Scheme (EIS)

#### Mexico

1. Preferential pricing of orthoxylene feedstock
2. Short-term pre-export financing from Bancomex
3. Short-term import financing from Bancomex

4. FTTEX ("Duty-Free Imports for Companies that Export")
5. Accelerated depreciation allowance Venezuela

1. Preferential pricing of orthoxylene feedstock
2. Export subsidies
  - a. FINEXPO preferential short-term export loans
  - b. FINEXPO preferential long-term export loans
  - c. Excessive tariff drawbacks
3. Preferential tax exemptions under the 1968 Income Tax Law

We are not including the following programs which are alleged to be benefitting producers of the subject merchandise in Venezuela. (For a more detailed discussion, see the Memorandum to Barbara R. Stafford from Team dated November 12, 1993, on file in the Central Records Units of the Main Commerce Building.)

1. Preferential Finance Company of Venezuela (FIVCA) Loans

Petitioners alleged that Venezuelan PA producers received preferential FIVCA export financing. However, the preferential FIVCA loan program was determined in previous cases to be a domestic, not an export, program and petitioners have provided no evidence to the contrary. See e.g. Final Determination: Certain Electrical Conductor Aluminum Redraw Rod from Venezuela, 53 FR 24763 (June 30 1988). Furthermore, petitioners did not allege or provide any supporting information indicating that the program is specific or that the loans are provided on terms inconsistent with commercial considerations.

2. Provision of Preferential Pricing of Raw Materials for Exports

The program was found not to exist in Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Circular Welded Non-Alloy Steel Pipe from Venezuela 57 FR 42964 (Sept. 17, 1992). Petitioners have provided no evidence to the contrary.

3. Export Incentives

Petitioners describe a program that appears to be the Export Bond Program. The Export Bond Program was designed to provide partial compensation for the requirement that exporters convert foreign currency export earnings to bolivars at an official rate significantly lower than the free market rate. This program was previously found to be amended to cover only agricultural products [see Final Affirmative Countervailing Duty Determination: Ferrosilicon From Venezuela; and

Countervailing Duty Order for Certain Ferrosilicon From Venezuela, 58 FR 27539 (May 10, 1993)). Petitioners have not provided any evidence to the contrary.

#### 4. Government Grants to Oxidor

Petitioners allege that PEQUIVEN (a state-owned orthoxylene supplier) provided funding to Oxidor. Petitioners basis for this allegation is a June 2, 1992 General System of Preference (GSP) petition, in which Aristech, a petitioning company, noted that PEQUIVEN had "provided significant funding to at least one Venezuelan PA producer (Oxidor)." Petitioners have provided no information that this funding is provided pursuant to a specific government program. In addition, petitioners have made no arguments regarding the specificity of the funding.

#### ITC Notification

Pursuant to section 702(d) of the Act, we have notified the ITC of these initiations.

#### Preliminary Determinations by the ITC

The ITC will determine by December 6, 1993, whether there is a reasonable indication that a United States industry is being materially injured, or threatened with material injury, by reason of PA imports from Israel, Mexico and Venezuela. Any ITC determination which is negative will result in the respective investigation being terminated; otherwise, the investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to 702(c)(2) of the Act and 19 CFR 355.13(b).

Dated: November 12, 1993.

Joseph Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-28428 Filed 11-17-93; 8:45 am]

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[A-351-822, A-437-803, A-508-805, A-201-815 and A-307-809]

#### Initiation of Antidumping Duty Investigations: Phthalic Anhydride From Brazil, Hungary, Israel, Mexico and Venezuela

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

EFFECTIVE DATE: November 18, 1993.

FOR FURTHER INFORMATION CONTACT: V. Irene Darzenta, or Kate Johnson, Office of Antidumping Investigations, Import Administration, International Trade

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-6320, or 482-4929.

#### INITIATION OF INVESTIGATIONS:

##### The Petition

On October 22, 1993, we received a petition filed in proper form by Aristech Chemical Corporation, BASF Corporation, Koppers Industries, Inc., and Stepan Company (petitioners). In accordance with 19 CFR 353.12, the petitioners allege that imports of phthalic anhydride (PA) from Brazil, Hungary, Israel, Mexico and Venezuela are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

The petitioners have stated that they have standing to file the petition because they are interested parties, as defined under section 771(9)(C) of the Act, and because the petition was filed on behalf of the U.S. industry producing the product subject to these investigations. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, it should file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements are contained in 19 CFR 353.14.

##### Period of Investigation

The period of investigation is May 1, 1993, to October 31, 1993.

##### Scope of Investigations

For purposes of these investigations, phthalic anhydride (PA) is an aromatic synthetic organic chemical usually produced from a primary petrochemical called orthoxylene, although it is sometimes produced from naphthalene. PA is predominantly used in the production of plasticizers, unsaturated polyester resins, and alkyd resins, which in turn are generally used to produce plastics and paints. The subject PA is produced in two physical forms, molten and flaked.

The PA subject to these investigations is currently classifiable under subheading 2917.35.00 of the Harmonized Tariff Schedule of the

United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

##### United States Price and Foreign Market Value

###### Brazil

Petitioners based United States Price (USP) on 1993 monthly U.S. Customs values of imported Brazilian PA. These customs values are exclusive of transportation, insurance, import duties, and other costs associated with shipments to the United States. Petitioners made no adjustments to USP.

Petitioners based foreign market value (FMV) on both prices and constructed value (CV). Petitioners' prices are not actual price quotes, but rather are annualized dollar figures. Accordingly, we believe petitioners' calculation based on CV is the most appropriate methodology for purposes of initiation. In calculating CV, petitioners based the cost on the U.S. industry experience adjusted for known 1993 differences in Brazilian production expenses. Petitioners used the statutory minimum of 10 and eight percent for selling, general and administrative expenses (SG&A) and profit, respectively. We made no adjustments to petitioners' calculations.

The dumping margin for PA from Brazil based on a comparison of USP to FMV alleged by petitioners is 65 percent.

###### Hungary

Petitioners based USP on 1993 monthly U.S. Customs values of imported Hungarian PA. These customs values are exclusive of transportation, insurance, import duties, and other costs associated with shipments to the United States. Petitioners made no adjustments to USP.

Petitioners, alleging that Hungary is a non-market economy (NME) country, based FMV on CV using U.S. factors of production valued using costs from Brazil. Petitioners explained that they approached numerous sources to try to obtain Hungarian factors of production, but were unable to obtain this information. Consequently, petitioners used U.S. factors of production, an approach that they claimed is more conservative because the U.S. production facility used as a basis for comparison has greater capacity utilization and is more efficient than the Hungarian producer.

The range of dumping margins of PA from Hungary based on a comparison of



USP to FMV alleged by petitioners is 43-74 percent.

#### Israel

Petitioners based USP on 1993 monthly U.S. Customs values of imported Israeli PA. These customs values are exclusive of transportation, insurance, import duties, and other costs associated with shipments to the United States. Petitioners made no adjustments to USP.

Petitioners based FMV on a home market price as well as on CV. For purposes of initiation, we have accepted petitioners' price analysis, which is based on an Israeli PA producer's ex-factory price, exclusive of taxes. By accepting petitioners' price calculations, we have not evaluated the CV.

The dumping margin of PA from Israel based on a comparison of USP to FMV alleged by petitioners is 22 percent.

#### Mexico

Petitioners based USP on 1993 monthly U.S. Customs values of imported Mexican PA. These customs values are exclusive of transportation, insurance, and import duties. No adjustments were made to USP.

Petitioners based FMV on home market prices as well as on CV. For purposes of initiation, we have accepted petitioners' price analysis based on average monthly, ex-factory, net tax prices charged to Mexican customers, as obtained from a confidential industry source. By accepting petitioners' price calculations, we have not evaluated the CV.

The range of dumping margins of PA from Mexico based on a comparison of USP to FMV alleged by petitioners is 30-40 percent.

#### Venezuela

Petitioners based USP on monthly U.S. Customs values of imported Venezuelan PA. These customs values are exclusive of transportation, insurance, import duties, and other costs associated with shipments to the United States. Petitioners made no adjustments to USP.

Petitioners based FMV on CV because they were unable to obtain Venezuelan PA price information. Petitioners calculated CV based on U.S. industry experience, adjusted for known differences between the U.S. and Venezuelan manufacturing process. Petitioner used the statutory minimum of 10 and eight percent for SG&A, and profit, respectively. We made no adjustments to petitioners' calculations.

The range of dumping margins for PA from Venezuela based on a comparison

of USP to FMV alleged by petitioners is 28-52 percent.

#### Initiation of Investigations

We have examined the petition on PA from Brazil, Hungary, Israel, Mexico, and Venezuela, and have found that the petition meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of PA from Brazil, Hungary, Israel, Mexico, and Venezuela are being, or are likely to be, sold in the United States at less than fair value.

#### Preliminary Determination by the International Trade Commission

The International Trade Commission (ITC) will determine by December 6, 1993, whether there is a reasonable indication that imports of PA from Brazil, Hungary, Israel, Mexico and Venezuela are materially injuring, or threaten material injury to, a U.S. industry. A negative ITC determination on any one of these investigations will result in that investigation being terminated; otherwise, the investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: November 12, 1993.

Joseph A. Spatrial,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-28426 Filed 11-17-93; 8:45 am]

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**APPENDIX B**  
**LIST OF WITNESSES**

CALENDAR OF THE PUBLIC CONFERENCE

Investigations Nos. 303-TA-24 (Preliminary), 701-TA-356-358  
(Preliminary), and 731-TA-664-668 (Preliminary)

PHTHALIC ANHYDRIDE FROM BRAZIL, HUNGARY, ISRAEL,  
MEXICO, AND VENEZUELA

Those listed below appeared at the United States International Trade Commission's conference held in connection with the subject investigations on November 15, 1993, in the main hearing room of the USITC Building, 500 E Street, SW, Washington, DC.

In support of the imposition of countervailing and antidumping duties

Albondi, Foster & Sobin--Counsel  
Washington, DC  
on behalf of--

U.S. Phthalic Anhydride Producers:  
Aristech Chemical Corporation  
BASF Corporation  
Koppers Industries, Inc.  
Stephan Company

Matt Cottrill, product manager-dibasics, Aristech Chemical Corporation  
Gilbert Muller, business director, plasticizer chemicals, BASF Corporation  
Bob Mason, chemical technology & marketing, Koppers Industries, Inc.  
Richman H. Wehman, Jr., business manager, phthalic anhydride Stephan Company  
Jeff Bartlett, vice president and general counsel, Stepan Company

Peter J. Koenig )--OF COUNSEL

In opposition to the imposition of countervailing and antidumping duties

Porter, Wright, Morris & Arthur--Counsel  
Washington, DC  
on behalf of--

Celanese Mexicana, S.A., Grupo IDESA, S.A., Grupo Primex, S.A. de C.V., and Kalama International

Andres Milla, Celanese Mexicana, S.A.  
Bernado Alvarez, Mr. Victor Grajales, and Mr. Ricardo Millan,  
Grupo IDESA

**In opposition to the imposition of countervailing  
and antidumping duties--Continued**

Juan Valle, Grupo Primex  
Michael D. Skains, Kalama International  
Joe Raho, president, White Cross Laboratories

Leslie Alan Glick) --OF COUNSEL  
Richard J. Burke )

Whitman Breed Abbott & Morgan--Counsel  
Washington, DC  
on behalf of--

Gadot Petrochemical Industries, Ltd.

Gabriella Henig, vice president marketing, Gadot Petrochemical  
Industries, Ltd.

Dennis James, Jr.)--OF COUNSEL

Morrison & Foerster--Counsel  
Washington, DC  
on behalf of--

Oxidaciones Organicas, C.A.

Julie C. Mendoza) --OF COUNSEL  
Neal J. Reynolds)

Stroock & Stroock & Lavan--Counsel  
Washington, DC  
on behalf of--

Coalition of Phthalic Anhydride Purchasers ("COPAP")

David O. Quisenberry, purchasing associate, Eastman Chemical  
Company  
James J. Kronenthal, president, Magna-Kron Corp., Ltd.

Will E. Leonard ) --OF COUNSEL  
Panagiotis C. Bayz)

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**APPENDIX C**

**SUMMARY DATA CONCERNING THE U.S. MARKET**

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Table C-1

Molten phthalic anhydride: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

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

Item	Reported data					Period changes			
	1990	1991	1992	Jan.-Sept.--		1990-92	1990-91	1991-92	Jan.-Sept. 1992-93
				1992	1993				
<b>U.S. consumption quantity:</b>									
Amount 1/.....	822,763	756,050	810,928	621,873	596,679	-1.4	-8.1	+7.3	-4.1
Producers' share 2/.....	100.0	100.0	100.0	100.0	100.0	0	0	0	3/
Importers' share: 2/									
Brazil.....	0	0	0	0	0	0	0	0	0
Hungary.....	0	0	0	0	0	0	0	0	0
Israel.....	0	0	0	0	0	0	0	0	0
Mexico.....	0	0	0	0	4/	0	0	0	5/
Venezuela.....	0	0	0	0	0	0	0	0	0
Subtotal.....	0	0	0	0	4/	0	0	0	5/
Other sources.....	0	0	0	0	0	0	0	0	0
Total.....	0	0	0	0	4/	0	0	0	5/
<b>U.S. consumption value:</b>									
Amount.....	218,559	218,663	240,516	184,613	172,672	+10.0	6/	+10.0	-6.5
Producers' share 2/.....	100.0	100.0	100.0	100.0	100.0	0	0	0	3/
Importers' share: 2/									
Brazil.....	0	0	0	0	0	0	0	0	0
Hungary.....	0	0	0	0	0	0	0	0	0
Israel.....	0	0	0	0	0	0	0	0	0
Mexico.....	0	0	0	0	4/	0	0	0	5/
Venezuela.....	0	0	0	0	0	0	0	0	0
Subtotal.....	0	0	0	0	4/	0	0	0	5/
Other sources.....	0	0	0	0	0	0	0	0	0
Total.....	0	0	0	0	4/	0	0	0	5/
<b>U.S. importers' imports from--</b>									
<b>Brazil:</b>									
U.S. shipments quantity..	0	0	0	0	0	0	0	0	0
U.S. shipments value.....	0	0	0	0	0	0	0	0	0
Unit value.....	2/	2/	2/	2/	2/	2/	2/	2/	2/
Ending inventory qty.....	-	-	-	-	-	-	-	-	-
<b>Hungary:</b>									
U.S. shipments quantity..	0	0	0	0	0	0	0	0	0
U.S. shipments value.....	0	0	0	0	0	0	0	0	0
Unit value.....	2/	2/	2/	2/	2/	2/	2/	2/	2/
Ending inventory qty.....	-	-	-	-	-	-	-	-	-
<b>Israel:</b>									
U.S. shipments quantity..	0	0	0	0	0	0	0	0	0
U.S. shipments value.....	0	0	0	0	0	0	0	0	0
Unit value.....	2/	2/	2/	2/	2/	2/	2/	2/	2/
Ending inventory qty.....	-	-	-	-	-	-	-	-	-
<b>Mexico:</b>									
U.S. shipments quantity..	0	0	0	0	***	0	0	0	2/
U.S. shipments value.....	0	0	0	0	***	0	0	0	6/
Unit value.....	6/	6/	6/	6/	6/	6/	6/	6/	6/
Ending inventory qty.....	-	-	-	-	2/	-	-	-	2/
<b>Venezuela:</b>									
U.S. shipments quantity..	0	0	0	0	0	0	0	0	0
U.S. shipments value.....	0	0	0	0	0	0	0	0	0
Unit value.....	6/	6/	6/	6/	6/	6/	6/	6/	6/
Ending inventory qty.....	-	-	-	-	-	-	-	-	-
<b>Subject sources:</b>									
U.S. shipments quantity..	0	0	0	0	***	0	0	0	6/
U.S. shipments value.....	0	0	0	0	***	0	0	0	6/
Unit value.....	6/	6/	6/	6/	6/	6/	6/	6/	6/
Ending inventory qty.....	-	-	-	-	2/	-	-	-	2/
<b>Other sources:</b>									
U.S. shipments quantity..	0	0	0	0	0	0	0	0	0
U.S. shipments value.....	0	0	0	0	0	0	0	0	0
Unit value.....	6/	6/	6/	6/	6/	6/	6/	6/	6/
Ending inventory qty.....	-	-	-	-	-	-	-	-	-
<b>All sources:</b>									
U.S. shipments quantity..	0	0	0	0	***	0	0	0	6/
U.S. shipments value.....	0	0	0	0	***	0	0	0	6/
Unit value.....	6/	6/	6/	6/	6/	6/	6/	6/	6/

See footnotes at end of table.



Table C-1--Continued

Molten PAN: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

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

Item	Reported data					Period changes			
	1990	1991	1992	Jan.-Sept.-- 1992 1993		1990-92	1990-91	1991-92	Jan.-Sept. 1992-93
<b>U.S. producers'--</b>									
Average capacity quantity	1,098,750	975,000	995,000	731,250	753,750	-9.4	-11.3	+2.1	+3.1
Production quantity	936,202	872,193	896,278	679,887	647,284	-4.3	-6.8	+2.8	-4.8
Capacity utilization 2/....	85.2	89.5	90.1	93.0	85.9	+4.9	+4.2	+0.6	-7.1
<b>U.S. shipments:</b>									
Quantity	***	***	***	***	***	-1.4	-8.1	+7.3	-4.1
Value	***	***	***	***	***	+10.0	5/	+10.0	-6.5
Unit value	\$***	\$***	\$***	\$***	\$***	+11.7	+8.9	+2.6	-2.5
<b>Export shipments:</b>									
Quantity	***	***	***	***	***	-52.8	+22.8	-61.6	+57.4
Exports/shipments 2/....	***	***	***	***	***	-0.1	5/	-0.1	+0.1
Value	***	***	***	***	***	-39.1	+41.7	-57.0	+67.4
Unit value	\$***	\$***	\$***	\$***	\$***	+29.0	+15.3	+11.8	+6.4
Ending inventory quantity	31,810	31,048	42,453	27,819	39,173	+33.5	-2.4	+36.7	+40.8
Inventory/shipments 2/....	***	***	***	***	***	+1.4	+0.2	+1.1	+1.6
Production workers	184	164	162	163	153	-12.0	-10.9	-1.2	-6.1
Hours worked (1,000s)	419	364	352	271	270	-16.0	-13.1	-3.3	-0.4
Total comp. (\$1,000)	9,472	7,952	8,306	6,125	6,591	-12.9	-16.0	+4.5	+7.6
Hourly total compensation	\$22.61	\$21.85	\$23.60	\$22.60	\$24.41	+4.4	-3.4	+8.0	+8.0
Productivity (QTY/hour)	2,234.4	2,396.1	2,546.2	2,508.8	2,397.3	+14.0	+7.2	+6.3	-4.4
Unit labor costs	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	-8.4	-9.9	+1.6	+13.0
<b>Net sales--</b>									
Quantity	943,448	869,175	884,751	680,650	651,642	-6.2	-7.9	+1.8	-4.3
Value	251,757	256,430	269,378	207,804	194,198	+7.0	+1.9	+5.0	-6.5
Cost of goods sold (COGS)	221,264	204,129	206,833	160,868	143,957	-6.5	-7.7	+1.3	-10.5
Gross profit (loss)	30,493	52,301	62,545	46,936	50,241	+105.1	+71.5	+19.6	+7.0
SG&A expenses	11,114	8,956	9,592	7,299	7,343	-13.7	-19.4	+7.1	+0.6
Operating income (loss)	19,379	43,345	52,953	39,637	42,898	+173.2	+123.7	+22.2	+8.2
Capital expenditures	***	***	***	***	***	+21.0	+29.5	-6.6	-63.6
Unit COGS	\$0.23	\$0.23	\$0.23	\$0.24	\$0.22	-0.3	+0.1	-0.5	-6.5
COGS/sales 2/....	87.9	79.6	76.8	77.4	74.1	-11.1	-8.3	-2.8	-3.3
Op.income (loss)/sales 2/..	7.7	16.9	19.7	19.1	22.1	+12.0	+9.2	+2.8	+3.0

1/ Excludes molten PAN consumed by U.S. producers to make flake PAN.

2/ 'Reported data' are in percent and 'period changes' are in percentage-point.

3/ A decrease of less than 0.05 percentage points.

4/ Positive figure, but less than significant digits displayed.

5/ An increase of less than 0.05 percentage points.

6/ Not applicable.

7/ Not available.

Note.--Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

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

Table C-2

Flake PAN: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

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

Item	Reported data					Period changes			
	1990	1991	1992	Jan.-Sept. 1992	Jan.-Sept. 1993	1990-92	1990-91	1991-92	Jan.-Sept. 1992-93
<b>U.S. consumption quantity:</b>									
Amount.....	***	***	***	***	***	+5.6	+1.9	+3.6	+20.6
Producers' share 1/.....	82.9	77.7	61.3	65.6	47.8	-21.6	-5.2	-16.4	-17.8
Importers' share: 1/									
Brazil.....	0	0.6	2.6	2.6	1.4	+2.6	+0.6	+2.0	-1.2
Hungary.....	0	0	.3	.3	.4	+0.3	0	+0.3	+0.1
Israel.....	.4	0	.9	.5	5.2	+0.5	-0.4	+0.9	+4.8
Mexico.....	9.1	11.8	20.7	17.1	31.5	+11.6	+2.7	+8.9	+14.4
Venezuela.....	7.6	9.9	14.2	13.9	13.6	+6.6	+2.3	+4.3	-0.3
Subtotal.....	17.1	22.3	38.7	34.4	52.2	+21.6	+5.2	+16.4	+17.8
Other sources.....	0	0	0	0	0	0	0	0	0
Total.....	17.1	22.3	38.7	34.4	52.2	+21.6	+5.2	+16.4	+17.8
<b>U.S. consumption value:</b>									
Amount.....	***	***	***	***	***	+20.5	+12.7	+7.0	+4.6
Producers' share 1/.....	83.8	78.8	62.8	67.1	52.1	-21.0	-5.0	-15.9	-15.0
Importers' share: 1/									
Brazil.....	0	0.6	2.5	2.5	1.3	+2.5	+0.6	+1.9	-1.2
Hungary.....	0	0	.3	.3	.4	+0.3	0	+0.3	+0.1
Israel.....	.3	0	.8	.4	4.9	+0.5	-0.3	+0.8	+4.5
Mexico.....	8.6	11.0	20.0	16.2	28.3	+11.4	+2.4	+9.0	+12.1
Venezuela.....	7.2	9.6	13.6	13.5	13.0	+6.4	+2.4	+4.0	-0.5
Subtotal.....	16.2	21.2	37.2	32.9	47.9	+21.0	+5.0	+15.9	+15.0
Other sources.....	0	0	0	0	0	0	0	0	0
Total.....	16.2	21.2	37.2	32.9	47.9	+21.0	+5.0	+15.9	+15.0
<b>U.S. importers' imports from--</b>									
<b>Brazil:</b>									
U.S. shipments quantity..	***	***	***	***	***	2/	2/	+345.7	-34.1
U.S. shipments value.....	***	***	***	***	***	2/	2/	+353.2	-44.1
Unit value.....	2/	3***	3***	3***	3***	2/	2/	+1.7	-15.3
Ending inventory qty.....	***	***	***	***	***	-	-	2/	-98.9
<b>Hungary:</b>									
U.S. shipments quantity..	***	***	***	***	***	2/	0	2/	+76.8
U.S. shipments value.....	***	***	***	***	***	2/	0	2/	+46.2
Unit value.....	2/	2/	3***	3***	3***	2/	2/	2/	-17.3
Ending inventory qty.....	***	***	***	***	***	0	0	0	2/
<b>Israel:</b>									
U.S. shipments quantity..	***	***	***	***	***	+123.9	-100.0	2/	3/
U.S. shipments value.....	***	***	***	***	***	+177.6	-100.0	2/	3/
Unit value.....	3***	2/	3***	3***	3***	+24.0	2/	2/	-12.6
Ending inventory qty.....	4/	-	4/	4/	4/	4/	4/	4/	4/
<b>Mexico:</b>									
U.S. shipments quantity..	***	***	***	***	***	+139.5	+32.2	+81.1	+122.1
U.S. shipments value.....	***	***	***	***	***	+179.8	+44.1	+94.1	+82.7
Unit value.....	3***	3***	3***	3***	3***	+16.8	+9.0	+7.2	-17.8
Ending inventory qty.....	***	***	***	***	***	+140.4	-99.8	3/	-21.9
<b>Venezuela:</b>									
U.S. shipments quantity..	***	***	***	***	***	+98.1	+32.7	+49.2	+17.9
U.S. shipments value.....	***	***	***	***	***	+127.0	+49.7	+51.6	+0.7
Unit value.....	3***	3***	3***	3***	3***	+14.6	+12.8	+1.6	-14.6
Ending inventory qty.....	***	***	***	***	***	+209.8	+143.8	+27.1	+98.1
<b>Subject sources:</b>									
U.S. shipments quantity..	***	***	***	***	***	+138.7	+32.8	+79.7	+83.0
U.S. shipments value.....	***	***	***	***	***	+176.6	+47.6	+87.4	+52.4
Unit value.....	3***	3***	3***	3***	3***	+15.9	+11.1	+4.3	-16.8
Ending inventory qty.....	***	***	***	***	***	+207.6	+66.0	+85.3	+58.9
<b>Other sources:</b>									
U.S. shipments quantity..	0	0	0	0	0	0	0	0	0
U.S. shipments value.....	0	0	0	0	0	0	0	0	0
Unit value.....	2/	2/	2/	2/	2/	2/	2/	2/	2/
Ending inventory qty.....	-	-	-	-	-	-	-	-	-
<b>All sources:</b>									
U.S. shipments quantity..	***	***	***	***	***	+138.7	+32.8	+79.7	+83.0
U.S. shipments value.....	***	***	***	***	***	+176.6	+47.6	+87.4	+52.4
Unit value.....	3***	3***	3***	3***	3***	+15.9	+11.1	+4.3	-16.8

See footnotes at end of table.

Table C-2--Continued

Flake PAN: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

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

Item	Reported data					Period changes			
	1990	1991	1992	Jan.-Sept.,-- 1992	1993	1990-92	1990-91	1991-92	Jan.-Sept. 1992-93
U.S. producers'--									
Average capacity quantity..	159,875	143,000	143,000	***	***	-10.6	-10.6	0	0
Production quantity.....	117,906	***	72,850	57,892	53,838	-38.2	-5.5	-34.6	-7.0
Capacity utilization 1/....	73.7	***	50.9	***	***	-22.8	+4.2	-27.0	-3.8
U.S. shipments:									
Quantity.....	***	***	***	***	***	-21.9	-4.5	-18.2	-12.2
Value.....	***	***	***	***	***	-9.6	+5.9	-14.7	-18.8
Unit value.....	\$***	\$***	\$***	\$***	\$***	+15.7	+10.9	+4.3	-7.5
Export shipments:									
Quantity.....	***	***	***	***	***	-69.8	-8.4	-67.0	+8.3
Exports/shipments 1/....	***	***	***	***	***	-17.3	-0.9	-16.4	+3.0
Value.....	***	***	***	***	***	-71.1	+14.6	-74.8	-20.7
Unit value.....	\$***	\$***	\$***	\$***	\$***	-4.4	+25.0	-23.5	-26.8
Ending inventory quantity..	3,839	3,548	3,268	3,361	4,262	-14.9	-7.6	-7.9	+26.8
Inventory/shipments 1/....	***	***	***	***	***	+1.2	-0.1	+1.3	+1.7
Production workers.....	***	***	***	***	***	-38.1	-23.8	-18.8	+7.7
Hours worked (1,000s).....	***	***	***	***	***	-30.2	-18.6	-14.3	+13.6
Total comp. (\$1,000).....	817	617	514	381	467	-37.1	-24.5	-16.7	+22.6
Hourly total compensation..	\$***	\$***	\$***	\$***	\$***	-9.8	-7.2	-2.8	+7.9
Productivity (QTY/hour)....	***	***	***	***	***	-11.4	+16.1	-23.7	-18.2
Unit labor costs.....	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	+1.8	-20.1	+27.4	+31.8
Net sales--									
Quantity.....	118,204	111,365	73,136	58,079	52,843	-38.1	-5.8	-34.3	-9.0
Value.....	32,777	35,513	24,021	19,167	15,521	-26.7	+8.3	-32.4	-19.0
Cost of goods sold (COGS)..	33,495	32,321	21,417	17,524	15,329	-36.1	-3.5	-33.7	-12.5
Gross profit (loss).....	(718)	3,192	2,604	1,643	192	+462.7	+544.6	-18.4	-88.3
SG&A expenses.....	1,790	1,562	1,100	867	850	-38.5	-12.7	-29.6	-2.0
Operating income (loss)....	(2,508)	1,630	1,504	776	(658)	+160.0	+165.0	-7.7	-184.8
Capital expenditures.....	***	***	***	***	***	-44.4	+95.6	-71.6	3/
Unit COGS.....	\$0.28	\$0.29	\$0.29	\$0.30	\$0.29	+3.3	+2.4	+0.9	-3.9
COGS/sales 1/.....	102.2	91.0	89.2	91.4	98.8	-13.0	-11.2	-1.9	+7.3
Op.income (loss)/sales 1/..	(7.7)	4.6	6.3	4.0	(4.2)	+13.9	+12.2	+1.7	-8.3

1/ 'Reported data' are in percent and 'period changes' are in percentage-point.

2/ Not applicable.

3/ Not available.

4/ An increase of 1,000 percent or more.

Note.--Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

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

Table C-3

Molten and flake PAN: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

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

Item	Reported data					Period changes			
	1990	1991	1992	Jan.-Sept. 1992	Jan.-Sept. 1993	1990-92	1990-91	1991-92	1992-93
<b>U.S. consumption quantity:</b>									
Amount.....	***	***	***	***	***	-0.7	-7.1	+6.8	-1.4
Producers' share 1/.....	98.2	97.5	95.8	96.3	93.1	-2.5	-0.8	-1.7	-3.2
Importers' share: 1/.....									
Brazil.....	0	0.1	0.3	0.3	0.2	+0.3	+0.1	+0.2	-0.1
Hungary.....	0	0	2/	2/	.1	3/	0	3/	3/
Israel.....	2/	0	.1	.1	.7	+0.1	4/	+0.1	+0.6
Mexico.....	.9	1.3	2.3	1.8	4.1	+1.3	+0.4	+0.9	+2.3
Venezuela.....	.8	1.1	1.6	1.5	1.8	+0.8	+0.3	+0.4	+0.3
Subtotal.....	1.8	2.5	4.2	3.7	6.9	+2.5	+0.8	+1.7	+3.2
Other sources.....	0	0	0	0	0	0	0	0	0
Total.....	1.8	2.5	4.2	3.7	6.9	+2.5	+0.8	+1.7	+3.2
<b>U.S. consumption value:</b>									
Amount.....	***	***	***	***	***	+11.2	+1.5	+9.6	-5.1
Producers' share 1/.....	98.1	97.3	95.4	96.0	93.6	-2.8	-0.8	-1.9	-2.4
Importers' share: 1/.....									
Brazil.....	0	0.1	0.3	0.3	0.2	+0.3	+0.1	+0.2	-0.1
Hungary.....	0	0	2/	2/	.1	3/	0	3/	3/
Israel.....	2/	0	.1	.1	.7	+0.1	4/	+0.1	+0.6
Mexico.....	1.0	1.4	2.5	2.0	3.8	+1.5	+0.4	+1.1	+1.8
Venezuela.....	.8	1.2	1.7	1.6	1.7	+0.9	+0.4	+0.5	+0.1
Subtotal.....	1.9	2.7	4.6	4.0	6.4	+2.8	+0.8	+1.9	+2.4
Other sources.....	0	0	0	0	0	0	0	0	0
Total.....	1.9	2.7	4.6	4.0	6.4	+2.8	+0.8	+1.9	+2.4
<b>U.S. importers' imports from--</b>									
<b>Brazil:</b>									
U.S. shipments quantity..	***	***	***	***	***	5/	5/	+345.7	-34.1
U.S. shipments value.....	***	***	***	***	***	5/	5/	+353.2	-44.1
Unit value.....	5/	\$***	\$***	\$***	\$***	5/	5/	+1.7	-15.3
Ending inventory qty.....	***	***	***	***	***	-	-	3/	-98.9
<b>Hungary:</b>									
U.S. shipments quantity..	***	***	***	***	***	5/	0	5/	+76.8
U.S. shipments value.....	***	***	***	***	***	5/	0	5/	+46.2
Unit value.....	3/	5/	\$***	\$***	\$***	5/	5/	5/	-17.3
Ending inventory qty.....	***	***	***	***	***	0	0	0	5/
<b>Israel:</b>									
U.S. shipments quantity..	***	***	***	***	***	+123.9	-100.0	5/	6/
U.S. shipments value.....	***	***	***	***	***	+177.6	-100.0	5/	6/
Unit value.....	\$***	5/	\$***	\$***	\$***	+24.0	5/	5/	-12.6
Ending inventory qty.....	2/	1/	2/	2/	2/	2/	2/	2/	2/
<b>Mexico:</b>									
U.S. shipments quantity..	***	***	***	***	***	+139.5	+32.2	+81.1	+122.5
U.S. shipments value.....	***	***	***	***	***	+179.8	+44.1	+94.1	+83.0
Unit value.....	\$***	\$***	\$***	\$***	\$***	+16.8	+9.0	+7.2	-17.8
Ending inventory qty.....	***	***	***	***	***	+140.4	-99.8	6/	-21.9
<b>Venezuela:</b>									
U.S. shipments quantity..	***	***	***	***	***	+98.1	+32.7	+49.2	+17.9
U.S. shipments value.....	***	***	***	***	***	+127.0	+49.7	+51.6	+0.7
Unit value.....	\$***	\$***	\$***	\$***	\$***	+14.6	+12.8	+1.6	-14.6
Ending inventory qty.....	***	***	***	***	***	+209.8	+143.8	+27.1	+98.1
<b>Subject sources:</b>									
U.S. shipments quantity..	***	***	***	***	***	+138.7	+32.8	+79.7	+83.2
U.S. shipments value.....	***	***	***	***	***	+176.6	+47.6	+87.4	+52.5
Unit value.....	\$***	\$***	\$***	\$***	\$***	+15.9	+11.1	+4.3	-16.8
Ending inventory qty.....	***	***	***	***	***	+207.6	+66.0	+85.3	+58.9
<b>Other sources:</b>									
U.S. shipments quantity..	0	0	0	0	0	0	0	0	0
U.S. shipments value.....	0	0	0	0	0	0	0	0	0
Unit value.....	5/	5/	5/	5/	5/	5/	5/	5/	5/
Ending inventory qty.....	-	-	-	-	-	-	-	-	-
<b>All sources:</b>									
U.S. shipments quantity..	***	***	***	***	***	+138.7	+32.8	+79.7	+83.2
U.S. shipments value.....	***	***	***	***	***	+176.6	+47.6	+87.4	+52.5
Unit value.....	\$***	\$***	\$***	\$***	\$***	+15.9	+11.1	+4.3	-16.8

See footnotes at end of table.

Table C-3--Continued

Molten and flake PAN: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

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

Item	Reported data					Period changes			
	1990	1991	1992	Jan.-Sept.--		1990-92	1990-91	1991-92	Jan.-Sept. 1992-93
				1992	1993				
U.S. producers'--									
Average capacity quantity..	-	-	-	-	-	-	-	-	-
Production quantity.....	-	-	-	-	-	-	-	-	-
Capacity utilization 1/....	-	-	-	-	-	-	-	-	-
U.S. shipments:									
Quantity.....	***	***	***	***	***	-3.2	-7.8	+5.0	-4.7
Value.....	***	***	***	***	***	+8.1	+0.6	+7.5	-7.5
Unit value.....	\$***	\$***	\$***	\$***	\$***	+11.7	+9.1	+2.4	-3.0
Export shipments:									
Quantity.....	***	***	***	***	***	-69.3	-7.5	-66.8	+10.9
Exports/shipments 1/.....	***	***	***	***	***	-2.9	3/	-3.0	+0.2
Value.....	9,423	10,880	2,822	2,273	1,954	-70.1	+15.5	-74.1	-14.0
Unit value.....	\$0.23	\$0.29	\$0.22	\$0.24	\$0.18	-2.5	+24.8	-21.8	-22.5
Ending inventory quantity..	35,649	34,596	45,721	31,180	43,435	+28.3	-3.0	+32.2	+39.3
Inventory/shipments 1/.....	***	***	***	***	***	+1.4	+0.2	+1.2	+1.6
Production workers.....	***	***	***	***	***	-14.6	-12.2	-2.8	-5.1
Hours worked (1,000s).....	***	***	***	***	***	-17.3	-13.6	-4.3	+0.7
Total comp. (\$1,000).....	10,289	8,569	8,820	6,506	7,058	-14.3	-16.7	+2.9	+8.5
Hourly total compensation..	\$***	\$***	\$***	\$***	\$***	+3.7	-3.6	+7.5	+7.7
Productivity (QTY/hour)....	***	***	***	***	***	+15.8	+7.9	+7.3	-5.4
Unit labor costs.....	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	-10.5	-10.6	+0.2	+13.9
Net sales--									
Quantity.....	942,156	868,851	884,617	680,461	650,278	-6.1	-7.8	+1.8	-4.4
Value.....	251,943	258,326	271,099	208,827	193,709	+7.6	+2.5	+4.9	-7.2
Cost of goods sold (COGS)..	234,815	217,610	217,679	169,606	151,173	-7.3	-7.3	8/	-10.9
Gross profit (loss).....	17,128	40,716	53,420	39,221	42,536	+211.9	+137.7	+31.2	+8.5
SG&A expenses.....	12,904	10,518	10,692	8,166	8,193	-17.1	-18.5	+1.7	+0.3
Operating income (loss)....	4,224	30,198	42,728	31,055	34,343	+911.6	+614.9	+41.5	+10.6
Capital expenditures.....	7,486	9,723	9,025	***	2,711	+20.6	+29.9	-7.2	-61.8
Unit COGS.....	\$0.25	\$0.25	\$0.25	\$0.25	\$0.23	-1.3	+0.5	-1.8	-6.7
COGS/sales 1/.....	93.2	84.2	80.3	81.2	78.0	-12.9	-9.0	-3.9	-3.2
Op.income (loss)/sales 1/..	1.7	11.7	15.8	14.9	17.7	+14.1	+10.0	+4.1	+2.9

1/ 'Reported data' are in percent and 'period changes' are in percentage point.

2/ Positive figure, but less than significant digits displayed.

3/ An increase of less than 0.05 percentage points.

4/ A decrease of less than 0.05 percentage points.

5/ Not applicable.

6/ Not available.

7/ An increase of 1,000 percent or more.

Note.--Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

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

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

The Commission requested U.S. producers to describe any actual or anticipated negative effects of imports of PAN from Brazil, Hungary, Israel, Mexico, and Venezuela on their growth, investment, ability to raise capital, or existing development and production efforts, including efforts to develop a derivative or more advanced version of the product. The Commission also asked U.S. producers to report the influence of such imports on their scale of capital investments undertaken. The responses are as follows:

**Actual Negative Effects**

**Aristech**

"\*\*\*."

**BASF**

"\*\*\*."

**Exxon**

"\*\*\*\*"

**Stepan**

"\*\*\*."

**Anticipated Negative Effects**

**Aristech**

"\*\*\*."

**BASF**

"\*\*\*."

**Exxon**

"\*\*\*\*"

**Stepan**

"\*\*\*."

**Scale of Capital Investments**

**Aristech**

"\*\*\*."

**Exxon**

"\*\*\*\*"

**Stepan**

"\*\*\*."



**APPENDIX E**

**U.S. SELLING PRICE DATA FOR DOMESTIC AND IMPORTED  
PAN AND FOR ORTHOXYLENE REPORTED IN  
PRODUCER AND IMPORTER QUESTIONNAIRES**

**Table E-1**

**Net weighted-average U.S. f.o.b. selling prices and quantities of U.S.-produced PAN sold to end users, by products and by quarters, Jan. 1990-Sept. 1993**

<b>Period</b>	<b>Sales of molten PAN</b>			<b>Sales of flake PAN</b>		
	<b>Price</b>	<b>Quantity</b>	<b>No. of firms reporting</b>	<b>Price</b>	<b>Quantity</b>	<b>No. of firms reporting</b>
	<b>Per pound</b>	<b>Pounds</b>		<b>Per pound</b>	<b>Pounds</b>	
	*	*	*	*	*	*

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

**Table E-2**

**Net weighted-average U.S. f.o.b. selling prices and quantities of imported Brazilian flake PAN sold to end users, by quarters, Apr. 1991-Sept. 1993**

<b>Period</b>	<b>Price</b>	<b>Quantity</b>	<b>No. of firms reporting</b>
	<b>Per pound</b>	<b>Pounds</b>	
	*	*	*

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

**Table E-3**

**Net weighted-average U.S. f.o.b. selling prices and quantities of imported Hungarian flake PAN sold to end users, by quarters, Jan. 1992-Sept. 1993<sup>1</sup>**

<b>Period</b>	<b>Price</b>	<b>Quantity</b>	<b>No. of firms reporting</b>
	<b>Per pound</b>	<b>Pounds</b>	
	*	*	*

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

Table E-4

Net weighted-average U.S. f.o.b. selling prices and quantities of imported Israeli flake PAN sold to end users, by quarters, Jan. 1990-Sept. 1993

<u>Period</u>	<u>Price</u> <u>Per pound</u>	<u>Quantity</u> <u>Pounds</u>	<u>No. of</u> <u>firms</u> <u>reporting</u>
*	*	*	*

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

Table E-5

Net weighted-average U.S. f.o.b. selling prices and quantities of imported Mexican flake PAN sold to end users, by quarters, Jan. 1990-Sept. 1993

<u>Period</u>	<u>Price</u> <u>Per pound</u>	<u>Quantity</u> <u>Pounds</u>	<u>No. of</u> <u>firms</u> <u>reporting</u>
*	*	*	*

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

Table E-6

Net weighted-average U.S. f.o.b. selling prices and quantities of imported Venezuelan flake PAN sold to end users, by quarters, Jan. 1990-Sept. 1993

<u>Period</u>	<u>Price</u> <u>Per pound</u>	<u>Quantity</u> <u>Pounds</u>	<u>No. of</u> <u>firms</u> <u>reporting</u>
*	*	*	*

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

Table E-7

Average U.S. f.o.b. prices of orthoxylene, by quarters, Jan. 1990-Sept. 1993<sup>1</sup>

Period	Price Per pound	No. of firms reporting
1990:		
January-March.....	\$0.154	3
April-June.....	.165	3
July-September.....	.196	3
October-December....	.258	3
1991:		
January-March.....	.213	3
April-June.....	.172	3
July-September.....	.168	3
October-December....	.180	3
1992:		
January-March.....	.192	3
April-June.....	.183	3
July-September.....	.176	3
October-December....	.175	3
1993:		
January-March.....	.175	3
April-June.....	.154	3
July-September.....	.151	3

<sup>1</sup> Prices of orthoxylene shown are a simple average of the three firms reporting U.S. f.o.b. prices. Exxon reported its U.S. f.o.b. contract selling prices of orthoxylene; BASF reported f.o.b. Gulf-Coast shipping-point contract prices of orthoxylene published by Chem Data of Houston, TX; and Aristech reported its delivered contract purchase prices of orthoxylene. In addition, Kalama, a U.S. importer of flake PAN, reported f.o.b. Gulf-Coast shipping-point contract prices of orthoxylene published by ICIS, a chemical price reporting firm in Houston, TX.

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

**APPENDIX F**  
**EXCHANGE RATES**

Table F-1

Exchange rates:<sup>1</sup> Indexes of the nominal and real exchange rates between the U.S. dollar and the currencies of five specified countries, and indexes of producer prices in the foreign countries and the United States,<sup>2</sup> by quarters, Jan. 1990-June 1993

Period	Brazil			Hungary			U.S. producer price index
	Nominal exchange rate index	Producer price index	Real exchange rate index <sup>3</sup>	Nominal exchange rate index	Producer price index	Real exchange rate index <sup>3</sup>	
1990:							
Jan-Mar....	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Apr-June...	48.1	193.6	93.3	98.5	104.7	103.3	99.8
July-Sept..	35.3	260.5	90.6	101.6	106.7	106.7	101.6
Oct-Dec....	20.3	389.8	75.5	104.8	113.7	113.9	104.7
1991:							
Jan-Mar....	11.7	634.2	72.5	91.0	137.1	121.7	102.5
Apr-June...	9.2	822.3	74.4	84.2	141.3	117.2	101.5
July-Sept..	6.7	1,155.4	76.3	83.7	142.8	118.0	101.4
Oct-Dec....	3.3	2,114.5	69.0	83.7	142.0	117.0	101.5
1992:							
Jan-Mar....	1.7	4,089.0	68.0	81.8	153.8	124.3	101.3
Apr-June...	.9	7,483.3	69.3	80.7	157.3	124.0	102.3
July-Sept..	.5	13,371.8	68.9	82.8	159.2	128.3	102.8
Oct-Dec....	.3	26,427.0	70.8	78.5	163.4	124.7	102.9
1993:							
Jan-Mar....	.1	53,080.3	71.4	74.7	(4)	(4)	103.3
Apr-June...	.1	(4)	(4)	72.2	(4)	(4)	104.4
	Israel			Mexico			U.S. producer price index
Period	Nominal exchange rate index	Producer price index	Real exchange rate index <sup>3</sup>	Nominal exchange rate index	Producer price index	Real exchange rate index <sup>3</sup>	
1990:							
Jan-Mar....	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Apr-June...	97.0	103.1	100.2	96.8	106.6	103.4	99.8
July-Sept..	96.1	105.4	99.6	94.2	112.8	104.5	101.6
Oct-Dec....	97.3	110.0	102.2	92.0	118.7	104.3	104.7
1991:							
Jan-Mar....	95.2	114.6	106.4	90.7	125.4	111.0	102.5
Apr-June...	84.0	120.3	99.6	89.6	130.2	114.9	101.5
July-Sept..	83.7	123.8	102.2	88.5	134.0	117.0	101.4
Oct-Dec....	83.4	126.8	104.2	87.7	138.4	119.5	101.5
1992:							
Jan-Mar....	83.9	128.7	106.7	87.7	144.6	125.3	101.3
Apr-June...	80.9	133.0	105.1	86.9	148.2	125.9	102.3
July-Sept..	80.5	135.2	105.9	86.8	151.4	127.9	102.8
Oct-Dec....	75.2	137.5	100.5	86.2	154.5	129.4	102.9
1993:							
Jan-Mar....	70.5	141.0	96.2	86.6	158.9	133.1	103.3
Apr-June...	71.6	144.1	98.8	86.4	162.1	134.1	104.4

See notes at end of table.

Table F-1--Continued

Exchange rates:<sup>1</sup> Indexes of the nominal and real exchange rates between the U.S. dollar and the currencies of five specified countries, and indexes of producer prices in the foreign countries and the United States,<sup>2</sup> by quarters, Jan. 1990-June 1993

Period	Venezuela			U.S. producer price index
	Nominal exchange-rate index	Producer price index	Real exchange-rate index <sup>3</sup>	
1990:				
Jan.-Mar...	100.0	100.0	100.0	100.0
Apr.-June..	94.5	104.2	98.6	99.8
July-Sept..	88.1	111.1	96.3	101.6
Oct.-Dec...	86.6	115.3	95.3	104.7
1991:				
Jan.-Mar...	81.3	122.3	97.0	102.5
Apr.-June..	78.4	128.0	98.9	101.5
July-Sept..	73.3	136.5	98.7	101.4
Oct.-Dec...	71.5	144.9	102.0	101.5
1992:				
Jan.-Mar...	67.7	150.1	100.3	101.3
Apr.-June..	66.0	160.9	103.8	102.3
July-Sept..	63.7	173.5	107.6	102.8
Oct.-Dec...	56.2	184.8	101.0	102.9
1993:				
Jan.-Mar...	52.6	198.8	101.2	103.3
Apr.-June..	49.8	212.6	101.4	104.4

<sup>1</sup> Based on exchange rates expressed in U.S. dollars per unit of foreign currency.

<sup>2</sup> The producer price indexes are aggregate measures of inflation at the wholesale level in the United States and the above foreign countries.

<sup>3</sup> The real values of the foreign currencies are the nominal values adjusted for the difference between inflation rates as measured by the producer price indexes in the individual foreign countries and the United States.

<sup>4</sup> Not available.

Note.--January-March 1990=100.0

Source: International Monetary Fund, *International Financial Statistics*, October 1993.

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