

# **CONDITIONS OF COMPETITION BETWEEN U.S. AND MEXICAN LIME IN THE UNITED STATES MARKET**

Report to the President on  
Investigation No. 332-271  
Under Section 332 (g)  
of the Tariff Act of 1930  
as Amended

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**United States International Trade Commission  
Washington, DC 20436**



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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



## EXECUTIVE SUMMARY 1/ 2/

Lime is one of the largest basic chemicals used in U.S. industry, second only to sulfuric acid. In 1988, lime production 3/ 4/ reached \*\*\* million short tons, valued at \$\*\*\* million, as reported by the U.S. Bureau of Mines. In the same year, U.S. imports reached 235,000 short tons, and exports reached \*\*\* short tons.

Following a request from the U.S. Trade Representative, the Commission instituted an investigation on February 8, 1989, to "report to the President on whether the probable economic effect on an industry in the United States of revocation by the Department of Commerce of the outstanding countervailing duty order on lime from Mexico would be such that (1) an industry in the United States would be materially injured, or would be threatened with material injury or (2) the establishment of an industry in the United States would be materially retarded."

The principal findings for the period 1986-88 are highlighted below:

--Consumption of lime increased \*\*\* percent in the United States and 8 percent in the Southwest region.

--Production increased \*\*\* percent in the United States and 4 percent in the Southwest region while capacity utilization for quicklime increased from 60 percent to \*\*\* percent in the United States. Capacity utilization for all lime increased from 63 percent to 66 percent in the Southwest region.

1/ Commissioner Eckes concurs with the factual information contained in the Executive Summary and refers to his separate analysis and findings in Chapter 4, infra.

2/ Commissioner Rohr notes that, while he approved the institution of this investigation, he stated at that time that he was concerned about the use of section 332 as authority to conduct "pseudo-Title VII injury investigations" in situations in which Title VII does not authorize such investigations. See Memorandum C064-M-015, dated March 2, 1989. He further noted at that time that to invest any findings of the Commission pursuant to a section 332 investigation would be unjustified.

While he has approved the issuance of this report he wishes to make clear that any assumption that the same finding would necessarily result from a title VII investigation on this same subject is unwarranted. The Commission's procedures and information gathering abilities are different in section 332 investigations from what they are in title VII investigations. Consequently, it should not be assumed that the records in two such investigations would be the same. A Commission decision in a title VII investigation is fact specific and cannot be separated from the record on which it is based.

He believes that the use of section 332 in situations such as this is an unfortunate precedent. It contravenes the Congressionally mandated title VII process and it compromises the integrity of the Commission's section 332 mission.

3/ Excludes refractory dolomite.

4/ Data covering quicklime and hydrated lime are presented separately in the body of the report.

--Domestic shipments increased \*\*\* percent in the United States and 9 percent in the Southwest region while the average unit value increased \*\*\* percent in the United States and decreased by 1 percent in the Southwest region.

--Producer inventories increased 5 percent in the Southwest region.

--Employment in the industry remained constant in the United States and increased 8 percent in the Southwest region. Productivity increased 1' percent and unit labor costs decreased by 7 percent in the Southwest region.

--Financial performance of the industry improved in both the U.S. and the Southwest region. For the U.S. industry, net sales rose by 14 percent. Net sales increased by \*\*\* percent in the Southwest region. As a share of net sales, operating income, in the Southwest region, rose to \*\*\* percent in 1988 from \*\*\* percent in 1986, whereas, for the U.S. industry, such income increased from 8.1 percent in 1986 to 14.6 percent in 1988.

--Imports from Mexico accounted for 7 percent of all U.S. imports of lime in 1986, 26 percent in 1987, and 13 percent in 1988.

--Market penetration of imports of lime from Mexico was less than 0.5 percent of U.S. consumption throughout the period. In the Southwest region, market penetration grew from 1 percent in 1986, to 3 percent in 1987, then fell to 2 percent in 1988.

--Producer prices, based on questionnaire data, averaged \$50 per short ton for quicklime, ranging from \$48 to \$53. Producer prices for hydrated lime fluctuated between \$\*\*\* and \$\*\*\*. Reported prices for imported quicklime were generally below the weighted average of U.S. prices. Prices for imported hydrate varied markedly by importer, ranging from \$\*\*\* to \$\*\*\* per ton for lime sold in bulk. Purchaser's delivered prices for quicklime increased from \$\*\*\* to \$\*\*\* and for hydrated lime from \$\*\*\* to \$\*\*\*.

In assessing the probable economic effect on an industry in the United States of revocation of the existing outstanding countervailing duty order on Lime from Mexico, we find that the industry in the United States most likely to be affected by the revocation of the CVD order is an industry in the Southwestern United States producing lime, both quick and hydrated. We determine that import volumes from Bomintzha, a Mexican producer, are likely to increase. We determine that there would be underselling by quicklime imports from Mexico. 11 We determine that the impact of these import volumes and prices would fall primarily on Chemstar's Douglas plant in Arizona which is part of a regional lime industry in the Southwestern United States. The impact of these import volumes and prices would be less pronounced on the regional industry as a whole and on the entire U.S. lime industry. The Southwestern lime industry would feel some impact from the duty revocation but, nevertheless, would not be materially injured or threatened with material injury. The U.S. lime industry would feel even less impact from the duty revocation than the Southwestern lime industry and would not be materially injured or threatened with material injury.

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1j Vice Chairman Cass does not share this view. See his Additional Views, infra.

## CHAPTER 1: INTRODUCTION

On February 8, 1989, the Commission received a request from the U.S. Trade Representative (USTR) 1/ to "conduct an investigation into and report to the President on whether the probable economic effect on an industry in the United States of revocation by the Department of Commerce (Commerce) of the outstanding countervailing duty order on lime from Mexico (49 F.R. 35672), would be such that (1) an industry in the United States would be materially injured, or would be threatened with material injury or (2) the establishment of an industry in the United States would be materially retarded." USTR further stated that the terms used in its request are defined at 19 U.S.C. § 1677. Accordingly, effective February 8, 1989, the Commission instituted investigation No. 332-271, concerning conditions of competition between U.S. and Mexican lime in the U.S. market. Imports covered by the outstanding countervailing duty order and this report are calcium oxide, commonly called quicklime, and calcium hydroxide, commonly called hydrated lime or hydrate. The Commission transmitted its report to the President on July 10, 1989.

Notice of the institution of the Commission's investigation was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register of March 15, 1989 (54 F.R. 10742). 1/ A public hearing in connection with the investigation was held on May 18, 1989.

## Origin of the Present Investigation

The countervailing duty order of concern in this investigation resulted from a petition filed with the Department of Commerce by the Paul Lime Division of Can-Am Corporation, Chemical Lime, Inc., Genstar Lime Co., and the United Cement, Lime, Gypsum, and Allied Workers International Union, AFL/CIO, alleging that manufacturers, producers, or exporters of lime in Mexico received bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (the Act). Commerce announced on April 16, 1984 (49 F.R. 15011) that it was investigating the allegations and on September 11, 1984, published its determination (49 F.R. 35672) 2/ that certain benefits that constitute bounties or grants within the meaning of the countervailing duty law were being provided to manufacturers, producers, or exporters of lime in Mexico.

Mexico, at that time, was not a "country under the Agreement" within the meaning of section 701(b) of the Act, and therefore, section 303 of the Act applied to the investigation. No injury determination was required by the U.S. International Trade Commission because there were no "international obligations" within the meaning of section 303(a)(2) of the Act which required such a determination for nondutiable merchandise from Mexico. On August 24, 1986, Mexico acceded to the General Agreement on Tariffs and Trade (GATT). Thereafter, USTR stated in its letter that "the Department of Commerce has concluded that it lacks the authority under Article VI of the GATT and section 303(a)(2) of the Act, to levy countervailing duties on Mexican duty-free

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1/ A copy of the Commission's notice of investigation and the letter requesting the investigation is presented in app. A. 1

2/ A copy of Commerce's final determination is presented in app. B.

imports of lime if there has not been a prior affirmative injury determination."

#### Nature and Extent of the Subsidies

On September 11, 1984, Commerce published a notice of final affirmative countervailing duty determination and countervailing duty order on lime from Mexico. 1/ In its final determination, Commerce found the following programs to confer bounties or grants to manufacturers or exporters of lime in Mexico: Fund for the Promotion of Exports of Mexican Manufactured Products, import duty reductions and exemptions, Fund for Industrial Development, preferential federal tax incentives, Guarantee and Development Fund for medium and small industries, certain equity infusions, loans from Mexican Trust for nonmetallic minerals, delay of payment of fuel charges, delay of payment on other loans, and loans from the Mexican National Bank of Foreign Trade.

The countervailing duty order on lime from Mexico established rates of cash deposit of estimated countervailing duties of 55.89 percent for Sonocal, S.A. and 1.21 percent for all other manufacturers/exporters including Industrias Quimicas de Yucatan, S.A. de C.V. (IQY); Calteco, S.A.; and Materiales BYM, S.A. The rates for the following seven firms--Productos Calizos de Baja California, S.A. de C.V. (PCBC); Mexicana de Cobre, S.A.; Incalpa, S.A.; Cales de Chiapas, S.A.; Cal de Apasco, S.A. de C.V.; Cales de Puebla, S.A.; and Materiales Titan, S.A.--were found to be de minimis. Accordingly, the products subject to the investigation produced by those seven companies were excluded from the determination and were not subject to cash deposit requirements.

Under the Government of Mexico's privatization program, Sonocal was acquired on September 2, 1986, by a private cooperative, Bomintzha (Sociedad Cooperativa E.E.R.R. Bomintzha, S.C.L.). Bomintzha began to export to the United States in January 1987 and, as a new company, was assessed the 1.21 percent "all other" countervailing duty rate. Representatives of U.S. domestic producers contacted Commerce in March 1987 to protest the assessment of Bomintzha's exports at the 1.21 percent deposit rate. In April 1987, Commerce instructed Customs to assess the 55.89 percent countervailing duty deposit rate which had been applicable to Sonocal on Bomintzha's exports pending determination of whether Sonocal's privatization entitles Bomintzha to the 1.21 percent "all other" countervailing duty deposit rate. In September 1987, Commerce instituted an annual administrative review of the countervailing duty order on lime from Mexico, at the request of the Mexican Embassy. This review was to cover exports during 1986.

On August 2, 1988, Commerce initiated a changed circumstances administrative review of the countervailing duty order on lime 2/ following a request of the Government of Mexico on July 21, 1988. The Government of Mexico requested Commerce to examine the purchase of Sonocal by Bomintzha and to determine whether the transaction was at "arm's length," thereby permitting Commerce to apply to Bomintzha the "all other" countervailing duty deposit rate. Action on the annual review for 1986 was suspended pending completion of the changed circumstances review.

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1./ A copy of Commerce's final determination is presented in app. B.

2/ A copy of Commerce's notice of initiation is presented in app. C.

As a result of its review, Commerce preliminarily determined, on January 17, 1989, that bounties or grants provided by the Government of Mexico to Sonocal before its sale to Bomintzha in 1986 do not continue to provide benefits to Bomintzha. Therefore, Commerce preliminarily determined that the appropriate rate of cash deposit of estimated countervailing duties for Bomintzha's exports of lime to the United States is the "all other" rate of 1.21 percent ad valorem. 1/ However, the 55.89 percent deposit is still in effect until Commerce's final determination. Commerce has not announced a date for its final determination in the changed circumstances administrative review.

On December 5, 1988, Commerce initiated an administrative review of the countervailing duty order on lime from Mexico. The final results, covering the period January 1, 1987, to December 31, 1987, will be published no later than November 30, 1989. 2/

## The Product

### Description and uses

Two types of lime are covered by this report, calcium oxide, commonly called quicklime, and calcium hydroxide, commonly called hydrated lime. These lime types are produced from high-calcium limestone, and contain largely calcium oxide and less than 5 percent magnesium oxide. The following lime types are not included in the countervailing duty order: dolomitic quicklime and hydrated lime, which are produced from dolomitic limestone and contain considerable magnesium oxide (35 percent or more); lime produced from a variety of calcareous materials such as aragonite, chalk, coral, marble, shell; and regenerated lime produced as a byproduct by paper mills, carbide plants, and water treatment plants.

Lime producers in the United States generally mine their own raw material, limestone. The quarried limestone is then crushed and screened to desired gradations of kiln feed. The majority of lime is made in rotary kilns--long cylinders with refractory lining, inclined at a slight angle rotating at a slow speed, and fired by fuel at the lower end. They range up to 500 feet long and 17 feet in diameter, and can produce over 1,200 tons per day. Vertical kilns or shaft kilns make up most of the balance. Kilns are generally fired by coal or natural gas. The lime industry has one of the highest ratios of energy costs to total material costs found in any manufacturing process, approximately 60 percent. Each ton of quicklime requires about 6.7 million British thermal units. 3/

Quicklime is produced by calcining the limestone at elevated temperatures (2,000-2,400 degrees F), volatilizing nearly one-half of the stone's weight as carbon dioxide. After calcining, the quicklime is cooled, crushed if necessary, and stored for shipment. Quicklime is available in a number of more or less standard sizes. The most common form, crushed or pebble lime, ranges in size from about 1/4 to 2 inches in particle diameter and is produced in most kiln types. Lump lime, with a maximum size of 8 inches in diameter down to 2 to 3 inches, is produced in vertical kilns. Other sizes include granular lime,

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1/ A copy of Commerce's preliminary determination is presented in app. C.3

2/ A copy of Commerce's notice of administrative review is presented in app. C.

3/ "Lime, Calcium, and Calcium Compounds", 1985, p. 3, U.S. Bureau of Mines.

ground lime, pulverized lime, and pelletized lime. Quicklime is obtainable in either bulk carloads or tanker trucks or in 80-pound multiwall paper bags. This product reacts to moisture in the air and therefore will deteriorate in storage. Under good storage conditions, with multiwall, moisture-proof bags, quicklime may be stored as long as six months, but in general should not be stored over 3 months. 1/

Hydrated lime is produced by reacting quicklime with sufficient water to form calcium hydroxide, a dry, white powder. Quicklime is highly reactive with water, generating considerable heat in the hydration process. The dry hydrate is then classified by air separators which reject coarse particles. Due to air-classification, hydrated lime is generally purer than the quicklime from which it is derived, since many of the impurities are rejected in the classifier. Hydrate is then stored and shipped in bulk or in bags. In dry storage, hydrated lime may be stored for periods up to one year without encountering serious deterioration. 2/ Both quicklime and hydrated lime are often made to the purity and size specifications of customers. The chemical and metallurgical industries, in particular, have stringent purity requirements.

Quicklime and hydrated lime have an extremely broad end-use spectrum. In terms of tons shipped and consumed, lime is the second largest basic chemical used in industry after sulfuric acid. The end markets for lime are broadly grouped into chemical and industrial, construction, and agriculture. During 1988, the chemical and industrial market used 93 percent of all quicklime produced and 55 percent of hydrated lime, the construction market used 3 percent of quicklime and 43 percent of hydrated lime, and the agriculture market used less than 1 percent of quicklime and 2 percent of hydrated lime. Steel is the largest end use for quicklime and accounted for \*\*\* percent of the entire lime market in 1988. The production of steel uses quicklime as a flux for removing impurities.

After steelmaking, lime's greatest use is for environmental cleanup of water, wastewater, and solid wastes. Both quicklime and hydrated lime are widely used in the flotation of many nonferrous ores, in particular copper ore, and are extensively used in the recovery of gold and silver. Quicklime and hydrated lime are used to make aluminum and magnesium respectively. The chemical industry requires lime to make such chemicals as sodium alkalies, calcium carbide, calcium hypochlorite, citric acid, petrochemicals, etc. The paper industry uses lime as a causticizing agent and for bleaching. In construction, lime is traditionally used in mortar and plaster; however, its largest construction use is in soil stabilization for roads, airfields, building foundations, etc., where it upgrades low-quality clay soils into satisfactory base and subbase materials. Other uses include sugar refining (seasonally), agricultural liming, and glassmaking. 2/

A user's preference for quicklime and hydrated lime depends largely on the volume of intended consumption. The type of storage and handling facilities are also important determinants. Quicklime is more concentrated than hydrated lime and costs less per ton, thus offering appreciable savings in raw material. Quicklime also weighs less than hydrated lime and saves on transport cost. In

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1/ "Lime Handling, Application and Storage in Treatment Process," 1988, National Lime Association, p. 7.

2/ "Chemical Lime Facts," 1981, National Lime Association.



most cases, quicklime must be slaked into a milk of lime by the consumer before it can be used. This requires added investment for the necessary equipment. The hydrated lime is slaked by the lime manufacturer. A notable exception to the interchangeability of quicklime and hydrated lime is in steel production, where quicklime alone is used. In this instance, the hydrogen contained in hydrated lime is considered an impurity that is costly to remove. Substitutes for lime include cement for soil stabilization, polymers for water treatment, soda ash for acid neutralization, and limestone.

#### U.S. tariff treatment

Quicklime and hydrated lime are provided for in subheadings 2522.10.00 (quicklime), 2522.20.00 (slaked lime), and 2522.30.00 (hydraulic lime) of the Harmonized Tariff Schedule of the United States (HTS). 1/ These products were previously classifiable in TSUS items 512.11 and 512.14. U.S. imports of lime from countries entitled to the column 1-general duty rate (most-favored-nation rate) enter free of duty. The column 2 rate of duty includes the weight of the container and is assigned to each lime product as follows: quicklime, 0.2 cents per kilogram; slaked lime, 0.3 cents per kilogram; and hydraulic lime, 0.2 cents per kilogram. The column 2 rate is applicable to imports from those Communist countries and areas specified in general note 3(b) to the HTS.

#### U.S. Producers

The United States is the second leading lime producing country, with \*\*\* percent of the world total. Other leading countries are the U.S.S.R. (\*\* percent), Japan (\*\* percent), the Federal Republic of Germany (\*\* percent), and \* \* \* (\*\* percent). The Bureau of Mines reported that \*\*\* million short tons of quicklime, 2/ valued at \$\*\*\* million, and \*\*\* million short tons of hydrated lime, valued at \$\*\*\* million, were produced in the United States in 1988. This was an increase of quicklime production compared with 13 million short tons in 1987, valued at \$618 million, and 12 million short tons in 1986, valued at \$582 million. Hydrated lime production increased from 2.2 million short tons in 1987, valued at \$139 million, and 2.0 million short tons in 1986, valued at \$143 million.

In the United States, lime is produced in 41 States and Puerto Rico. In 1988, 72 companies reported operating 116 plants. Principal lime producing States in decreasing order were Ohio, Missouri, Alabama, Pennsylvania, and Texas, which together accounted for 45 percent of total output. 3/ The leading U.S. producers in 1987, in descending order, were Dravo Lime Co., with two plants in Kentucky and one plant each in Alabama, Louisiana, and Texas; Mississippi Lime Co., with one plant in Missouri; Marblehead Lime Co., with two

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1/ The Harmonized Tariff Schedule of the United States replaced the previous Tariff Schedules of the United States effective Jan. 1, 1989. Chs. 1 through 97 are based upon the internationally adopted Harmonized Commodity Description and Coding System through the 6-digit level of product description, with additional U.S. product subdivisions at the 8-digit level. Chs. 98 and 99 contain special U.S. classification provisions and temporary rate provisions, respectively.

2/ Excludes refractory dolomite.

2/ U.S. Bureau of Mines.

plants in Illinois and one each in Indiana, Michigan, and Pennsylvania; Martin Marietta Corp., with one plant in Ohio; USG Corp., with one plant each in Louisiana, Ohio, Texas, and Virginia; Chemstar Inc., with two plants each in California and Nevada and one each in Arizona and Utah; Broyhill and Associates Inc., with two plants in Pennsylvania; Allied Products Co., with two plants in Alabama; LTV Steel Co., with one plant in Ohio; and Continental Lime Inc., with one plant each in Montana, Utah, and Washington. These 10 companies operated 30 plants and accounted for nearly 55 percent of total lime production in 1987.

Lime is primarily a regional business because the high cost of transportation in relation to low unit prices severely restricts the distance of shipments. For this reason, all Mexican imports are consumed in the Southwest, and it is likely that the removal of the CVD order on lime from Mexico will have a greater effect on the Southwest region of the United States (Southern California, Arizona, Southern Nevada, New Mexico, and Texas) than on the rest of the country. J/ 2/ Accordingly, data on the Southwest region are presented separately from those of the entire United States. The following 11 plants are considered to be within the Southwest region: APG Lime Corp., New Braunfels, TX; Austin White Lime, Austin, TX; Chemstar, Inc., Douglas, AZ, Nelson, AZ, Apex, NV, and Industry, CA; Chemical Lime Co., Clifton, TX; Dravo Lime Co., Round Rock, TX; Magma Copper, San Manuel, AZ; Redland Worth, San Antonio, TX; and Texas Lime, Cleburne, TX. **Data** on the Southwest region covers 100 percent of the region.

Several of the Southwest region plants changed ownership during the period of investigation. APG Lime Corp., a subsidiary of A.P. Green Industries, Inc., was owned by USG Corp. of Chicago, IL, prior to September 1987. In 1987, USG Corp. restructured the industrial portion of its lime business and transferred certain assets to the new subsidiary APG Lime Corp., which then became wholly owned by A.P. Green Industries, Inc. (formerly A.P. Green Refractories). The New Braunfels plant produces both quicklime and hydrated lime.

Chemstar, Inc., previously Genstar Lime Co., was acquired and renamed by the Chemical Lime Co. on December 4, 1986. The wholly owned subsidiary, Chemstar, in turn acquired Can-Am Corp. on December 23, 1986. Management of the Douglas lime plant was assumed by Chemstar but it was not until September 1988 that the two companies fully merged. Chemstar's Douglas and Apex plants produce and ship quicklime only, the Nelson plant produces and ships both quicklime and hydrated lime, and the processing terminal at Industry receives quicklime from the producing plants, some of which is reshipped locally and some of which is converted to hydrated lime and shipped.

Dravo Lime Co. recently \* \* \*; however this should not result in **any** major changes at the plant. Dravo, along with Austin White Lime, Chemical Lime, Redland Worth, and Texas Lime, produce both quicklime and hydrated lime. **Magma** Copper produces quicklime for internal consumption only.

1/ A map of the Southwest region is attached in app. D.

2/ The Commission staff estimates that 8 percent of all lime produced within the region is sold outside the region, and 10.5 percent of the lime consumed PI the region is produced by U.S. producers outside the region.

## U.S. Importers

According to the \* \* \* and data received from responses to Commission questionnaires, there were approximately 11 importers of lime from Mexico from January 1986 to December 1988. Import data were received from the following nine firms: \* \* \*, 1/ which imports hydrated lime is the exclusive distributor for \* \* \*; \* \* \*, which imports both quicklime and hydrated lime from \* \* \*; \* \* \*, which indirectly owns \*\*\* percent of the Mexican producer \* \* \*, and imports quicklime; \* \* \*, 2/ which imported quicklime from \* \* \*; \* \* \*, 3/ which imported hydrated lime from \* \* \*, its parent company in Mexico; \* \* \*, which imports hydrated lime from \* \* \* for use at its \* \* \*; \* \* \*, which imported quicklime and continues to import hydrated lime from \* \* \*; \* \* \*, 4/ which imported hydrated lime from \* \* \*; and \* \* \*, which imports hydrated lime from \* \* \*.

## The U.S. Market

Lime is consumed in every State in the United States. In 1987, leading consuming States were Pennsylvania, Ohio, Indiana, Texas, and Michigan. These five States accounted for about 45 percent of total consumption. Because of the overall health of the U.S. industry, lime consumption increased by roughly the same extent in all major end uses in 1988. Overall, lime remains tied to the steel industry, which consumed \*\*\* percent of all lime produced in 1988. Accordingly, lime consumption declined proportionally along with the decline in steel production in recent years. In 1987, increased lime production was driven by a modest recovery in the steel industry and the resolution of a 6-month labor dispute at U.S. Steel Corp.

The use of lime in water purification and pulp and paper manufacturing markets is growing rapidly. The current price of gold has led to a growing need for lime in the western United States for use in gold extraction. A dramatic increase in lime consumption could take place if certain clean air legislation is passed. This legislation has not been reported out of Committee. Flue gas desulfurization now constitutes 10 percent of the lime market; 3/ this amount could increase substantially if legislation governing the allowable sulfur content in coal is enacted. Lime and limestone are by far the dominant scrubbing agents in flue gas desulfurization systems. In addition, the U.S. Environmental Protection Agency has developed a process to reduce the sulfur emissions from old coal-burning plants by as much as 50 percent by injecting hydrated lime above the flame zone in boilers to convert sulfur dioxide to calcium sulfate.

The Southwest regional lime market parallels that of the entire nation; less than 1 percent of all quicklime and hydrated lime is used in the agricultural market, 25 percent is used in construction, and 75 percent is used in the chemical and industrial market. However, Southwestern lime producers are not tied to the fortunes of the steel industry as they are in most other regional markets, but instead are tied to the fortunes o; the copper industry,

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1/ \* \* \*.

2/ \* \* \*.

2/ \* \*.

A/ \* \* \*.

5] Chemical Marketing Reporter, Feb.20, 1989, pp.35-36.

which consumes approximately 20 percent of all lime in the Southwest region. The U.S. copper industry has rebounded sharply in the past two years, with its demand for lime doubling between 1986 and 1987 from 335,000 short tons to 677,000 short tons, and \* \* \* to \*\*\* short tons in 1988.

Data on apparent U.S. consumption of quicklime and hydrated lime were compiled from official statistics of the U.S. Bureau of Mines and the Department of Commerce, and responses to Commission questionnaires. These data, presented in table 1, consist of reported shipments of U.S.-produced quicklime and hydrated lime, imports, and U.S. intracompany consumption. From 1986 to 1988, apparent U.S. consumption of quicklime increased by \*\*\* percent, rising from 12.1 million short tons to \*\*\* million short tons. Apparent U.S. consumption of hydrated lime increased by \*\*\* percent during 1986-88, rising from 2.0 million short tons to \*\*\* million short tons.

Data on apparent Southwest region consumption of quicklime and hydrated lime (table 1) were compiled from data received in response to Commission questionnaires. From 1986 to 1988, apparent Southwest region consumption of quicklime increased by 29 percent, rising from 1.1 million short tons to 1.5 million short tons. Apparent Southwest region consumption of hydrated lime decreased by 24 percent, falling from 650,000 short tons to 493,000 short tons.

Total lime consumption in the entire United States increased from 14.1 million short tons in 1986 to \*\*\* million short tons in 1988, for an overall increase of \*\*\* percent. Total lime consumption in the Southwest region increased from 1.8 million short tons in 1986 and 1987, to 2.0 million short tons in 1988, for an overall increase of 8 percent.

## CHAPTER 2: THE U.S. INDUSTRY

The nationwide information in this section of the report is based on data published by the U.S. Bureau of Mines and is considered to represent 100 percent of U.S. production. 1/ Data were received in response to Commission questionnaires for all 11 plants of the 8 producers in the Southwest region: APG, Austin White Lime, Chemstar, Chemical Lime, Dravo, Magma Copper, Redland Worth, and Texas Lime.

### U.S. Production, Capacity, and Capacity Utilization

As shown in table 2, the quicklime capacity for the entire United States remained constant at 20 million short tons from 1986 to 1988. The hydrated lime capacity for the entire United States is not available; however, it is estimated to be less than 20 million short tons since not all quicklime producers have capacity to produce hydrate. In the Southwest region, capacity for quicklime and hydrated lime decreased by 4 percent and increased by 11 percent, respectively, from 1986 to 1988. Production of quicklime increased by \*\*\* percent for the total United States and by 18 percent in the Southwest from 1986 to 1988. Production of hydrated lime increased by \*\*\* percent for the entire United States and decreased by 24 percent in the Southwest. Capacity utilization for the entire country increased from 60 percent in 1986

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1/ Final Bureau of Mines data for 1988 have not yet been published and are, therefore, deleted from the public version of this report. Estimates of 1988 data released earlier by the Bureau of Mines are presented when appropriate.

Table 1  
 Quicklime and hydrated lime: U.S.-produced domestic shipments, U.S.  
 intracompany consumption, imports, and apparent U.S. and Southwest consumption,  
 1986-88

Item	1986	1987	1988
Quantity (1.000 short tons)			
U.S.-produced domestic shipments:			
Quicklime .....	1/ 9,833	10,495	***
Hydrated lime .....	1/ 1.844	2.076	***
Total .....	11,677	12,571	***
U.S. intracompany consumption:			
Quicklime .....	1/ 2,163	2,466	***
Hydrated lime .....	1/ 95	70	***
Total .....	2,258	2,536	***
U.S. imports:			
Quicklime .....	145	171	170
Hydrated lime .....	57	44	66
Total .....	202	215	236
Apparent U.S. consumption:			
Quicklime .....	12,141	13,132	***
Hydrated lime .....	1.996	2.190	***
Total .....	14,137	15,322	***
Apparent SW consumption:			
Quicklime .....	1,128	1,246	1,458
Hydrated lime .....	650	515	493
Total .....	1.778	1.761	1.951
Value (1.000 dollars)			
U.S.-produced domestic shipments:			
Quicklime .....	1/ 476,901	499,877	***
Hydrated lime .....	1/ 138.208	131.203	***
Total .....	615,109	631,080	***
U.S. intracompany consumption:			
Quicklime .....	2/	2/	***
Hydrated lime .....	2/	2/	***
Total .....	2/	2/	***
U.S. imports:			
Quicklime .....	8,448	8,751	9,194
Hydrated lime .....	4.129	3.454	4.857
Total .....	12,577	12,205	14,051
Apparent U.S. consumption:			
Quicklime .....	2/	2/	***
Hydrated lime .....	2/	2/	***
Total .....	2/	2/	***
Apparent SW consumption:			
Quicklime .....	51,204	58,167	69,479
Hydrated lime .....	36.551	28.229	25.805
Total .....	87,755	86,396	95,284

1/ Estimated. 2/ Not available.

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

Table 2

Quicklime and hydrated lime: U.S. production, average practical capacity, and capacity utilization, 1986-88

Item	1986	1987	1988
Quantity (1,000 short tons)			
Production total U.S.:			
Quicklime .....	12,020	13,000	***
Hydrated lime .....	1.972	2.182	***
Total .....	13,992	15,182	***
Production Southwest region:			
Quicklime .....	1,282	1,295	1,508
Hydrated lime .....	624	502	474
Total .....	1,906	1,797	1,982
Average capacity total U.S.:			
Quicklime .....	1/ 20,000	1/ 20,000	1/ 20,000
Hydrated lime .....	2/	2/	2/
Total .....	2/	2/	2/
Average capacity Southwest region:			
Quicklime .....	2,206	2,113	2,109
Hydrated lime .....	804	858	889
Total .....	3,010	2,971	2,998
Percent of total			
Ratio of production to capacity:			
Total U.S.:			
Quicklime .....	60	65	***
Hydrated lime .....	2/	2/	***
Total .....	2/	2/	***
Southwest region:			
Quicklime .....	58	61	72
Hydrated lime .....	78	59	53
Total .....	63	60	66

1/ Estimated by the National Lime Association.

2/ Not available.

Source: Total country data compiled from data published by the U.S. Bureau of Mines. Southwest region data compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

to \*\*\* percent in 1988 for quicklime. Capacity utilization in the Southwest increased from 58 percent in 1986 to 72 percent in 1988 for quicklime but decreased from 78 percent in 1986 to 53 percent in 1988 for hydrated lime.

U.S. Producers' Captive Consumption, Domestic Shipments, and Exports 10

Captive consumption of quicklime in the United States decreased from roughly 2.2 million short tons in 1986 to \*\*\* million short tons in 1988, or by

\*\*\* percent (table 3). In the Southwest region, captive consumption increased 80 percent from 35,000 short tons in 1986 to 63,000 short tons in 1987, but fell by 38 percent in 1988 to 39,000 short tons. There was no captive consumption of hydrated lime in the Southwest region during the period studied. Captive consumption of hydrated lime increased \*\*\* percent in the entire United States from 1986 to 1988.

Total U.S. domestic shipments of quicklime increased from 9.8 million short tons in 1986 to 10.5 million short tons in 1987, and increased further to \*\*\* million short tons in 1988, for an overall increase of \*\*\* percent. In the Southwest region, domestic shipments of quicklime increased from 1.1 million short tons in 1986 to 1.4 million short tons in 1988, or by 29 percent. Domestic shipments of hydrated lime in the entire United States increased from 1.8 million short tons in 1986 to 2.1 million short tons in 1987, and then \* \* \* in 1988 for an overall increase of \*\*\* percent. In the Southwest region, domestic shipments of hydrated lime decreased from 646,000 short tons in 1986 to 502,000 short tons in 1987, and fell further to 481,000 short tons in 1988, for an overall decrease of 26 percent.

The average unit value of domestic shipments of quicklime and hydrated lime sold in the entire United States decreased by \*\*\* percent and \*\*\* percent, respectively, from 1986 to 1988. In the Southwest region the average unit value of quicklime increased by 6 percent during 1986-88. The reverse occurred for hydrated lime in the Southwest region, where it decreased 9 percent in unit value.

U.S. exports of both quicklime and hydrated lime increased from 1986 to 1988. Exports of quicklime increased more than \* \* \* to \*\*\* short tons, and exports of hydrated lime remained essentially constant during the period. A majority of the quicklime exported was destined for Canada, whereas a majority of hydrated lime was exported to countries other than Canada.

#### U.S. Producers' Inventories

Producer's end-of-period inventories of quicklime in the Southwest region increased from 33,000 short tons in 1986 to 40,000 short tons in 1987, and further increased to 54,000 short tons in 1988. This was an overall increase of 64 percent. Producer inventories of hydrated lime in the Southwest region rose from 10,000 short tons in 1986 to 13,000 short tons in 1987, and 14,000 short tons in 1988, an overall increase of 40 percent. There are insufficient data available to report producer inventories for the entire country. In general, low inventories are maintained because of the short storage life of the products, especially quicklime.

#### Employment

The number of workers employed nationally in the production of quicklime and hydrated lime remained constant at 5,400 during 1986-88. In the Southwest region, the number of workers employed increased by 8 percent from 1986 to 1988 (table 4). The number of hours worked by those workers increased by 8 percent, hourly wages increased by 5 percent, and total hourly compensation increased by 11 percent. Productivity increased by 19 percent and unit labor costs 11 decreased by 7 percent.

Table 3  
Quicklime and hydrated lime: U.S. producers' intracompany consumption,  
domestic shipments, and exports, 1986-88

Item and region	1986	1987	1988
<u>Quantity (1.000 short tons)</u>			
Intracompany consumption:			
Total U.S.:			
Quicklime .....	1/ 2 163	2,466	***
Hydrated lime .....			***
Total .....	11,2n	2,532	***
Southwest region:			
Quicklime .....	35	63	***
Hydrated lime .....	pp	p	***
Total .....	35	6	***
Domestic shipments:			
Total U.S.:			
Quicklime .....	1/ 9,833	10,495	***
Hydrated lime .....			***
Total .....	1/ 11,677	10171T	***
Southwest region:			
Quicklime .....	1,083	1,140	1,400
Hydrated lime .....	646		
Total .....	1,729	1,g2i	1,811
Exports total U.S.:			
Quicklime .....	24	39	***
Hydrated lime .....	33		***
Total .....	57	3'	***
Exports Southwest region:			
Quicklime .....	0	0	***
Hydrated lime .....	0	0	***
Total .....	0	0	***
<u>Value (1.000 dollars)</u>			
Intracompany consumption:			
Total U.S.:			
Quicklime .....			***
Hydrated lime .....			***
Total .....	15..... i		***
Southwest region:			
Quicklime .....	1,038.....	1,826	***
Hydrated lime .....	0.....	0	***
Total .....	1,038	1,826	***
Domestic shipments:			
Total U.S.:			
Quicklime .....	1/ 476,901.....	499,877	***
Hydrated lime .....	1/ 138,208.....	131,203	***
Total .....	615,109.....	631,080	***
Southwest region:			
Quicklime .....	49,605.....	54,997	67,654
Hydrated lime .....	36210.....	27,264	24,70
Total .....	85,815.....	82,261	92,224
Exports total U.S.:			
Quicklime .....			***
Hydrated lime .....			***
Total .....	t..... t		***
Exports Southwest region:			
Quicklime .....	0.....	0	***
Hydrated lime .....	0.....	0	***
Total .....	0.....	0	***
<u>Unit value (per short ton)</u>			
Domestic shipments:			
Total U.S.:			
Quicklime .....	\$48.50.....	\$47.63	\$***
Hydrated lime .....	74.95.....	63.20	***
Total .....	52.68.....	50.20	***
Southwest region:			
Quicklime .....	45.80.....	48.24	48.32
Hydrated lime .....	56.05.....	54.31	51.08
Total .....	49.63.....	50.10	49.03

1/ Estimated. 2j Not available.

Source: Total country data compiled from data published by the U.S. Bureau of Mines. Southwest region data compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.



Table 4

Average number of production and related workers producing quicklime and hydrated lime in the Southwest region, hours worked by such workers, output per hour worked, hourly wages and total hourly compensation paid to production and related workers, and unit labor costs of such production, 1986-88

Item	1986	1987	1988
Number of production and related workers producing hydrated lime and quicklime .....	373	341	403
Hours worked by production and related workers producing hydrated lime and quicklime (thousands) .....	735	624	796
Output of hydrated lime and quicklime per hour worked (short tons) .....	1.859	2.095	2.210
Hourly wages paid to production and related workers producing hydrated lime and quicklime	\$9.47	\$9.96	\$9.95
Total hourly compensation paid to production and related workers producing hydrated lime and quicklime .....	\$11.55	\$12.30	\$12.79
Unit labor costs of producing hydrated lime and quicklime (per short ton) 1/ ..	\$6.21	\$5.87	\$5.79

1/ Data computed using only companies providing information on both production and total compensation.

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

#### Financial Experience of U.S. Producers

Nine U.S. producers, 1/ accounting for 33 and 18 percent of reported production of quicklime and hydrated lime, respectively, in 1988, supplied income-and-loss data on their overall establishment operations and on their operations involving quicklime and/or hydrated lime.

For the Southwest region, \*\*\* 2/ and \*\*\* 3/ plants, respectively, accounting for 55 and 51 percent of reported production of quicklime and

1/ These firms are \* \* \*.

2/ The six plants are the \* \* \*.

3/ The four plants are the \* \* \*.

hydrated lime in the Southwest region in 1988, provided income-and-loss data. 1/

#### Overall establishment operations

Income-and-loss data for U.S. producers' establishments within which quicklime and/or hydrated lime are produced are presented in table 5. Overall establishment net sales increased by 12 percent from \$247.8 million in 1986 to \$277.3 million in 1988. During the same period, operating income rose much faster, from \$23.6 million, or 9.5 percent of net sales, to \$43.5 million, or 15.7 percent of net sales. Quicklime net sales accounted for 71 percent of overall establishment sales in 1986, increasing to 76 percent in 1988, whereas hydrated lime accounted for 14 percent in 1986, declining to 11 percent in 1988.

#### Quicklime operations of the total U.S. operations

Income-and-loss data for the nine U.S. producers' quicklime operations are shown in table 6. These firms' net sales of quicklime increased by 20 percent from \$176.6 million in 1986 to \$211.5 million in 1988; their aggregate operating income jumped from \$13.9 million, or 7.9 percent of net sales, in 1986 to \$32.8 million, or 15.5 percent of net sales, in 1988. This substantial increase in operating income seems to be the result of a slight increase in average selling price and a reduction in costs of production, mainly by three large firms--\* \* \*, \* \* \*, and \* \* \*--which accounted for about \*\*\* percent of reported 1988 net sales. Pre-tax net income margins followed a similar trend to that of operating income margins during the period covered by the investigation.

#### Quicklime operations of the Southwest region operations

Income-and-loss data for the \* \* \* reporting plants in the region on their quicklime operations are presented in table 7. Total net sales of quicklime by these plants increased by \*\*\* percent from \$\*\*\* million in 1986 to \$\*\*\* million in 1988. Their operating income declined by \*\*\* percent from \$\*\*\* million in 1986 to \$\*\*\* million in 1987, but then \* \* \* to \$\*\*\* million in 1988. During the same period, their operating income margin \* \* \* from \*\*\* percent to \*\*\* percent and then \* \* \* to \*\*\* percent. The average sale price per short ton of quicklime decreased from \$\*\*\* in 1986 to \$\*\*\* in 1987, and then rose to \$\*\*\* in 1988; cost of goods sold declined from \$\*\*\* per short ton in 1986 to \$\*\*\* in 1988, which resulted in an increase in operating income in 1988. Pre-tax net income margins showed a trend similar to that of operating income margins during 1986-88.

\* \* \*, which accounted for \*\*\* percent of 1988 reported net sales, sustained operating and net losses throughout the period covered by the investigation. \* \* \*, which accounted for about \*\*\* percent of 1988 reported net sales, suffered net losses in 1987 and 1988. In 1986, \* \* \* reported an

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1/ The largest producer in the Southwest region, Chemstar, was visited for verification. No material discrepancies were found in its reported data.

Table 5

Income-and-loss experience of U.S. producers on the overall operations of their establishments within which quicklime and hydrated lime are produced, accounting years 1986-88 11

Item	1986	1987	1988
	Value (1,000 dollars)		
Net sales .....	247,822	255,885	277,311
Cost of goods sold.....	202,226	207,359	212,961
Gross profit .....	45,596	48,526	64,350
General, selling, and administrative expenses ..	21,974	18,709	20,865
Operating income .....	23,622	29,817	43,485
Interest expense .....	6,840	***	***
Other income, net .....	1,347	***	***
Net income before income taxes .....	18,129	23,710	37,890
Depreciation and amorti- zation included above ...	17,281	16,839	16,778
Cash-flow 2/ .....	35,410	40,549	54,668
	Share of net sales (percent)		
Cost of goods sold.....	81.6	81.0	76.8
Gross profit .....	18.4	19.0	23.2
General, selling, and administrative expenses ..	8.9	7.3	7.5
Operating income .....	9.5	11.7	15.7
Net income before income taxes .....	7.3	9.3	13.7
	Number of firms reporting		
Operating losses .....	2	2	1
Net losses .....	2	3	2
Data .....	9	9	9

1/ These firms are \* \* \*.

2/ 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.

operating loss \* \* \* which accounted for \*\*\* percent of total net sales in 1986.

Chemstar anticipates that revocation of the outstanding countervailing duty order on lime from Mexico will have a major impact on its Douglas plant<sup>4a</sup> quicklime operations, and a much less significant impact on the hydrate and quicklime operations of the Nelson plant. The Douglas plant is located in

Table 6  
Income-and-loss experience of U.S. producers on their operations producing quicklime, accounting years 1986-88 1/

Item	1986	1987	1988
	Value (1,000 dollars)		
Net sales .....	176,646	190,487	21,543
Cost of goods sold.....	147,336	155,831	103,339
Gross profit .....	29,310	34,656	48,204
General, selling, and administrative expenses ..	15,364	13,316	15,433
Operating income .....	13,946	21,340	32,771
Interest expense .....	***	***	***
Other income, net.....	***	***	***
Net income before income taxes .....	9,942	16,993	28,643
Depreciation and amorti- zation included above ....	10,232	***	***
Cash-flow 2/ .....	20,174	***	***
	Share of net sales (percent)		
Cost of goods sold.....	83.4	81.8	77.2
Gross profit .....	16.6	18.2	22.8
General, selling, and administrative expenses ..	8.7	7.0	7.3
Operating income .....	7.9	11.2	15.5
Net income before income taxes .....	5.6	8.9	13.5
	Number of firms reporting		
Operating losses .....	2	2	2
Net losses .....	2	3	3
Data .....	9	9	9

1/ These firms are \* \* \*.

2/ 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.

Douglas, AZ, on the border with Mexico, and is situated near the Bomintzha plant (previously Sonocal). Chemstar estimates that revocation of the countervailing duty order would result in a first-year sales loss of \*\*\* tons (about \*\*\* percent) of quicklime for the Douglas plant, and a drop in market price of \$\*\*\* (about \*\*\* percent) for sales in Arizona and New Mexico (see the section of this report entitled "Impact of imports on capital and investmpnt"). Using these estimates, and Chemstar's budgeted (for 1989) breakdown of the Douglas plant's production costs into variable and fixed costs, it is possible to estimate the effects of such changes in sales volume and prices on the

Table 7

Income-and-loss experience of U.S. producers on their operations producing quicklime in the Southwest region, accounting years 1986-88 1/

Item	1986	1987	1988
	Value (1.000 dollars)		
Net sales .....	***	***	***
Cost of goods sold .....	***	***	***
Gross profit .....	***	***	***
General, selling, and administrative expenses .	***	***	***
Operating income .....	***	***	***
Interest expense .....	***	***	***
Other income, net .....	***	***	***
Net income before income taxes .....	***	***	***
Depreciation and amorti- zation included above ...	***	***	***
Cash-flow 2/ .....	***	***	***
	Share of net sales (percent)		
Cost of goods sold .....	***	***	***
Gross profit .....	***	***	***
General, selling, and administrative expenses ..	***	***	***
Operating income .....	***	***	***
Net income before income taxes .....	***	***	***
	Number of plants reporting		
Operating losses .....	***	***	***
Net losses .....	***	***	***
Data .....	***	***	***

1/ These are \* \* \*.

2/ 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.

plant's profitability. These estimates are shown as "scenario 1" in the tabulation on the following page for the 1989 budgeted data, and in table 8 for 1988 actual data. For comparison, information is also presented using a less drastic drop in price (scenario 2). For this exercise, an average price of \$\*\*\* per ton was used, reflecting information from the importer that \$\*\*\* approximately what the current selling price would be in the absence of the countervailing duty. 1/

Item	1989 budget	Alternative scenario 1	Alternative scenario 2
Quantity of sales (1,000 short tons)	***	***	***
Average price (per short ton) . . . . .	***	***	***
Average production cost (per short ton) . . . . .	***	***	***
Average gross profit or (loss) (per short ton) . . . . .	***	***	***
Average operating income or (loss) (per short ton) . . . . .	***	***	***
Net sales (1,000 dollars) . . . . .	***	***	***
Cost of goods sold (1,000 dollars) .	***	***	***
Gross profit or (loss) (1,000 dollars) . . . . .	***	***	***
General, selling, and administrative expenses (1,000 dollars) . . . . .a ..	***	***	***
Operating income or (loss) (1,000 dollars) . . . . .	***	***	***
Gross profit or (loss) margin (percent) . . . . .	***	***	***
Operating income or (loss) margin (percent) . . . . .	***	***	***

#### Hydrated lime operations of the total U.S. operations

Income-and-loss data provided by \*\*\* firms for their hydrated lime operations are presented in table 9. Total net sales of hydrated lime by these firms \* \* \* by \*\*\* percent from \$\*\*\* million in 1986 to \$\*\*\* million in 1988. The aggregate operating income \* \* \* from \$\*\*\* million, or \*\*\* percent of net sales, in 1986 to \$\*\*\* million, or \*\*\* percent of net sales, in 1987. Such operating income \* \* \* to \$\*\*\* million, or \*\*\* percent of net sales, in 1988. Pre-tax net income margins followed a similar trend to that of operating income margins during 1986-88. Income-and-loss data for quicklime and hydrated lime combined are presented in table 10.

#### Hydrated lime operations of the Southwest region operations

Income-and-loss data for the \*\*\* reporting plants on their operations producing hydrated lime are shown in table 11. Total net sales of hydrated lime by these plants \* \* \* by \*\*\* percent from \$\*\*\* million in 1986 to \$\*\*\* million in 1987, and then \* \* \* by \*\*\* percent to \$\*\*\* million in 1988. \*\*\* plants--\* \* \*--which accounted for \*\*\* percent of total net sales in 1988, reported \* \* \* in their sales whereas the \* \* \* plants reported an \* \* \*. Aggregate operating income \* \* \* (by \*\*\* percent) from \$\*\*\* million in 1986 to \$\*\*\* in 1987, and then \* \* \* to \$\*\*\* million in 1988. Wring the same period, operating income margins \* \* \* from \*\*\* percent to \*\*\* percent, before \* \* \* to \*\*\* percent. Pre-tax net income margins showed a trend similar to that of operating income margins during 1986-88. Income-and-loss data for quicklime and hydrated lime combined are presented in table 12.

Table 8

The relative impact of a drop in sales and decline in the average price per short ton on actual 1988 data for the Douglas plant and for the total quicklime operations of Chemstar

Item	1988 actual data	Alternative scenario 1	Alternative scenario 2
<u>Douglas plant:</u>			
Quantity of sales (1,000 short tons)	***	***	***
Average price (per short ton) . . . . .	***	***	***
Average production cost (per short ton) . . . . .	***	***	***
Average gross profit or (loss) (per short ton) . . . . .	***	***	***
Average operating income or (loss) (per short ton) . . . . .	***	***	***
Net sales (1,000 dollars) . . . . .	***	***	***
Cost of goods sold (1,000 dollars) .	***	***	***
Gross profit (loss) (1,000 dollars)	***	***	***
General, selling, and administrative expenses (1,000 dollars) . . . . .	***	***	***
Operating income or (loss) (1,000 dollars) . . . . .	***	***	***
Gross profit(loss) margin (percent)	***	***	***
Operating income or (loss) margin (percent) . . . . .	***	***	***
<u>Total quicklime operations of Chemstar:</u>			
Quantity of sales (1,000 short tons)	***	***	***
Average price (per short ton) . . . . .	***	***	***
Average production cost (per short ton) . . . . .	***	***	***
Average gross profit or (loss) (per short ton) . . . . .	***	***	***
Average operating income or (loss) (per short ton) . . . . .	***	***	***
Net sales (1,000 dollars) . . . . .	***	***	***
Cost of goods sold (1,000 dollars) .	***	***	***
Gross profit(loss) (1,000 dollars) .	***	***	***
General, selling, and administrative expenses (1,000 dollars) . . . . .	***	***	***
Operating income(loss) (1,000 dollars)	***	***	***
Gross profit(loss) margin (percent)	***	***	***
Operating income or (loss) margin (percent) . . . . .	***	***	***

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

Table 9  
Income-and-loss experience of U.S. producers on their operations producing hydrated lime, accounting years 1986-88 1/

Item	1986	1987	1988
	<u>Value (1,000 dollars)</u>		
Net sales .....	35,326	31,383	29,819
Cost of goods sold .....	28,856	27,242	24,440
Gross profit .....	6,470	4,141	5,379
General, selling, and administrative expenses ..	3,324	2,954	2,871
Operating income .....	3,146	1,187	2,508
Interest expense .....	***	***	***
Other income, net .....	***	***	***
Net income before income taxes .....	2,513	215	1,678
Depreciation and amorti- zation included above ....	1,552	***	***
Cash-flow 2/ .....	4,065	***	***
	<u>Share of net sales (percent)</u>		
Cost of goods sold .....	81.7	86.8	82.0
Gross profit .....	18.3	13.2	18.0
General, selling, and administrative expenses ..	9.4	9.4	9.6
Operating income .....	8.9	3.8	8.4
Net income before income taxes .....	7.1	0.7	5.6
	<u>Number of firms reporting</u>		
Operating losses .....	1	2	1
Net losses .....	1	2	2
Data .....	5	5	5

1/ These firms are \* \* \*.

2/ 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.

#### Investment in productive facilities and return on assets

U.S. producers furnished data on the valuation of property, plant, and equipment used to manufacture all products in their establishments and on that used only in the production of quicklime and/or hydrated lime in their Southwest region plants. These data are presented in table 13. To provide an additional measure of profitability, the ratios of operating and pre-tax income or loss to the book value of property, plant, and equipment (i.e., return on fixed assets) and to total assets employed in the production of all



Table 10

Income-and-loss experience of U.S. producers on their operations producing quicklime and hydrated lime, accounting years 1986-88 1/

Item	1986	1987	1988
	Value (1.000 dollars)		
Net sales .....	211,972	221,870	241,362
Cost of goods sold .....	176,192	183,073	187,779
Gross profit .....	35,780	38,797	53,583
General, selling, and administrative expenses ..	18,688	16,270	18,304
Operating income .....	17,092	22,527	35,279
Interest expense .....	***	***	***
Other income, net .....	***	***	***
Net income before income taxes .....	12,455	17,208	30,321
Depreciation and amorti- zation included above ....	***	***	***
Cash-flow 2/ .....	***	**	***
	Share of net sales (percent)		
Cost of goods sold .....	83.1	82.5	77.8
Gross profit .....	16.9	17.5	22.2
General, selling, and administrative expenses ..	8.8	7.3	7.6
Operating income .....	8.1	10.2	14.6
Net income before income taxes .....	5.9	7.8	12.6
	Number of firms reporting		
Operating losses .....	1	2	2
Net losses .....	2	2	2
Data .....	9	9	9

1/ These firms are \* \* \*.

2/ 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.

establishment products and in the production of quicklime and hydrated lime are also shown in table 13. Chemstar reported \* \* \*.

#### Capital expenditures

U.S. firms provided data relating to their capital expenditures in connection with all products produced in their establishments and, separately, for quicklime and hydrated lime produced in their Southwest region plants. These data are shown in table 14.

Table 11

Income-and-loss experience of U.S. producers on their operations producing hydrated lime in the Southwest region, accounting years 1986-88 1/

Item	1986	1987	1988
	Value (1.000 dollars)		
Net sales .....	***	***	***
Cost of goods sold.....	***	***	***
Gross profit .....	***	***	***
General, selling, and administrative expenses ..	***	***	***
Operating income .....	***	***	***
Interest expense .....	***	***	***
Other income, net .....	***	***	***
Net income before income taxes .....	***	***	***
Depreciation and amorti- zation included above ....	***	***	***
Cash-flow 2/ .....	***	***	***
	Share of net sales (percent)		
Cost of goods sold.....	***	***	***
Gross profit .....	***	***	***
General, selling, and administrative expenses ..	***	***	***
Operating income .....	***	***	***
Net income before income taxes .....	***	***	***
	Number of plants reporting		
Operating losses .....	***	***	***
Net losses .....	***	***	***
Data .....	***	***	***

1/ These are \* \* \*.

2/ 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.

#### Research and development

\* \* \* is the only producer that supplied data concerning its research and development expenses incurred for all products of its establishments and for quicklime and hydrated lime in \* \* \*. These data are presented in the tabulation on the bottom of page 23 (in thousands of dollars):

Table 12  
Income-and-loss experience of U.S. producers on their operations producing quicklime and hydrated lime in the Southwest region, accounting years 1986-88 1/

Item	1986	1987	1988
	<u>Value (1.000 dollars)</u>		
Net sales .....	***	***	***
Cost of goods sold .....	***	***	***
Gross profit .....	***	***	***
General, selling, and administrative expenses ..	***	***	***
Operating income .....	***	***	***
Interest expense .....	***	***	***
Other income, net .....	***	***	***
Net income before income taxes .....	***	***	***
Depreciation and amorti- zation included above ...	***	***	***
Cash-flow 2/ .....	***	***	***
	<u>Share of net sales (percent)</u>		
Cost of goods sold .....	***	***	***
Gross profit .....	***	***	***
General, selling, and administrative expenses ..	***	***	***
Operating income .....	***	***	***
Net income before income taxes .....	***	***	***
	<u>Number of plants reporting</u>		
Operating losses .....	***	***	***
Net losses .....	***	***	***
Data .....	***	***	***

.11 These are \* \* \*.

2/ 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.

Item	1986	1987	1988
All products of establish- ments .....	***	***	***
Quicklime .....	***	***	***
Hydrated lime .....	***	***	***

Table 13  
Quicklime and hydrated lime: Value of property, plant, and equipment  
of U.S. producers in the Southwest region, accounting years 1986-88 1/

(In thousands of dollars)			
Item	1986	1987	1988
<u>Value (1.000 dollars)</u>			
All products of establishments:			
Fixed assets:			
Original cost .....	***	***	***
Book value .....	***	***	***
Total assets 2/ .....	***	***	***
Quicklime:			
Fixed assets:			
Original cost .....	***	***	***
Book value .....	***	***	***
Total assets 2/ .....	***	***	***
Hydrated lime:			
Fixed assets:			
Original cost .....	***	***	***
Book value .....	***	***	***
Total assets 3/ .....	***	***	***
<u>Return on book value of fixed assets (percent) 4/</u>			
All products of establishments:			
Operating return V .....	***	***	***
Net return V .....	***	***	***
Quicklime:			
Operating return 5/ .....	***	***	***
Net return 6/ .....	***	***	***
Hydrated lime:			
Operating return 5/ .....	***	***	***
Net return 6/ .....	***	***	***
<u>Return on total assets (percent) 4/</u>			
All products of establishments:			
Operating return 5/ .....	***	***	***
Net return V .....	***	***	***
Quicklime:			
Operating return V .....	***	***	***
Net return 6/ .....	***	***	***
Hydrated lime:			
Operating return 5/ .....	***	***	***
Net return 6/ .....	***	***	***

1/ These firms are \* \* \*.

/ Defined as book value of fixed assets plus current and noncurrent assets.  
V Total establishment assets are apportioned, by firm, to product groups on the basis of the ratio of the respective book values of fixed assets.

A/ Computed using data from only those firms supplying both asset and profit-and-loss information, and as such, may not be derivable from data presentees.

V Defined as operating income or loss divided by asset value.

/ 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.

Table 14

Quicklime and hydrated lime: Capital expenditures by U.S. producers in the Southwest region, accounting years 1986-88 1/

(In thousands of dollars)

Item	1986	1987	1988
All products of establishments:			
Land and land improvements .....	***	* * *	***
Building and leasehold improvements .....	***	* * *	***
Machinery, equipment, and fixtures .....	***	* * *	***
Total .....	***	* * *	***
Quicklime:			
Land and land improvements .....	***	* * *	***
Building and leasehold improvements .....	***	* * *	***
Machinery, equipment, and fixtures .....	***	* * *	***
Total .....	***	* * *	***
Hydrated lime:			
Land and land improvements .....	***	* * *	***
Building and leasehold improvements .....	***	* * *	***
Machinery, equipment, and fixtures .....	***	* * *	***
Total .....	***	* * *	***

1/ These firms are \* \* \*.

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

#### Impact of imports on capital and investment

Eight responding firms stated no actual negative effects on their growth, investment, ability to raise capital, or existing development and production efforts as a result of imports of quicklime and/or hydrated lime from Mexico during the period of investigation. \* \* \*'s response to its actual negative impact of such imports is quoted in the following paragraph:

\* \* \* firms do not anticipate any negative effects of imports from Mexico, and four other firms' description of anticipated impact of imports from Mexico on quicklime and/or hydrated lime operations are quoted below: 1/

\* \* \*\_--"\* \* \*\_."

\* \* \*\_--"\* \* \*\_."

\* \* \*\_--"\* \* \*\_."

\* \* \*\_--"\* \* \*\_:

*	*	*	*	*	*	*
*	*	*	*	*	*	*
*	*	*	*	*	*	*
*	*	*	*	*	*	*
*	*	*	*	*	*	*"

### CHAPTER 3: THE FOREIGN INDUSTRY AND U.S. IMPORTS

#### The Mexican Industry 2/

##### Production

In Mexico there are approximately 130 plants that produce lime throughout all States. A majority of production is concentrated in six States: Hidalgo, Jalisco, Mexico, Morelos, Puebla, and Veracruz, all located within the central region of the country. The 65 plants located in these States account for 58 percent of all quicklime production and 55 percent of all hydrated lime production. A large number of cement and concrete companies are also involved in lime production in Mexico. The vast majority of Mexican lime plants are small and often use antiquated equipment. Only 15 plants can be classified as modern, and they alone account for roughly one-half of Mexico's lime production. Official statistics do not cover cottage industry producers of lime that belong to the informal sector. The informal sector consists of agricultural communes where small backyard furnaces produce quicklime from limestone taken off communal lands. This lime is then taken to where homes are being built and often bartered for other goods.

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1/ A majority of lime producers in the United States demonstrated little interest in the issue of revocation of the outstanding countervailing duty order on lime from Mexico because they felt they would be, unaffected. This is largely because of the small distances that the Mexican lime is shipped within the United States. However, U.S. lime producers within the Southwest region were very concerned with the possible revocation. The Southwest producers stated that resulting increases in Mexican lime would depress prices, thus forcing them to abandon the Southwest market and compete in more northern U.S. markets.

2/ Information collected by American Embassy Mexico City and by counsel.

Government regulation of Mexican lime producers is under the auspices of the non metallic Mexican Minerals Trust, the Fideicomiso de Minerales Non-Metallicos de Mexico (FMNMM). The FMNMM, part of the Secretary of Energy, Mines and Parastatals, was created in 1974 to promote exploration, exploitation, and use of nonmetallic minerals in Mexico. According to the FMNIIM, there are 7,321 workers and 1,582 employees in Mexico's lime industry.

The National Association of Lime Fabricators, ANFACAL (Asociacion Nacional de Fabricantes de Cal), has 71 members and represents 54 percent of Mexico's lime producers. ANFACAL has 28 members with capacity up to 30,000 tons per year, 16 plants with capacity between 31,000 and 60,000 tons per year, 6 plants with capacity between 61,000 and 100,000 tons per year, and 7 plants with capacity more than 100,000 tons per year. In the entire country, plants that produce quicklime are operating at 69 percent capacity, and those producing hydrated lime are operating at 77 percent capacity.

Mexican lime production in 1988 is estimated at 6.6 million short tons, down 4 percent from 6.9 million short tons in 1987. Consumption in Mexico decreased 3 percent from 6.8 million short tons in 1987 to 6.6 million short tons in 1988. The construction industry consumes 81 percent of all Mexican lime, the steel and iron industries consume 8 percent, the sugar and tortilla industries consume 2 percent, and the remaining 9 percent is consumed by various other industries. Mexico's production, imports, exports, and consumption of lime are shown in the following tabulation (in thousands of short tons):

Year	<u>Production</u>	<u>Imports</u>	<u>Exports</u>	<u>Consumption</u>
1986 - - -	6,662	1	16	6,647
1987 - - -	6,889	2	54	6,838
1988 - - -	6,614	10	25	6,599

#### Mexican exporters and exports of lime from Mexico

Almost all of the lime exported from Mexico is shipped to the United States, with small quantities going to Central America. The only firms in Mexico for which the Commission has received reliable data are Bomintzha (Sonocal) and Refractarios Basicos, SA (Rebasa).

Sonocal S.A. de C.V. was established in 1977 by FMNMM for the production of quicklime and hydrated lime. It was sold in 1986 under the Government of Mexico's privatization program to a cooperative of lime producers in Hidalgo and renamed Bomintzha. In early 1989 Bomintzha was sold to another group of private investors headed by Conomara, S.A.

In 1984, as a result of the countervailing duty investigation, Sonocal was assessed a CVD deposit rate of 55.89 percent and all, other Mexican lime producers not excluded from the scope of the CVD were assessed a 1.21 percent deposit rate. Following the issuance of the CVD order, Sonocal effectively ceased exporting to the United States and subsequently made only a limited number of small shipments. After the purchase of Sonocal, Bomintzha began exporting to the United States in January 1987. As a new company, Bomintzha was assessed the "all other" deposit rate of 1.21 until April 1987, at which time Commerce instructed Customs to assess the 55.89 deposit rate pending

determination of whether Bomintzha's exports were entitled to the "all other" rate. Rebasa is assessed the 1.21 CVD rate.

Bomintzha uses limestone from deposits at Naco in Sonora. In the case of hydrated lime, Bomintzha is located nearer the Southern Arizona and New Mexico markets than any U.S. producer. The closest U.S. producer of hydrated lime is Chemstar's Nelson plant located in northern Arizona. However, Sonocal's ability to produce in sufficient quantities both to meet domestic supply commitments and to export is restricted by the current deteriorated condition of its production facilities. This situation is the result of \* \* \*, caused in part by the 55.89 deposit rate and resultant loss of exports. 1/ It is estimated that \* \* \* would be necessary to repair the plant, but \* \* \* could prolong the process to several years. The closest point of entry for Rebasa's exports is Eagle Pass, TX.

During 1987, Bomintzha accounted for approximately \*\*\* percent of total Mexican exports to the United States of quicklime and hydrated lime. Table 15 provides data on Bomintzha's and Rebasa's quicklime and hydrated lime capacity, production, home-market shipments, and exports for 1986-88. Bomintzha's capacity utilization for quicklime \* \* \* from \*\*\* percent in 1986 to \*\*\* percent in 1987 and \* \* \* in 1988 to \*\*\* percent. Bomintzha's exports of quicklime \* \* \* from \*\*\* short tons in 1986 to \* \* \* short tons in 1987, \* \* \* to \*\*\* in 1988. Rebasa's exports of quicklime \* \* \* in 1987 at \*\*\* short tons and then \* \* \* \*\*\* percent in 1988 to \*\*\* short tons. The \* \* \* in exports of hydrated lime was not \* \* \*. From 1987 to 1988 Bomintzha's and Rebasa's exports of hydrated lime \* \* \* \*\*\* percent and \*\*\* percent, respectively.

There is a joint venture underway between \* \* \* of the United States and Grupo Ica of Mexico to exploit limestone deposits located at a beach in Quintana Roo province with the intention of exporting lime by ship to the United States and other nations.

#### U.S. Imports

Imports of quicklime and hydrated lime, as shown in table 16, were compiled from data reported by the U.S. Department of Commerce and data received in response to Commission questionnaires. Mexico accounted for approximately 7 percent of all U.S. imports of quicklime in 1986, 25 percent in 1987, and 11 percent in 1988. Hydrated lime from Mexico represented 7 percent of all imports in 1986, 30 percent in 1987, and 18 percent in 1988. Mexican lime plants subject to the CVD rates accounted for \*\*\* percent of imported Mexican quicklime in 1986, \*\*\* percent in 1987, and \*\*\* percent in 1988. Mexican lime plants subject to the CVD rates accounted for \*\*\* percent of imported Mexican hydrated lime in 1986, \*\*\* percent in 1987, and \*\*\* percent in 1988.

#### Market Penetration by Imports

As shown in table 17, the ratio of total imports of quicklime to total U.S. consumption remained constant at 1 percent from 1986 to 1988. The ratio

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Table 15  
Quicklime and hydrated lime: Bomintzha's and Rebasa's capacity, production, home-market shipments, exports, and inventories 1986-88

Item	1986	1987	1988
<u>Quantity (short tons)</u>			
Capacity of Bomintzha: 1/ 2/			
Quicklime .....	***	***	***
Hydrated lime .....	***	***	***
Total .....	***	***	***
Production of Bomintzha: 2/			
Quicklime .....	***	***	***
Hydrated lime .....	***	***	***
Total .....	M	***	***
<u>Share of--Percent</u>			
Carcity utilization of Bomintzha:			
uicklime .....	***	***	***
ydrated lime .....	***	***	***
Total .....	***	***	***
<u>Quantity (short tons)</u>			
Home-market shipments of Bomintzha:			
Quicklime .....	***	***	***
Hydrated lime .....	***	***	***
Total .....	***	***	***
Home-market shipments of Rebasa:			
Quicklime .....	***	***	***
Hydrated lime .....	***	***	***
Total .....	***	***	***
Exports to United States by Bomintzha:			
uicklime .....	***	***	***
ydrated lime .....	***	***	***
Total .....	***	***	***
Exports to United Sates by Rebasa:			
icklime .....	***	***	***
ydrated lime .....	***	***	***
Total .....	***	***	***
Inventories of Bomintzha:			
Quicklime .....	***	***	***
Hydrated lime .....	***	***	***
Total .....	***	***	***
<u>Share of--Percent</u>			
Production that was exported by Bomintzha: 2J			
Quicklime .....	***	***	***
Hydrated lime .....	***	***	***
Average .....	***	***	***
Bomintzha's exports to the United States: 2/			
Quicklime .....	***	***	***
Hydrated lime .....	***	***	***
Average .....	***	***	***

7/ \* \* \*  
5/ \* \* \*  
\* \* \*  
5/ \* \* \*

Source: Compiled from data submitted to the Commission by counsel for Bomintzha.

Table 16  
 Quicklime and hydrated lime: U.S. imports from Mexico, Canada, and all other countries, 1986-88

Source	1986	1987	1988
Quantity (1.000 short tons)			
Quicklime:			
Mexico .....	10	43	19
Canada .....	135	128	141
All other countries .....	1/	1/	10
Total imports .....	145	171	170
Hydrated lime:			
Mexico .....	4	13	12
Canada .....	53	31	54
All other sources .....	1/	1/	1/
Total imports .....	57	44	66
Total lime:			
Mexico .....	14	56	31
Canada .....	188	159	195
All other sources .....	1/	1	10
Total imports .....	202	215	235
Value (1.000 dollars)			
Quicklime:			
Mexico .....	561	1,344	651
Canada .....	7,876	7,365	8,105
All other sources .....	11	42	438
Total imports .....	8,448	8,751	9,194
Hydrated lime:			
Mexico .....	341	965	1,235
Canada .....	3,762	2,362	3,602
All other sources .....	26	127	20
Total imports .....	4,129	3,454	4,857
Total lime:			
Mexico .....	902	2,309	1,886
Canada .....	11,639	9,727	11,706
All other sources .....	38	169	458
Total imports .....	12,579	12,205	14,050

1/ Less than 500 short tons.

Source: Canada and all other countries data compiled from official statistics of the Department of Commerce. Mexico data compiled from responses to questionnaires of the U.S. International Trade Commission.

Table 17

Quicklime and hydrated lime: Apparent U.S. consumption and ratio of imports to consumption, 1986-88

Year	Apparent U.S. consumption 1/ 1.000 short tons	Ratio of imports to consumption		
		For Mexico	For Canada	Total imports
Quicklime:				
1986 .....	12,141	2/	1	1
1987 .....	13,132	2/	1	1
1988 .....	***	2j	1	1
Hydrated lime:				
1986 .....	1,996	2/	3	3
1987 .....	2,190	1	1	2
1988 .....	***	1	2	3
Total lime:				
1986 .....	14,137	2/	1	1
1987 .....	15,322	21	1	1
1988 .....	***	2/	1	1

Imports plus U.S. producers' domestic shipments and intracompany consumption.

2/ Less than 0.5 percent.

Source: Compiled from official statistics of the U.S. Bureau of Mines and the Department of Commerce, and responses to questionnaires of the U.S. International Trade Commission.

of total imports of hydrated lime to total U.S. consumption decreased from 3 percent in 1986, to 1 percent in 1987, and rose to \*\*\* percent in 1988. The ratios of imports from Mexico to the consumption of quicklime and hydrated lime in the Southwest region was 1 and \*\*\* percent, respectively, in 1988 (table 18).

#### Importers' Inventories

\*\*\*, \*\*\*, and \*\*\* were the only importers that reported end-of-period inventories during the period of investigation. Their inventories of quicklime imported from Mexico \*\*\* from \*\*\* short tons in 1987 to \*\*\* short tons in 1988. Their inventories of hydrated lime imported from Mexico \*\*\* from \*\*\* short tons in 1986 to \*\*\* short tons in 1987 and \*\*\* to \*\*\* short tons in 1988.

#### Prices

Prices for different types of lime in large part reflect their cost of production. Hydrated lime is generally more expensive to produce than quicklime because of the added production cost of reacting quicklime with water. Dolomitic quicklime and dolomitic hydrate are more expensive to produce than their high-calcium counterparts as they require a more expensive, high-magnesium limestone as an input.

Table 18  
Quicklime and hydrated lime: Apparent Southwest consumption and ratio of imports 1/ to consumption, 1986-88

Year	Apparent Southwest consumption 2/ 1.000 short tons	Ratio of imports from Mexico to Southwest consumption Percent
Quicklime:		
1986	..... 1,128.....	1
1987	..... 1,246.....	3
1988	..... 1,458.....	1
Hydrated lime:		
1986	..... 650.....	1
1987	..... 515.....	3
1988	..... 493.....	2
Total lime:		
1986	..... 1,778.....	1
1987	..... 1,761.....	3
1988	..... 1,951.....	2

1/ All imports are from Mexico

2/ Imports plus U.S. producers' domestic shipments and intracompany consumption.

Source: Compiled from official statistics of the U.S. Bureau of Mines and responses to questionnaires of the U.S. International Trade Commission.

There is no standard procedure by which U.S. lime-producing companies provide pricing information. Some companies publish price lists and others do not; 1/ some quote prices f.o.b. their plant, others quote them on a delivered basis, and some will quote them on either basis. Most companies negotiate prices with their major customers annually. For longer contracts, prices may be linked to an economy-wide price index and to actual increases in labor and energy costs. 2/ The quantity of lime required and the mode of shipment are generally negotiated at the same time as prices. Additional items cited by some companies as being included in a price quote were sales tax and fuel surcharges.

Most U.S. producers reported that between 75 and 90 percent of their total 1988 sales were covered by legal contracts fixing prices and/or quantities for multiple shipments. 2/ The standard minimum quantity requirement for a sale was generally reported to be 22 to 25 tons. 4/ Most companies reported that they would sell sub-minimum quantities, provided the purchaser paid the freight

Approximately one-half of the companies responding indicated that they publish price lists.

2J \* \* \*

21 One company reported that only 20 percent of its sales were made under tliire conditions.

A/ Equivalent to a truck load.

charge for the standard required tonnage. Prices may be lower to customers purchasing large volumes. The average lead time between an order and a date of delivery was generally 2 days, although it ranged from 1 day to 10 days. 2/ All U.S. producers, importers, and purchasers reported that transportation costs are an important factor in a purchasing decision. Average transportation costs for lime, according to the distance the lime was shipped from the producing plant, are shown in table 19.

Table 19

Lime: Average, lowest, and highest transportation costs for shipments

(Per short ton)			
Distances	Average transport cost	Lowest transport cost	Highest transport cost
0 to 100 miles . . . . .	\$10	\$4	\$15
100 to 200 miles . . . . .	17	14	24
200 to 300 miles . . . . .	22	18	30
Over 300 miles . . . . .	25	20	36

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

Transportation costs also depend upon the mode of shipment. Shipment by barge is the cheapest means of transport, followed by rail. Transport by truck is the most expensive but the cost may be substantially reduced if a backhaul is made. Transportation costs reportedly account for 10 to 40 percent of delivered lime prices. 11

Purchasers generally will choose a supplier based on delivered price rather than on the f.o.b. plant price. Thus, transportation costs and relative locations of a particular plant and its competitors largely determine the market area of any given plant and may affect the net f.o.b. price under competitive conditions. Producers with freight advantages can economically serve a larger market area or can charge higher f.o.b. prices than competitors having higher transport costs. Slim profit margins may be taken on sales made to customers on the outskirts of a market area and higher margins on customers closer to a lime plant depending on the proximity of competing suppliers. Purchasers having more than one potential supplier will generally pay lower delivered prices than those that do not.

#### Data from public sources

Public price data are available from the Bureau of Mines, the Bureau of Labor Statistics, and the Department of Commerce.

1/ One company reported that it would charge an additional \$5 for shipment<sup>3</sup> less than 15 tons, and would make no shipments less than 5 tons.

2/ Delivery by rail takes longer than delivery by truck.

2/ Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission. \* \* \*

Average unit values of lime.-- Average values of lime reported by U.S. producers are compiled on an annual basis by the U.S. Bureau of Mines (table 20). These average values are provided for quicklime, hydrated lime, and all lime, according to consuming sector, from 1984 to 1987. 1/ During this period, the unit values of all lime remained relatively constant, reaching a peak of \$52.50 per ton in 1986 and a trough of \$49.96 per ton in 1987. Average values for quicklime ranged between \$45 and \$49, and for hydrated lime between \$63 and \$75. These values both peaked in 1986.

Producer Price Index.-- The Producer Price Index for all lime compiled by the Bureau of Labor Statistics is shown below. Prices remained relatively constant over this period; they declined slightly in 1986 but recovered in 1987 and have remained steady in 1988 as shown in the following tabulation (1984=100): 21

1984----	100.0
1985----	100.9
1986	99.7
1987----	101.3
1988----	101.3

Import price data.-- The unit values of imports of lime from Mexico are based on customs value information collected by the U.S. Department of Commerce (table 21). Import unit values for quicklime and hydrated lime peaked in 1985 at \$34 and \$76 per ton, respectively. Values declined somewhat in 1986-87 and rose again in 1988. 2/

#### Questionnaire price data

The Commission requested domestic producers and importers of lime to provide quarterly price data from January 1986 through December 1988 for quicklime and hydrated lime. Producers and importers were asked to report the f.o.b. plant price and the total delivered selling price for their largest shipment of each product in each quarter. The lowest and highest prices received for the sales of each of these products were also requested on a quarterly basis for 1988.

The U.S. producers that responded to the questionnaire with price information accounted for 14 percent of the total value of U.S.-produced quicklime shipments in 1986, 13 percent in 1987, and 18 percent in 1988; U.S. producers reporting prices for hydrated lime accounted for 13, 12, and 16 percent of total U.S.- produced hydrated lime shipments in 1986, 1987, and 1988. Changes observed in these weighted-average price series are highly influenced by changes in the firms reporting from one period to another and by

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1/ Metal and Minerals Yearbooks, 1985, 1986, 1987, U.S. Bureau of Mines, Washington, DC.

2/ Lime, including quicklime, hydrated lime, and dead-burned dolomite. The base year has been converted from 1982 to 1984. The decline in 1986 conflicts with the Bureau of the Mines data which show aggregate lime prices peaking in 1986. This discrepancy has not been resolved. 34

1/ Unit values of total lime are believed to reflect shifts in product mix and may not accurately reflect changes in prices.

Table 20  
Lime: Average unit values for product sold or used by U.S. producers,  
1984-87 1j

(Per short ton)				
Item	1984	1985	1986	1987
All lime 2/ .....	\$51.12	\$51.69	\$52.50	\$49.96
Chemical & industrial ....	49.65	49.87	50.50	48.40
Agriculture .....	61.03	66.55	62.14	76.97
Construction .....	62.19	65.61	66.32	61.31
Quicklime .....	45.92	46.46	48.50	47.63
Chemical & industrial ....	45.92	45.88	47.91	47.47
Agriculture .....	51.07	49.02	31.75	45.50
Construction .....	50.92	54.88	54.35	44.39
Hydrated lime .....	65.69	67.56	74.95	63.20
Chemical & industrial ....	64.98	65.96	81.24	59.43
Agriculture .....	70.39	65.96	61.93	89.87
Construction .....	66.36	69.32	69.60	67.83

1/ Based on annual surveys of lime operations with 116 to 148 establishments reporting. Calculated by dividing total output by total value of lime sold or used by these producers.

2/ Includes refractory dolomite, which is only a very small part of total domestic consumption.

Source: Compiled from official statistics of the U.S. Bureau of Mines.

Table 21  
Lime: Unit values of imports from Mexico, 1984-88

(Per short ton)					
Item	1984	1985	1986	1987	1988
Total lime .....	\$37	\$37	\$45	\$39	\$53
Lime, except hydrated .....	33	34	32	15	29
Hydrated lime .....	50	76	65	67	73

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

changes in customers for which prices were reported. Thus, fluctuations in these data may not be indicative of price trends.

The responding importers accounted for 21 percent of the quicklime imported from Mexico in 1986, and 65 percent of imported, quicklime in 1987. None of the companies responding reported quicklime imports in 1988. Reporting companies accounted for 8 percent of hydrated lime imports in 1986, 65 percent in 1987, and 45 percent in 1988.

U.S. producer price trends.-- U.S. producers' weighted-average f.o.b. prices for quicklime remained relatively constant in 1986 and 1987 before declining slightly in 1988 (table 22). The weighted average of prices reported

Table 22

Quicklime: Weighted average U.S. producers' f.o.b. prices and total shipments, by regions and by quarters, January 1986-December 1988 1/

Period	Total U.S. 2/	Southwest 3/	Non-Southwest 4/
<u>Price per short ton</u>			
1986:			
Jan.- Mar . . . . .	\$51.38	\$52.52	\$49.13
Apr.-Jun . . . . .	50.60	51.36	49.32
July-Sept . . . . .	50.77	50.68	50.95
Oct.-Dec . . . . .	51.82	53.34	48.76
1987:			
Jan.- Mar . . . . .	50.39	52.35	47.11
Apr.-Jun . . . . .	51.73	50.65	5./ 53.25
July-Sept . . . . .	50.74	52.82	47.59
Oct.-Dec . . . . .	52.20	51.52	5/ 53.10
1988:			
Jan.- Mar . . . . .	48.95	50.60	46.26
Apr.-Jun . . . . .	49.84	49.61	50.26
July-Sept . . . . .	50.35	50.71	49.68
Oct.-Dec . . . . .	50.38	50.81	49.60
<u>Total quarterly shipments (1,000 short tons)</u>			
1986:			
Jan.- Mar . . . . .	306	204	102
Apr.-Jun . . . . .	346	216	130
July-Sept . . . . .	321	217	104
Oct.-Dec . . . . .	278	186	92
1987:			
Jan.- Mar . . . . .	285	178	107
Apr.-Jun . . . . .	331	193	138
July-Sept . . . . .	353	213	140
Oct.-Dec . . . . .	359	205	154
1988:			
Jan.- Mar . . . . .	487	302	185
Apr.-Jun . . . . .	540	346	194
July-Sept . . . . .	532	347	185
Oct.-Dec . . . . .	525	340	185

1] Weighted by sales quantities.

2/ Companies in Southwest and non-Southwest.

3J \* \* .

A/ \* \* \*  
\* \* \*

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



by producers in the Southwest reached a high in the fourth quarter of 1986 and a low in the second quarter of 1988. In most quarters, the weighted average of quicklime prices for companies in the Southwest were marginally higher than those in the rest of the United States. In the non-Southwest areas, quicklime prices were lowest in the first quarter of 1988. The weighted-average prices for quicklime are similar to the average values for quicklime reported by the U.S. Bureau of Mines.

Prices of hydrated lime have fluctuated slightly more than those for quicklime. The weighted-average prices of U.S. producers for hydrated lime reached a peak of \$\*\*\* in the fourth quarter of 1986 and a trough of \$\*\*\* in the fourth quarter of 1988 (table 23). In most quarters prices in the Southwest were \$\*\*\* to \$\*\*\* lower than those reported for the non-Southwest. These weighted-average prices for 1986 are substantially below the unit values published by the U.S. Bureau of Mines. The values for 1987 are similar to those provided by the U.S. Bureau of Mines.

Importer prices.-- \* \* \* and \* \* \* are the only two companies reporting prices for quicklime imports from Mexico (table 24). These importers' prices were \*\*\* the weighted average of total U.S. prices and Southwest prices in all quarters and \*\*\* those for the non-Southwest areas of the United States in all but the first quarter of 1986. \* \* \* imported lime from \* \* \*. 1/ \* \* \*. 2/

Prices for imported hydrated lime on an f.o.b. basis are provided in table 25. These prices varied markedly among importing companies and ranged from \$\*\*\* to \$\*\*\* per ton for lime sold in bulk and from \$\*\*\* to \$\*\*\* per ton for lime packaged in bags (table 25). 2/ The weighted average of these prices \* \* \* in the fourth quarter of 1987 at \$\*\*\* per ton as a result of a change in the type of sale reported by \* \* \* from bulk sales to an isolated bag sale. Excluding this quarter, the prices of hydrated lime imports \* \* \* at \$\*\*\* and \$\*\*\* per ton in the fourth quarters of 1986 and 1988. Prices in the first quarter of 1986 averaged \$\*\*\* per ton; they then \* \* \* to \$\*\*\* per ton in the second quarter of 1987. The weighted-average prices of hydrated lime imports are \* \* \* than the unit values of these imports compiled from the official statistics of the U.S. Department of Commerce (see table 21).

Purchaser price trends.-- Purchaser price information was received from 19 companies, most of which are located in the Southwest region of the United States. Purchasers of lime include aluminum producers, copper producers, steel producers, chemical companies, water and sewage utilities, road construction companies, a carbon producer, and a paper producer. Two-thirds of the companies returning questionnaires with pricing information for hydrated lime were road or building construction companies. Four of the purchasers located in Arizona and New Mexico noted that Chemstar was the only domestic lime supplier in their geographic area. 4/ One company noted that it has a \* \* \*. 5/ Delivered prices of U.S.-produced quicklime fluctuated within a \$\*\*\* range from 1986 to 1988, \* \* \* of \$\*\*\* per ton in the second quarter of 1986 to \$\*\*\* per ton in the fourth quarter of 1988 (table 26). Delivered prices for

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1/ \* \* \*  
 2/ \* \* \*  
 3/ \* \* \*  
 4/ \* \* \*  
 1/ \* \* \*

Table 23

Hydrated lime: Weighted-average U.S. producers' f.o.b. prices and total shipments, by regions and by quarters, January 1986-December 1988 1/

Period	Total U.S. 2/	Southwest 3/	Non-Southwest 4/
<u>Price per short ton</u>			
1986:			
Jan.- Mar . . . . .	\$***	\$***	\$***
Apr.-Jun . . . . .	***	***	***
July-Sept . . . . .	***	***	***
Oct.-Dec . . . . .	***	***	***
1987:			
Jan.- Mar . . . . .	***	***	***
Apr.-Jun . . . . .	***	***	***
July-Sept . . . . .	***	***	***
Oct.-Dec . . . . .	***	***	***
1988:			
Jan.- Mar . . . . .	***	***	***
Apr.-Jun . . . . .	***	***	***
July-Sept . . . . .	***	***	***
Oct.-Dec . . . . .	***	***	***
<u>Total quarterly shipments (1,000 short tons)</u>			
1986:			
Jan.- Mar . . . . .	***	***	***
Apr.-Jun . . . . .	***	***	***
July-Sept . . . . .	***	***	***
Oct.-Dec . . . . .	***	***	***
1987:			
Jan.- Mar . . . . .	***	***	***
Apr.-Jun . . . . .	***	***	***
July-Sept . . . . .	***	***	***
Oct.-Dec . . . . .	***	***	***
1988:			
Jan.- Mar . . . . .	***	***	***
Apr.-Jun . . . . .	***	***	***
July-Sept . . . . .	***	***	***
Oct.-Dec . . . . .	***	***	***

1/ Weighted by sales quantities. All prices are for hydrated lime sold in bulk.

2/ Companies in southwest and non-Southwest.

1/ \* \* \*.

A/ \* \*

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

Table 24  
Quicklime: Importers' f.o.b. prices and total quantities imported, by  
quarters, 1986-87 1/

Period	Price		Quantity	
	Per short ton	Short tons	Per short ton	Short tons
1986:	***	***	***	***
Jan.-Mar .....	***	***	***	***
Apr.-June .....	***	***	***	***
July-Sept .....	***	***	***	***
Oct.-Dec .....	***	***	***	***
1987:	***	***	***	***
Jan.- Mar .....	***	***	***	***
Apr.-Jun .....	***	***	***	***
July-Sept .....	***	***	***	***
Oct.-Dec .....	***	***	***	***

1/ \* \* \*.  
2/ \* \* \*.  
1/ \* \* \*.  
A/ \* \* \*.

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

U.S.-produced hydrated lime sold in bulk fluctuated within a \$\*\*\* range from a low of \$\*\*\* per ton in the first quarter of 1988 to a high of \$\*\*\* in the second quarter of 1987. Delivered prices for U.S.-produced hydrate sold in bags averaged \$\*\*\* per ton, with a marginal decline of approximately \$\*\*\* from the first quarter of 1986 to the last quarter of 1988.

Only \* \* \* companies reported purchases of Mexican lime--\* \* \* (table 27). Delivered prices of Mexican quicklime purchased \* \* \* were stable at approximately \$\*\*\* per ton in the last three quarters of 1987, \* \* \* to \$\*\*\* in the second quarter of 1988 and to \$\*\*\* in the third and fourth quarters. Delivered prices for hydrated lime \* \* \* from \$\*\*\* in the in the second quarter of 1987 to \$\*\*\* from the third quarter of 1987 through the third quarter of 1988 and declined to \$\*\*\* in the fourth quarter of 1988.

#### Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that in nominal terms the Mexican peso depreciated by 91.2 percent relative to the U.S. dollar from the first quarter of 1985 through 1988 (table 28).

Exchange rates adjusted for inflation show a markedly different pattern. The real value of the peso, adjusted for inflation exceeding 1,000 percent, declined through the first quarter of 1987 to 69.6 percent of its 1985 base<sup>39</sup> value. Although the nominal value of the peso continued to fall throughout the rest of the period, the high rate of inflation in Mexico relative to that in the United States more than offset the decline. By the fourth quarter of 1988, the Mexican currency in real terms had returned to 95.5 percent of its base value.

Table 25

Hydrated lime: Weighted average and individual importer's f.o.b. prices and total imports, by quarters, 1986-88

Period	Weighted Average	* * *	* * *	* * *	* * *	* * *
Price per short ton						
1986:						
Jan.-Mar.	\$***	\$***	\$***	\$***	\$***	\$***
Apr.-June.	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***
1987:						
Jan.-Mar.	***	***	***	***	***	***
Apr.-June.	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***
1988:						
Jan.-Mar.	***	***	***	***	***	***
Apr.-June.	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***
Total quarterly imports (short tons)						
1986:						
Jan.-Mar.	***	***	***	***	***	***
Apr.-June.	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***
1987:						
Jan.-Mar.	***	***	***	***	***	***
Apr.-June.	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***
1988:						
Jan.-Mar.	***	***	***	***	***	***
Apr.-June.	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***
Oct.-Dec..	***	***	***	***	***	***

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

Table 26

Quicklime and hydrated lime: Purchasers' weighted-average delivered prices and purchases, by quarters, January 1986-December 1988

Period	Quicklime	Hydrated lime	
		Bulk	Bags
<u>Price per short ton</u>			
1986:			
Jan.-Mar . . . . .	\$***	\$***	\$***
Apr.-Jun . . . . .	***	***	***
July-Sept . . . . .	***	***	***
Oct.-Dec . . . . .	***	***	***
1987:			
Jan.-Mar . . . . .	***	***	***
Apr.-Jun . . . . .	***	***	***
July-Sept . . . . .	***	***	***
Oct.-Dec . . . . .	***	***	***
1988:			
Jan.-Mar . . . . .	***	***	***
Apr.-Jun . . . . .	***	***	***
July-Sept . . . . .	***	***	***
Oct.-Dec . . . . .	***	***	***
<u>Total quarterly purchases (1,000 short tons)</u>			
1986:			
Jan.-Mar . . . . .	***	***	***
Apr.-Jun . . . . .	***	***	** *
July-Sept . . . . .	***	***	***
Oct.-Dec . . . . .	***	***	***
1987:			
Jan.-Mar . . . . .	***	***	***
Apr.-Jun . . . . .	***	***	***
July-Sept . . . . .	***	***	***
Oct.-Dec . . . . .	***	***	***
1988:			
Jan.-Mar . . . . .	***	***	***
Apr.-Jun . . . . .	***	***	***
July-Sept . . . . .	***	** *	***
Oct.-Dec . . . . .	***	***	***

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

Table 27  
Quicklime and hydrated lime: Purchasers' weighted-average delivered prices and quantities of imports from Mexico, by quarters, January 1986-December 1988

Period	v <sup>i</sup> /War <sup>e</sup> short ton	Mat tons	Al <sup>1</sup> iber <sup>2</sup> short ton	Short ton
1986:				
Jan.-Mar . . . . .	\$***	***	\$***	***
Apr.-Jun . . . . .	***	***	***	***
July-Sept . . . . .	***	***	***	***
Oct.-Dec . . . . .	***	***	***	***
1987:				
Jan.-Mar . . . . .	***	***	***	***
Apr.-Jun . . . . .	***	***	***	***
July-Sept . . . . .	***	***	***	***
Oct.-Dec . . . . .	***	***	***	***
1988:				
Jan.-Mar . . . . .	***	***	***	***
Apr.-Jun . . . . .	***	***	***	***
July-Sept . . . . .	***	***	***	***
Oct.-Dec . . . . .	***	***	***	***

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

Table 28  
Indexes of the nominal and real exchange rates between the U.S. dollar and the Mexican peso, J/ and indexes of producer prices in the United States and Mexico, 2/ by quarters, 1985-88

Period	(January-March 1985=109)			
	Nominal exchange- rate index	Real exchange- rate index	Mexican Producer Price Index	U.S. Producer Price Index
1985:				
Jan.-Mar . . . . .	100.0	100.0	100.0	100.0
Apr.-June . . . . .	91.8	102.5	111.8	100.1
July-Sept . . . . .	73.0	88.9	121.1	99.4
Oct.-Dec . . . . .	60.1	82.8	137.6	100.0
1986:				
Jan.-Mar . . . . .	47.3	80.5	167.4	98.5
Apr.-June . . . . .	38.4	77.1	194.0	96.7
July-Sept . . . . .	30.1	74.3	237.2	96.2
Oct.-Dec . . . . .	24.0	71.5	287.9	96.9
1987:				
Jan.-Mar . . . . .	19.6	69.6	347.8	97.7
Apr.-June . . . . .	16.2	73.0	449.1	99.3
July-Sept . . . . .	13.7	78.6	574.7	100.4
Oct.-Dec . . . . .	11.2	80.0	717.4	100.8
1988:				
Jan.-Mar . . . . .	8.9	88.0	1,000.8	101.4
Apr.-June . . . . .	8.8	92.0	1,079.5	103.2
July-Sept . . . . .	8.8	94.1	1,119.9	104.6
Oct.-Dec . . . . .	8.8	95.5	1,141.2	105.1

1/ Based on exchange rates expressed in U.S. dollars per Mexican peso.

2/The real exchange rate index is derived from the nominal exchange rates adjusted by the producer price indexes of each country. These indexes are derived from line 63 of the International Financial Statistics.

Source: International Monetary Fund, International Financial Statistics.

CHAPTER 4: THE EFFECT ON THE U.S. LIME INDUSTRY OF REVOCATION OF  
THE OUTSTANDING COUNTERVAILING DUTY ORDER ON LIME FROM MEXICO

Introduction

This investigation was commenced in response to a letter from USTR requesting that the Commission conduct an investigation pursuant to section 332(g) of the Tariff Act of 1930, as amended. 1/ That letter asked the Commission to report on whether the probable economic effect on an industry in the United States of revocation by the Department of Commerce of the outstanding countervailing duty order on Lime from Mexico, 49 F. R. 35672, would be such that (1) an industry in the United States would be materially injured, or would be threatened with material injury, or (2) the establishment of an industry in the United States would be materially retarded. The letter further provided:

[T]he Commission should inquire into the following elements: (i) the volume of imports of the merchandise that is the subject of investigation, (ii) the effect of imports of the merchandise on prices in the United States for like products and (iii) the impact of such imports on domestic producers of like products. The terms used above are defined at 19 U.S.C. section 1677. 2/

The Domestic Industry

In order to assess the probable economic effect of revocation of the outstanding CVD order on a U.S. industry, the Commission has first considered which producers in the United States comprise the domestic industry. In considering this question, the Commission has utilized the definition of "industry" set forth in 19 U.S.C. § 1677(4). That section defines "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." In turn, the statute defines the term "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...." 2/

Relying on these definitions, the Commission has examined which products are most like the products that are the subject of the outstanding CVD order. That order described the subject merchandise as "calcium oxide (CAO), commonly called quicklime or lime, and calcium hydroxide (CA(OH)<sub>2</sub>), commonly called hydrated lime or hydrate." 4/ For the reasons discussed below, the Commission has concluded that quicklime and hydrated lime comprise a single product that is most like the subject imports. Although there are some differences

1/ Letter from Alan F. Holmer, Acting USTR, to The Honorable Anne E. Brunsdale, dated January 31, 1989 and received by the Commission on February 8, 1989. Section 332(g) authorizes the Commission to "make such investigations and reports as may be requested by the President." 19 U.S.C. § 1332(g).

2/ USTR Request at 1.

3/ 19 U.S.C. § 1677(10).

4/ 49 F. R. 35672, 35673 (Sept. 11, 1984).

between quicklime and hydrate, 11 many of the facts gathered in this investigation support the Commission's conclusion that they should be viewed as a single product. Significantly, quicklime and hydrate share certain essential physical characteristics: they are both produced from high calcium limestone and contain largely calcium oxide and less than 5 percent magnesium oxide. In addition, many customers view quicklime and hydrate as interchangeable. 2/ Furthermore, the production processes for quicklime and hydrate overlap, because hydrate is produced from quicklime. Consequently, quicklime and hydrate effectively share employees and equipment because the employees and equipment used in producing quicklime are producing a product that is the starting point in hydrate production. Common channels of distribution also exist with respect to quicklime and hydrate, i.e., both are usually purchased directly from the manufacturers of lime. 3/

Thus, the Commission has concluded that quicklime and hydrate are properly viewed as the same product for purposes of analyzing the domestic industry in this report.

Based on this conclusion, the Commission has examined whether all producers of quicklime and hydrate comprise the domestic industry for purposes of assessing the probable economic effect of revocation or whether only producers in the Southwest region of the United States should be included in the industry. For the reasons set forth below, the Commission has concluded that it would be appropriate to consider producers throughout the United States as the domestic industry, and to consider producers in the Southwest United States (i.e. southern California, Arizona, southern Nevada, New Mexico and Texas) as the relevant regional industry.

A separate analysis of the likely effect of revocation on the producers of lime in the Southwest is appropriate because the region constitutes an isolated and insular market in which almost all of the subject imports are sold and likely would be sold if the order were revoked. More specifically, all or almost all imports are concentrated in the Southwest, only eight percent of domestic production in the region is sold outside of the region, 4/ and only 10.5 percent of lime consumed in the region is produced by U.S. producers located outside of the region. 1/ The regional character of the lime industry is not surprising because lime is a heavy, low-value, fungible product that is not shipped more than 300 or 400 miles. 6/ Consequently, most imports of lime

1/ For example, quicklime and hydrate have some different physical characteristics. In addition, some customers can only use one of the two kinds of lime and the prices for quicklime and hydrate are different.

2/ Supra at 3-5. There are some customers that need to use either quicklime or hydrate. However, many customers simply have a preference for one kind of lime because of existing equipment, cost, production processes, or the different physical characteristics of quicklime and hydrate. The Commission does not view these customer preferences as persuasive evidence of two different products.

3/ Id. See also supra at 32-33.

4/ Most lime that is produced in the region and sold outside of the region is shipped from northern Arizona. Supra at 6, n.2.

5/ Id. Although there is evidence that more imports would enter the United States if the order were revoked, there is no evidence that significant volumes of those additional imports would be sold outside of the Southwest region.

6/ Supra at 6, Table 19; Transcript at 17.



from Mexico travel only a few hundred miles from the border and most domestic production within the Southwest region similarly is not transported long distances to areas outside of the region. These same characteristics of lime also explain the limited amount of lime that is sold in the region by domestic producers outside of the region. Although the boundaries of this Southwest regional industry are not immutably drawn by geographic barriers, the commercial realities associated with the transport of lime support a conclusion that a regional industry exists. Therefore, the Commission has separately examined the effect of revocation upon producers in this Southwest region. 11

### The Likely Effect of Revocation

#### Introduction

The Commission's analysis in this report is necessarily predictive in nature because the USTR Request has asked the Commission to forecast the likely effect of revocation of the CVD order upon the domestic industry. This task of forecasting future events is complex because present market conditions are presumably affected by the outstanding order. The Commission has made two assumptions when analyzing the information gathered in this investigation. It has assumed that the CVD order has affected the pricing and import behavior of importers, and that subsidized sales will continue or resume if the order is revoked. The Commission has examined a number of factors in forecasting the likely effect of revocation on import volumes and prices, including: past behavior of foreign producers and importers; capacity and capacity utilization of Mexican lime manufacturers near the U.S. border; the stated intent of foreign producers and importers; and the amount of the duty. After examining these factors, the Commission has analyzed the likely effect of imports as affected by forecasted events on the national and regional industries.

When assessing the effects that revocation of the duty would have on the U.S. industry, the particular nature of the industry and product are, of course, important.

Though there are many lime producers in the U.S. and Mexico, the transportation constraints facing lime producers generally limit the number of producers competing in a particular geographic region to only a few lime producers. 2/ Firms with overlapping marketing areas compete with each other

1/ Counsel for Chemstar and Chemical Lime argued in its posthearing brief that the Commission should examine the effect of revocation upon a smaller region of the United States. That region would encompass Chemstar's Douglas, AZ plant and a 200 mile area surrounding that plant (the "Douglas region"). See Statement of Position of Chemstar, Inc. and Chemical Lime, Southwest, Inc. at 5-8. The Commission does not believe that such an analysis would be appropriate because the subject imports are not concentrated in that region and the boundaries of the proposed region appear to be drawn to obtain a particular result.

2/ Regional lime markets have some characteristics of an oligopoly:

- 1) Economies of scale - declining long run average total costs;
- Interdependence of firms - price and competitive behavior by one firm affects the sales of the other firms;
- 3) Substantial barriers to entry - high capital investment for entry at a competitive scale of production; and
- 4) Nonprice competition - proximity, service, marketing. 45

Each firm faces a less than perfectly elastic demand curve for its production as each lime-producing firm has marketing advantages with regard to consumers located closer to the firm's lime production facilities over the production facilities of another lime producer.

for sales to consumers. Firms located close to each other have considerable overlap in their marketing areas and compete more directly than firms located further from each other having little overlap in their marketing areas.

In addition, lime, quick or hydrated, has few substitutes in commercial consumption. The demand for lime is largely determined by the level of production activities using lime, i.e. the demand for lime is a derived demand. This implies that a change in the price of lime will have little effect on the demand for lime. 1/ Therefore, everything else being equal, the entry or offering of Mexican lime at low prices in the U.S. lime market will 1) reduce the market share of U.S. producers if U.S. producers do not compete on the basis of price; or 2) reduce lime prices if U.S. producers attempt to maintain their market share by competing on price. If U.S. producers lose market share to Mexican imports, as they did in 1987, 2/ U.S. producers may try to maintain their profit levels but reduce their relative levels of production, shipments, employment and perhaps investment. 3/ On the other hand, if U.S. producers compete on the basis of price to retain market share, their total sales value and possibly their profits would drop but they would attempt to maintain their relative levels of production, shipments, investment and employment.

The analysis of the impact of the increased imports on U.S. producers must also be considered in terms of changes in the total consumption of lime. If the consumption of lime increases, as it did during this investigation, 4/ U.S. producers will increase production, shipments and employment but will lose market share to the Mexican imports that are capturing the bulk of the increased demand for lime. Conversely, if lime consumption decreases, U.S. production, shipments and employment could decline but U.S. producers will increase their U.S. market share if imports were rapidly declining. .2/

#### The Likely Effect of Revocation on Import Volumes

Examination of all of these factors causes the Commission to conclude that imports from Bomintzha, one of the largest foreign producers and the only foreign producer being assessed a significant CVD rate, are likely to increase significantly if the CVD order is revoked. The behavior of Bomintzha during 1987 provides considerable evidence supporting this conclusion. During the

1/ If lime prices fall, total industry revenues will fall as the increased demand for lime, in reaction to lower lime prices, does not increase in the same proportion as the fall in lime prices. Conversely, a rise in lime prices will result in higher lime industry revenues.

21 Southwest lime industry - Table 18.

2/ U.S. producers may terminate some of their less profitable accounts or release some of their less productive factors of production -- capital equipment or labor. U.S. producers may chose to cut back on new or replacement investment in a downsizing of the industry in order to maintain current profit levels. This may not be advisable in an industry such as the lime industry with economies of scale and high fixed costs; spreading fixed costs over fewer units of production will raise per unit costs and may squeeze profit levels if prices do not rise.

4/ Southwest lime industry - Table 18.

51 However, evidence in the record suggests that consumption of lime is likely to rise in the near future, particularly if pending clean air legislation is enacted. Supra at 7.

first few months of 1987, Bomintzha was assessed a very small cash deposit rate of 1.21 percent, instead of the 55.89 percent rate that it had been assessed since 1984 and that it is presently being assessed. Bomintzha's response to this significant decline in the cash deposit rate was rapid and pronounced. It increased its exports to the United States substantially from \*\*\* short tons in 1986 to \*\*\* short tons in 1987. 1/ This response strongly suggests that Bomintzha would increase exports to the United States if the outstanding order were revoked. The exclusive importer for Bomintzha in 1987 stated at the Commission hearing that such an increase likely would occur if the order were revoked. 2/

Other evidence confirms that imports likely would increase and indicates that imports might increase to quantities significantly higher than the volumes exported by Bomintzha to the United States in 1987. Bomintzha's pre-hearing brief stated: "\* \* \*." 1/ Bomintzha has estimated that it could export considerably more lime to the United States than it exported in 1987, i.e., up to \*\*\* tons of lime to the United States, if the order were revoked. 4/ This evidence is consistent with data submitted by counsel for Chemstar and Chemical Lime showing total Mexican imports prior to the CVD order of more than 70,000 tons, most of which was imported at the border near Bomintzha's production facility. 5/ Bomintzha's capacity and capacity utilization figures \* \* \* that import volumes could \* \* \*. t/

#### The Likelihood of Underselling 7/

The price data gathered by the Commission establish that Mexican quicklime, which is sold in much larger quantities than hydrate, has been priced consistently and significantly below the average prices of all U.S. producers and the average prices of producers in the Southwest region. 8/ Bomintzha's prices for quicklime during 1987 \* \* \*. 2/ \* \* \*, the small quantities of imported Mexican hydrate have been sold at prices higher than those offered by

1/ Supra at Table 15.

2/ Transcript at 48-49.

21 Pre-hearing Statement of Sonocal, S.A. at 13. As explained earlier in this report, Sonocal was the prior owner of Bomintzha's lime production facility. For ease of reference in this Chapter, the Commission refers to Bomintzha when discussing the facility that was previously owned by Sonocal and that has recently been sold to a new owner.

4/ Id.

5/ Statement of Position of Chemstar, Inc. and Chemical Lime, Southwest, Inc. at Exhibit 2.

6/ Supra at Table 15.

7/ Chairman Brunsdale does not join this section. She notes that differences in terms of sale cited by many respondents to Commission questionnaires would negate the price impact of imports from Bomintzha. Furthermore, any impact would be limited to Bomintzha's selling area in the United States, i.e., only 300-400 miles from Bomintzha's plant. Finally, as noted infra, prices fluctuated in 1987 as Mexican imports increased, revealing no consistent pattern of underselling.

8/ Supra at 34-42.

2/ See e.g., Supra at Table 24 and Table 25 (showing prices of Bomintzha's sole importer, Resource Managers).

U.S. producers. 1/ Bomintzha's limited imports of hydrate during 1987 were \* \* \* than other Mexican imports of hydrate and were \* \* \* the average prices of U.S. hydrate producers. However, Bomintzha's prices for hydrate in 1987 were \* \* \* than the average prices offered by U.S. hydrate producers in the Southwest region. 2/

The price data, particularly Bomintzha's prices in 1987, suggest that revocation of the CVD order likely would result in significant underselling with respect to imports of quicklime from Mexico, which accounts for by far the majority of Mexican lime imports. 3/

The Effect of Increased Imports on U S Producers and on the National Industry in the Event the Order is Revoked

Although these anticipated increases in import volumes would be significant and underselling by Mexican producers is likely, 4/ these increases in low-priced imports likely would have little effect nationally on lime prices or on the condition of domestic producers throughout the United States. Even at 1987 import levels, the import penetration ratios of Mexican quicklime and hydrated lime were less than 0.5 percent. V Not surprisingly, given the relatively insignificant import volumes, the 1987 price data do not show declines in national prices during the year when Bomintzha's imports increased. As table 22 shows, U.S. producer weighted-average f.o.b. prices for quicklime remained relatively constant in 1986 and 1987, before declining slightly in 1988. As table 23 reveals, weighted-average f.o.b. prices for hydrate fluctuated, \* \* \*.

Similarly, evidence regarding the condition of the national domestic industry between 1986 and 1988 does not show declines in performance during 1987, when Mexican imports increased, and then increases in 1988, when imports dropped again. For example, production of both quicklime and hydrate steadily increased from 1986 to 1988. 6/ Shipments of quicklime increased steadily and shipments of hydrate increased overall and increased during 1987. 7/ The number of workers employed nationally remained constant during 1986-88. k/ Net sales and aggregate operating income for quicklime steadily increased from 1986 to 1988. Although net sales of hydrate producers declined in 1987, they also declined in 1988. 9/ Only operating income data for hydrate producers declined in 1987 and then increased in 1988. 10/

1/ See Supra at Table 25.

2/ Supra at Table 23, Table 25.

V Vice Chairman Cass does not join in these statements respecting underselling. His analysis of the price data collected by the Commission in this investigation is set forth in his Additional Views, infra.

4/ Vice Chairman Cass does not join in these statements respecting underselling. His analysis of the price data collected by the Commission in this investigation is set forth in his Additional Views, infra.

5/ Supra at Table 17.

V Supra at Table 2.

2/ J. at Table 3.

1/ Id. at 11.

91 Id. at Table 6, Table 9.

12/ Id. at Table 9.

Assuming higher import levels in the future of \*\*\* tons, for example, 1/ the ratio of Mexican imports to domestic consumption of quicklime and hydrate would rise to \*\*\* percent. 2/ Consequently, any effects on the national industry would be greater if such import levels occurred. The Commission does not believe that this relatively insignificant increase in import volumes would significantly affect the prices or condition of the national domestic industry.

The Effect of Imports on Domestic Producers in the Southwest Region in the Event the Order is Revoked.

Given the particular regional nature of the market for quick and hydrated lime in the U.S., increased U.S. imports of Mexican lime would most likely effect those U.S. producers serving U.S. lime consumers near the U.S./Mexican border. 3/ Those Mexican lime plants located near the U.S./Mexican border would also be the most likely to export lime to the United States. 4/ With the exception of Bomintzha, a revocation of the 1.21% duty on imports from Mexican lime producers would affect those Mexican lime producers that are subject to the 1.21% duty and are within shipping distance of the U.S. border. They may increase their lime exports to the U.S. slightly. This would impact those U.S. lime producers throughout the Southwestern region serving consumers near the U.S./Mexican border. 5/

Chemstar's Douglas, Arizona plant, which is in the Southwestern region, would be the firm most affected by the reduction of Bomintzha's 55.89% duty. The Douglas plant is located directly across the border from Bomintzha and its sales are directed to the same geographic area as Bomintzha's. 6/ This area extends from Western Texas to Southern California, while the Mexican market is restricted to the Northwestern corner of Mexico. Bomintzha is also limited in the extent to which it can increase its domestic sales in Mexico 7/ so any excess production, beyond Bomintzha's production of lime for the Mexican

1/ Prehearing Statement of Sonocal at 13.

2/ Calculated from data at Table 1.

3/ This area would extend up to 300 or 400 miles into the U.S. from the U.S./Mexican border i.e. the area roughly defined as the Southwestern lime industry.

4/ For a Mexican producer located near the U.S./Mexican border not to export to the United States would imply that the firm faces a loss of close to half of its total potential marketing area. A Mexican firm not exporting to the U.S. would be better served to locate deeper in Mexico to increase its total marketing area. Conversely, a Mexican firm locating near the U.S./Mexican border would most likely be choosing that location, proximity to lime deposits aside, with the intent of exporting a portion of its lime production to the United States.

5/ Responding purchasers generally agreed to the physical substitutability of domestically produced lime and lime imported from Mexico but noted major differences in marketing, availability and the reliability of service.

6/ In other words, Douglas's and Bomintzha's location in Arizona and Sonora States respectively, suggest that shipments in significant amounts to third country export markets would be unlikely.

7/ Again, the demand for lime is a derived demand. Bomintzha could possibly increase its sales in Mexico if it displaced other Mexican producers' sales which may then be diverted to the United States.

market, would be directed toward the U.S. and primarily to the area served by the Douglas plant.

Chemstar's other lime plants in Arizona, Nevada and California would also be affected but to a lesser degree than the Douglas plant 1/ as they are within the 300 to 400 mile delivery radius of the Bomintzha plant. 2/ The lime plants in Texas are located outside of the Bomintzha delivery radius but would compete with Bomintzha for lime customers in some overlapping delivery areas.

Despite the regional nature of the lime industry, the concentration of imports in the region has not resulted in a sizeable market penetration in the region during the period of investigation. Mexican imports only accounted for 3 percent of apparent consumption in the Southwest region in 1987. 2/ As discussed below, data relating to hydrate producers in the region reveal some declines during 1987, when Bomintzha increased its lime imports to the United States. Notably, however, Bomintzha's share of apparent U.S. consumption of hydrate in the region was only \*\*\* percent. 4/ Of course, greater market penetration could occur if the order were revoked and imports subsequently increased to volumes higher than 1987 levels.

In order to predict the likely effect of revocation on producers in this region, the Commission has first examined the performance and prices of those producers during 1987, *i.e.* when Bomintzha's imports increased. 5/ Even though consumption of lime increased during 1987, production and shipments of lime produced in the region declined. 6/ Production capacity and capacity utilization for lime also declined during 1987. 7/ Similarly, the number of workers producing quicklime and hydrate declined, as did the hours worked by those employees. 8/ The operating income of quicklime and hydrate producers in the region also declined in 1987, as did their operating income margins. // By contrast, productivity and compensation increased. 10/ Net sales of quicklime producers also increased in 1987 but net sales of hydrate producers declined. 11/ With respect to prices, both hydrate and quicklime prices in 1987 fluctuated but were not consistently or significantly below 1986 prices. 12/

For the most part, these trends reveal the experiences of all lime producers in the region and therefore combine for purposes of analysis the experiences of both quicklime and hydrate producers. This aggregation of data

1/ See Chemstar's estimates at Table 8 of the report.

2/ See supra at 6 and map in appendix.

2/ Supra at Table 18.

4/ In 1988, Bomintzha's share of domestic consumption within the region of hydrate dropped to \*\*\* percent. (Calculated from data at Table 1 and Table 15. V Vice Chairman Cass does not join in the remaining portion of this section of the report. His analysis of the likely effects of revocation of the order on the Southwest regional industry are set forth in his Additional Views.

6/ Production and shipments of quicklime increased slightly but the production of hydrate dropped moderately. Supra at Table 2, Table 3.

2/ Supra at Table 2.

R/ Supra at Table 4.

1/ Supra at Table 7, Table 10.

12/ Supra at Table 4.

11/ Supra at Table 7, Table 10.

12/ Supra at Table 22, Table 23.

relating to quicklime and hydrate producers may create an impression of the industry that is less than completely accurate. Almost all of the economic indicators relating to quicklime producers showed increases during 1987, whereas almost all of the indicators showed decreases with respect to hydrate producers. For example, production, shipments, capacity utilization, and net sales of quicklime producers increased. 1/ All of these indicators decreased with respect to hydrate producers in the region. 2/ This divergence in experience is not surprising because the consumption of hydrate in the region decreased by 20.7 percent from 1986 to 1987. 1/ By contrast consumption of quicklime in the region increased by 10.4 percent during the same period. A/

In order to assess whether the trends experienced by hydrate producers in the region were related to the higher volumes of imports from Bomintzha in 1987, the Commission has also examined the same factors in 1988. For all lime producers combined, almost all of the declining trends in 1987 were reversed in 1988. For example, overall lime production, shipments, and capacity utilization in the region increased in 1988. 5/ Net sales and operating income of both quicklime and hydrate producers increased. 6/

However, a separate examination of hydrate producers shows that many of the economic indicators relating to their operations continued to decline in 1988, even though Mexican imports declined. Production, shipments, and capacity utilization figures declined for hydrate producers in the region during 1988. 7/ This corresponded to a decline in apparent U.S. consumption of hydrate for the region. a/

As discussed above, imports from Bomintzha could increase to levels significantly above 1987 levels. In that event, any effects on the regional industry are likely to be greater than the effects evident during 1987.

In conclusion, the impacts of the Mexican exports from Bomintzha and other Mexican lime producers would be felt by Southwestern U.S. lime producers but not to the extent that they would be materially injured or be threatened with material injury given the present condition of the lime industry in the Southwest.

The Effect of Imports on Chemstar's Douglas Plant  
in the Event the Order is Revoked

The 55.89% duty deposits by Bomintzha currently limit its shipments, production, export decisions and possibly its decision to not immediately

1/ Supra at Table 2, Table 3, Table 7.

2/ Supra at Table 2, Table 3, Table 10.

3/ Calculated from data at Table 1.

A/ Id.

V Supra at Table 2, Table 3.

V Supra at Table 7, Table 10.

7/ Supra at Table 2, Table 3.

B,/ Supra at Table 1. Prices of hydrate in 1988 fluctuated. They were not consistently above or below 1987 prices.

correct its plant deterioration. 1/ Removal of Bomintzha's 55.89% duty or its reduction to 1.21%, as preliminarily determined by Commerce 2/, would provide a strong incentive for Bomintzha to repair its plant, increase its production and export to the United States. 2/

The impact on the Douglas plant would not be insignificant as Bomintzha's ability to produce beyond its domestic market requirements is considerable relative to Douglas's productive capacity and to U.S. consumption in the Douglas - Bomintzha geographic region. 4/ Bomintzha could have excess capacity of \*\*\* tons or more beyond its domestic Mexican deliveries if its plant were running at full capacity. 1/ This level of exports to the U.S. could displace up to \*\*\* of Douglas's 1988 production or supply up to about \*\*\* of the total consumption of the Southwestern market. 6/ Whether Bomintzha could reach 100% capacity utilization and export over \*\*\* tons to the U.S. is uncertain, but Bomintzha most certainly did demonstrate its ability to export more than \*\*\* tons in 1987 while serving its own domestic market during a brief period of a reduction in duties.

In conclusion, the impact of Mexican imports on the U.S. market is limited by the marketing area serviced by any one lime producer. The imports resulting from a reduction or removal of the existing CVD order on Mexican lime imports would not materially injure or threaten with material injury the U.S. lime industry or the regional industry (as defined in 19 U.S.C. § 1677) in the Southwest.

1/ Bomintzha may be facing an investment decision in which repairing and maintaining the plant and producing for only the Mexican market will not lower long run average costs sufficiently to be able to, fully compete in the Mexican market. But if it was able to export lime to the United States duty free in addition to supplying its Mexican market, the economies of scale attained could be such that it could lower its long run average costs sufficiently to be fully competitive in both markets. We note that Bomintzha is still supplying its domestic market in 1988 but at less than half its 1987 levels; it therefore appears to be able to supply part of its domestic market but is not able to justify further repairs and maintenance to compete in the remainder of its domestic market.

2/ 54 F.R. 1753. (Jan 17, 1989).

2/ This would raise the effective price that Bomintzha receives from its lime exports. Bomintzha would then have considerable incentive to repair and maintain its lime producing plant to recover its capital investments and to achieve economies of scale. There are also limited production alternatives for lime producing facilities already in place.

4/ Bomintzha's counsel noted that under the right conditions Bomintzha could produce up to \*\*\* tons per year for export to the United States. The Douglas plant produced \*\*\* short tons in 1988 (supra at Table 7) and the Southwest region produced 1,982,000 short tons of quicklime and hydrated lime in 1988. Apparent consumption in the Southwest region was about 1,951,000 tons of quicklime and hydrated lime in 1988 (supra at Table 18).

5/ See Table 15 in years 1986 and 1987.

6/ See Table 18.



## ADDITIONAL VIEWS OF VICE CHAIRMAN RONALD A. CASS

Conditions of Competition Between U.S. and  
Mexican Lime in the United States Market  
Inv. No. 332-271

The information collected by the Commission in this investigation indicates that no domestic industry would be materially injured or threatened with material injury if the order is revoked.<sup>1/</sup> If the countervailing duty order is revoked, the effects of this action on all domestic lime-producers as a group would be essentially inconsequential. As a result of the high cost of transporting lime, market penetration by lime from Mexico in the United States as a whole is, and would remain, de minimis, and Mexican lime would have little, if any, impact on prices of lime sold outside the Southwest region of the United States.

Although the effects of revocation of the order would be concentrated on the industry producing lime in the Southwest region, the adverse effects on that industry likewise would not amount to material injury as that term is understood in Title VII of the Tariff Act of 1930. Presently, Mexican lime imports account for only a small portion of the lime sold in the Southwest market; in 1988, Mexican lime imports were equal to approximately two percent of lime consumed in the Southwest region. As previously indicated in Chapter 4 of this report, the producer that has historically accounted for the vast majority of Mexican exports to the United States, Bomintzha, has a maximum export potential capacity of approximately \* \* tons. If Bomintzha were in fact able to devote the full amount of its export capacity to production for export to the United States,

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1/ Material retardation is not an issue in this investigation because the national and regional lime-producing industries are both well established.

In accordance with the request of USTR, I have reached these conclusions by using the definitions of material injury, threat of material injury and material retardation that are provided by 19 U.S.C. § 1677. In so doing, I do not express any view respecting the question whether the Commission's findings in this investigation may be used as an injury determination in satisfaction of the requirements of U.S. law and the GATT. It should be noted, however, that certain parties to this investigation have challenged vigorously any such prospective use of the results of this investigation. See Prehearing Brief of Refracatarios Basicos, S.A. at 2-17; Pre-Hearing Statement of Sonocal, S.A. at 4-7 ("Sonocal Prehearing Statement").

and were in fact able to market all of this production in the Southwest region, it would still account for no more than five percent of the current level of lime consumption in that region. Further, evidence provided to the Commission by Bomintzha, and confirmed by the Commission, indicates that it is highly unlikely that anything approaching the full \* \* tons of potential exports would in fact be exported to the United States in the short or medium term. Bomintzha's physical plant is

\* \* \* \* \*  
 \* \* \* \* \* .2/ Moreover, according to both Bomintzha and domestic lime purchasers surveyed by the Commission, even if Bomintzha were operating at full theoretical capacity, it might take a number of years for the firm to establish itself as a reliable source of supply to the U.S. market.<sup>2/</sup> Accordingly, even the most rudimentary examination of the factual record reveals that the effects of revocation of the order on the Southwest regional industry would be quite limited.<sup>4/</sup>

Careful economic analysis of the factual record confirms this proposition. In this investigation, the Commission's Office of Economics has evaluated the factual information in a manner that permits more specific estimates of the effects that revocation of the order would have on prices and sales of domestically produced lime, including lime produced in the Southwest region. These estimates were produced through use of a computable market-simulation model developed by the Commission's Office of Economics, which is known as the "Comparative Analysis

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2/ Sonocal Prehearing Statement at 12.

2/ Sonocal Prehearing Statement at 12; USITC Memorandum EC-M-224 (June 27, 1989) from the Office of Economics at 12, n. 23 ("USITC Economic Memorandum").

4/ In that context, I note that I do not believe that the price data collected by the Commission in this investigation indicate that Mexican lime is likely to cause a decline in prices of the domestically produced product through "underselling". The majority of domestic purchasers surveyed advised the Commission that there are major differences between Mexican lime and domestically produced lime in terms of availability and reliability of supply, and the services provided in connection with sales of the product; the Mexican product is deemed inferior in these respects. USITC Economic Memorandum at 12-13. So far as the record of this investigation reveals, these differences are the most likely explanation for any disparities between the prices of the imported and domestic products.

of the Domestic Industry Condition" or "CADIC" model.<sup>5/</sup> The CADIC model generates estimates of changes in the prices and quantities sold of a domestic industry's like product that occur as a result of subsidization or dumping, given various data relating to import volumes, subsidization or dumping margins, and the markets for the imports and the domestic like product. In this investigation, the model was used to quantify the effects of the revocation of the order on prices and sales of domestically produced lime by estimating the domestic price and sales effects of the subsidies that are currently offset by the order; if the order is revoked, these effects will no longer be offset, and the full effects of the subsidies will be felt by the national and regional domestic industries.<sup>5/</sup>

In performing this analysis, the Office of Economics assumed that the subsidies in question would cause a decrease in the price of the imports produced by Bomintzha equal to the full amount of the duty rate applicable to those products, even though subsidization might in fact cause a smaller decline in import prices.<sup>7/</sup> This assumption is noteworthy as the decline in import prices rarely will be equivalent to the full rate of subsidy as measured by the Department of Commerce. The divergence between the measured subsidy rate and the actual change in import prices, however, cannot be specified simply. Subsidies can have very different characteristics. Some subsidies may be direct payments for exports. Other subsidies may be payments for production regardless of the destination of the production. Still other subsidies may be payments for the use of particular inputs to

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../ The analytical framework underlying the CADIC model is explained in detail in Office of Economics, Assessing the Effects on the Domestic Industry of Price Dumping, USITC Memorandum EC-L-149 (May 10, 1988).

5/ Specifically, the effects of the subsidies were estimated by considering the effects of Bomintzha's subsidized exports on domestic prices during 1987; during the first part of 1987, those exports were subject only to the minimal 1.21% duty applicable to the other Mexican producers covered by the CVD order. Due to data limitations, the Office of Economics assumed that the 1.21% duty had an "insignificant effect" on the exports of these other producers. See USITC Memorandum EC-M-225 (June 27, 1989) from the Office of Economics at 1, n. 2. This assumption appears reasonable in light of the estimates developed by the staff for Bomintzha's U.S. exports, which are shown to have produced only minimal price and sales effects even though subsidized at a much higher rate.

7/ See USITC Memorandum EC-M-225 (June 27, 1989) from the Office of Economics at 2, n. 2.

production, including the location of production. The effect of these different subsidies will differ, and in each case a careful evaluation of the manner in which the subsidy operates is necessary to determine whether and by how much the subsidy lowered the price and altered the volume of imports.

In this investigation, however, insufficient information is available to allow precise assessment of the degree to which the alleged subsidies have affected import volumes and prices. Accordingly, the staff assumed that the subsidies would cause the prices of the Mexican imports to decline by the full amount of the subsidies. Thus, the estimates generated by the staff may overstate the actual effects that subsidization (and, concomitantly, revocation of the order) are likely to have on prices and sales of the domestic like product. Certain of the estimates generated by the staff may also be overstated because they are based upon information concerning certain key issues taken into account by the model -- for example, the extent to which domestic consumers are willing to substitute imported lime for domestically produced lime and vice versa in response to changes of the prices of those products -- that are intended to produce estimates of the maximum effect that revocation of the order would have on prices and sales of domestically produced lime.

Nevertheless, even the maximum estimates generated by the staff indicate that revocation of the order would not have a significant effect on prices or sales of domestically produced lime. Assessed on a nationwide basis, the estimated effects are essentially trivial -- revocation of the order is estimated to reduce domestic prices and sales by no more than .5%. The estimated effects on the Southwest regional industry are somewhat larger, but amount, at most, to approximately 1%.a/

Effects of this magnitude would not produce material injury to the Southwest lime producing industry. In this regard, it is worth noting that the financial data gathered by the Commission indicate that the industry is thriving. Industry profits, as measured by total operating income, nearly tripled in 1988, and the industry is earning healthy returns on its fixed and total

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./ At the request of one Commissioner, the Office of Economics produced one set of estimates that appear to be somewhat larger. See USITC Memorandum EC-M-232 (June 29, 1989) from the Office of Economics. However, these figures are not meaningful because they are, in essence, predicated on the assumption that Bomintzha will already be selling \* \* tons of imports in the United States at the time the order is revoked. Based on experience, as reflected in current and past levels of imports, this assumption is not realistic.

assets. After experiencing a slight downturn in 1987, employment in the industry, as measured by total employment and hours worked, increased in 1988. Wages and other compensation paid to the industry workforce have also increased. In short, the Southwest lime industry is by no means in a precarious condition; under the statutory definition of material injury that USTR has requested us to use in this investigation, this is a factor that must also be taken into account in evaluating whether the revocation of the order would have a material adverse impact on the industry.

Finally, the findings by the Commission in this investigation do not support a finding that revocation of the order would threaten either the national or Southwest regional industries with material injury. As previously indicated, the information developed by the Commission in this investigation suggests that the maximum potential effects of a revocation of the order on prices and sales of domestically produced lime are quite small. In order to support a finding that a threat of material injury exists in the statutory sense of the term, the Commission would require evidence that would support an inference that Mexican imports would threaten real and imminent material harm to a domestic industry if the order were revoked. No such evidence has been developed in this investigation.



## Findings of Commissioner Eckes

These views are offered in response to the request of the United States Trade Representative (USTR) made under the authority of section 332(g) of the Tariff Act of 1930 which asks the Commission whether the probable economic effect on an industry in the United States of revocation by the Department of Commerce of the outstanding countervailing duty order on Lime from Mexico would be such that (1) an industry in the United States would be materially injured, or would be threatened with material injury, or (2) the establishment of an industry in the United States would be materially retarded.<sup>1/</sup>

Based on the information developed in this investigation, I conclude that removing the outstanding countervailing duty order would not result in material injury or the threat of material injury to an industry producing lime in the United States. In view of the past and present performance of the domestic lime industry and the conditions of competition in the relevant market, the removal of the countervailing duty order will not cause a significant increase in the volume of imports of lime from Mexico nor will it have a significant effect on the prices of lime in the relevant market.

Before I provide the rationale for my analysis, there are certain procedural matters which should be addressed. While I essentially concur with the factual information contained in the Executive Summary, I offer these separate views to explain more fully my approach in responding to this request. In providing my advice, I have relied upon the information in the report, together with other information provided in briefs, submissions, and the public hearing.<sup>2/</sup>

Second, these views are offered to comply with my understanding of the USTR's request and fulfill the Commission's

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J There is an industry established in the United States; none of the participants in this investigation addressed this point as an issue in this investigation.

2/ The information discussed in these views is contained in the Commission report, unless otherwise indicated.

obligation to provide the information requested.<sup>2/</sup> Although much has been said about the propriety, if not the legality of this procedure, I leave it to others to debate the merits of those concerns.j/

Finally, in providing my analysis I pursued a two-step approach. Initially, I considered the probable impact removal of the subject order would have on imports of the subject merchandise, basically an analysis of probable import behavior. Then, I considered the impact of such imports on the domestic industry under consideration.

#### Like product and domestic industry

To determine whether revocation would result in material injury or threat of injury to an industry in the United States, the Commission should first determine the relevant domestic industry. From the requesting letter it is evident that Commission should look to certain title VII provisions for guidance in framing its report and analysis. Just as material injury or threat are specifically provided for in the statute, so are the concepts of "like product" and "domestic industry." The term, "like product" is defined by statute as "a product which is

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2/ In relevant part, the USTR requested the Commission:

[i]n investigating whether revocation of the order would result in a U.S. industry being materially injured or threatened with material injury, or the establishment of an industry being materially retarded, the Commission should inquire into the following elements: (i) the volume of imports of the merchandise that is the subject of investigation, (ii) the effect of imports of the merchandise on prices in the United States of like products and (iii) the impact of such imports on domestic producers of like products.

The requesting letter also points out that these terms are defined at 19 U.S.C. section 1677. Thus, my analysis in this investigation comports with the technical definitions of these terms as well as other related provisions contained in the statute.

A/ Many of the questions and concerns about this procedure are effectively raised in the "Legal Issues" section of the post-hearing statement offered by Sonocal, S.A. at pp. 6-8.



like, or in the absence of like, most similar in characteristics and uses with, the article subject to investigation . . . ."5/

In this investigation, I have found the appropriate "like product" to be lime, including both quicklime and hydrated lime. Both types of lime are presently covered by the single outstanding order and are subject to the assessment of duties. Further, those participating in this investigation did not propose any different formulation of the like product. My own review of the information gathered does not suggest a different conclusion. Therefore, my advice is based on the assessment of the impact of imports of lime on the domestic producers of lime.

In turn, the statute defines "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 portion of the total domestic production of that product." However, because of the nature of lime, a regional industry analysis is appropriate in this investigation. Lime is a heavy, low-value, fungible product that is not shipped more than 300 to 400 miles from the plant./ Thus, most imports of lime from Mexico extend only a few hundred miles beyond the border into the United States, depending upon the location of the plant in proximity to the border. Likewise, most domestic production within the Southwest similarly is not transported long distances to areas beyond the region.

The statutory provision which permits the Commission to consider the effect of imports on a regional industry provides a relevant framework for analyzing regional industry issues in this section 332 investigation. The statute states:

In appropriate circumstances, the United States, for a particular product market, may be divided into 2 or more markets and the producers within each market may be treated as if they were a separate industry if--

- (i) the producers within such market sell all or almost all of their production of the like products in question in that market, and
- (ii) the demand in that market is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States.

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J 19 U.S.C. 1677(10).

6./ Transcript at 17.

In such appropriate circumstances, material injury, [or] threat of material injury...may be found to exist with respect to an industry even if the domestic industry as a whole...is not injured, if there is a concentration of subsidized or dumped imports into such an isolated market and the producers of all or almost all, of the production within that market are being materially injured or threatened by material injury...by reason of the subsidized or dumped imports.<sup>2/</sup>

For purposes of this investigation, I find that a regional industry exists, consisting of Southern California, Arizona, Southern Nevada, New Mexico, and Texas ("Southwest Region"). Specifically, information developed in this investigation indicates that all or almost all past Mexican imports of lime have been sold and future imports are likely to be sold in this region due to the considerable transportation costs associated with shipping lime.<sup>A/</sup> Thus, all or almost all imports from Mexico have been concentrated in this region. Further, domestic producers within the region sell about 92 percent of their production in that region, and only 10.5 percent of demand is supplied by producers located elsewhere in the United States.

#### Likely Effect of Revocation of the Order on Lime

In examining the likely effect of removal of the order on import volumes and prices, I considered the past behavior and performance of foreign producers and importers; the capacity and capacity utilization levels of lime producers in Mexico that are near the U.S. border; the stated intent of foreign producers and importers regarding future export plans; and the amount of the duty imposed under the outstanding order. The CVD order covering lime from Mexico has been in effect since September, 1984. The volume of imports of lime from Mexico during the period 1986-1988 fluctuated. Imports increased to 56,000 tons in 1987 from 14,000 tons in 1986. In 1988 imports declined to

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I/ 19 U.S.C. 1677(4) (C) .

11/ In some Title VII investigations, regional boundaries have been determined more by geographic barriers, such as the recent preliminary investigation regarding Aluminum Sulfate from Venezuela (Invs. Nos. 701-TA-299 and 731-TA-431 (Preliminary) USITC Pub. 2189 (May 1989)). In other circumstances, such as in this instance, the boundaries of the region may be determined more by the commercial realities associated with the transportation costs of the like product.

31,000 tons. As a share of consumption in the Southwest Region, imports were 1 percent of consumption in 1986, increased to 3 percent in 1987, then declined to 2 percent in 1988.

The Commission obtained information on two producers in Mexico which export to the United States: Bomintzha/Sonocal (Bomintzha) and Refractarios Basicos, SA (Rebasa). As the result of the countervailing duty investigation, Sonocal was assessed the CVD deposit rate of 55.89 percent while all other Mexican lime producers not already excluded from the scope of the order were assessed a 1.21 percent deposit rate. At that time, Sonocal ceased exporting to the United States.

The other Mexican exporter Rebasa has been subject to the low "all other" rate since 1984. Although less information is available for this producer, export data indicate that 1988 exports declined. Other data on home-market shipments and exports suggest that Rebasa has reduced productive capacity, reduced utilization, or increased inventories.<sup>2/</sup> Thus, its export behavior over the three-year period under the low rate does not indicate a significant potential increase in imports should the order be removed.

In January 1987, after Bomintzha purchased Sonocal, Bomintzha began exporting again to the United States and accounted for a substantial share of Mexican exports. This occurred at the same time Customs was directed to assess Bomintzha the lower "all other" deposit rate of 1.21 percent. The lower rate remained in place until April 1987, when Commerce instructed Customs to assess the 55.89 deposit rate pending a determination of whether Bomintzha's exports were entitled to the "all other" rate. In response to the reassessment of the much higher duty, Bomintzha's exports dropped sharply in 1988 to nominal levels.

Current information confirms its capacity has been restricted by the deterioration of its production facilities, and that at least a year would be necessary to repair the plant. Production levels have declined over the period; and there is at present no inventory overhang which would suggest imminent ability to export. Moreover, the bulk of Sonocal's production

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<sup>2/</sup> It is unlikely that there has been a significant increase in Rebasa's inventory levels. In this industry, low inventories are maintained because of the short storage life of the products, especially quicklime which accounts for a substantial portion of imports from Mexico.

remains dedicated to the domestic Mexican market. 1§1/ Therefore, despite increased exports during 1987 in apparent response to the lower duties, it is unlikely that this producer could significantly increase imports to the U.S. in the short term if the order were removed.

Price data supplied by U.S. producers in the Southwest region show that although domestic lime prices fluctuated during the period, there was no pattern of domestic price decline during the three-year period 1986-1988. Of particular importance is the absence of information indicating significant price suppression in 1987, as imports increased. Similarly, importers' price data do not reveal any decline, and in fact suggest a stable or increasing trend for import prices for lime during the period. Limited price data from purchasers of Mexican lime indicate that prices paid generally increased during 1987 and 1988. In sum, available price data for domestic and imported lime do not suggest that imports during the period have had a significant impact on pricing, nor do these data suggest that in the near term that domestic prices would be adversely affected.11/

#### Condition of the Domestic Industry

Having determined that removal of the outstanding order on lime from Mexico would have an insignificant effect on the volume of such imports or on the prices in the U.S. market, I also considered the impact of these changes on the domestic market.22/ I examined the condition of the industry,

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.11)/ Response to Request for Information of Sonocal, S.A., p. 5. and Transcript at 50-51.

11/ In analyzing price data, I considered data for all lime from Mexico, and did not place particular emphasis on a separate analysis for quick and hydrated since I found a single like product--all lime.

1a/ The request asked the Commission to inquire into the impact of these imports on domestic producers of like products. The focus of these findings is on the impact of imports on a regional industry. For purposes of providing this analysis, I also considered the impact of these imports on the national industry. Because of the minimal amount of imports compared with the level of total U.S. production and the size of the U.S. market, I conclude that removal of the order would have no adverse effect on a domestic industry consisting of all producers in the United States.

considering those factors set forth in the statute, as amended by section 1328 of the Omnibus Trade and Competitiveness Act of 1988: domestic production and consumption, capacity and capacity utilization, shipments, inventories, employment, wages, financial performance and existing development and production efforts within the context of the business cycle and conditions of competition that are distinctive to the domestic industry.<sup>12/</sup>

Unlike most other regional markets, Southwestern lime producers are not tied to the fortunes of the steel industry but rather are more directly affected by demand generated by the copper industry. The primary copper industry consumes approximately 20 percent of all lime consumed in the Southwest region. The U.S. primary copper industry, virtually all of which is located in the Southwestern region, has rebounded sharply in the past two years, and the demand for lime doubled between 1986 and 1987 from 335,000 short tons to 677,000 short tons, and increased slightly to 682,000 short tons in 1988. In the Southwest region, consumption of all lime increased by 8 percent for the period 1986-88.

It is apparent that overall, the regional lime producers are sharing in the upturn in consumption in their region and it is unlikely that removal of the order will adversely affect the producers as a whole in the region.<sup>11/</sup> Production and capacity utilization levels of lime producers in the region have remained relatively stable during the recent three-year period, showing modest upturns during 1988. Domestic shipments in the region followed similar trends. Because of the nature of the product, inventories are typically nominal in this industry. In the Southwest region, the number of workers employed increased by 8 percent from 1986 to 1988. Other employment indicators reflect similarly favorable trends.

Financial information submitted by producers within the Southwest regions underscores that the industry has benefited from the upturn in consumption trends in the region. Operating margins were quite favorable in 1986; by 1988 these margins had doubled.

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1a/ 19 U.S.C. 1677(7)(C)(iii), as amended.

1Aj Although individual producers within the region may experience some problem with imports as the result of removal of the order, my conclusions are based on the assessment of the impact of removal of the order on the producers as whole in the region, consistent with 19 U.S.C. 1677(4).

Conclusion

It is likely that there will be some increase in imports of lime from Mexico upon removal of the outstanding order and that there may be some instances of adverse price impact associated with these increases, particularly on some individual producers in the region. However, I conclude that in view of the strong performance of the producers as a whole in this region that potential import volumes and any price impact would not be such that an industry in the United States would be materially injured, or would be threatened with material injury if the outstanding countervailing duty order were to be removed.

APPENDIX A

THE COMMISSION'S NOTICE OF INVESTIGATION





**FOR FURTHER INFORMATION CONTACT:** Elizabeth Haines (202-252-1200). Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20438. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

#### Background and Scope of Investigation

On February 8, 1989, the Commission received a request from the USTR (copy attached) to "conduct an investigation into, and report to the President on whether, the probable economic effect on an industry in the United States of revocation by the Department of Commerce of the outstanding countervailing duty order on lime from Mexico, 49 FR 35872, would be such that (1) an industry in the United States would be materially injured, or would be threatened with material injury, or (2) the establishment of an industry in the United States would be materially retarded." USTR further stated that the terms used in its request are defined at 19 U.S.C. 1877.

#### Public Hearing

The Commission will hold a public hearing in connection with this investigation beginning at 9:30 a.m. on May 18, 1989, at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. All persons will have the opportunity to appear by counsel or in person, to present information, and to be heard.

Requests to appear at the public hearing should be filed with the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20438, not later than the close of business (5:15 p.m.) on May 10, 1989. If the number of persons requesting an opportunity to appear by counsel or in person is large, limitation of time for the presentation of oral testimony is in the public interest to ensure that all viewpoints are aired. Accordingly, in scheduling appearances at the hearing, the time to be allotted to witnesses for the presentation of oral testimony will be limited. The Commission will determine appropriate allocations of time based on the number of persons requesting an opportunity to appear. Questioning of witnesses will be limited to members of the Commission and its staff and witnesses should be prepared to provide additional

information in response to such questioning.

Any written materials presented at the hearing must be submitted in accordance with the requirements of § 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8).

#### Written Submissions

Interested persons are invited to submit written statements in the form of one prehearing and/or one posthearing statement (as described below) concerning the investigation, in lieu of, or in addition to, appearances at the public hearing. Commercial or financial information that a submitter desires that the Commission treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of 4 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8).

A signed original and fourteen (14) copies of each written statement must be submitted to the Commission in accordance with § 201.8(d) of the Commission's rules (19 CFR 201.8(d)). All written submissions, except for confidential business information, will be made available for inspection by the public during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Persons who intend to submit a written statement to the Commission should so inform the Secretary of the Commission no later than the close of business on May 10, 1989. To be assured of consideration by the Commission, a prehearing statement should be submitted not later than the close of business on May 15, 1989. Posthearing statements must be submitted not later than the close of business on May 25, 1989.

The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who have requested an opportunity to appear at the public hearing or who have indicated an intention to submit a written statement. The service list will be made available to the public on May 11, 1989. The Commission encourages all persons or counsel therefor filing a written statement with the Commission to serve a non-confidential copy of such statement on each person on the service list.

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#### Release of Data

A public version of the tables prepared for inclusion in the Commission's report will be released to

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[Investigation No. 332-2711

#### Ume From Mexico; Investigation and Hearing

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

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**SUMMARY:** Following receipt on February 8, 1989, of a request from the U.S. Trade Representative (USTR), the Commission instituted investigation No. 332-271 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) (the act). As requested by USTR, the Commission will report to the President on the probable economic effect on an industry in the United States of revocation by the Department of Commerce of the outstanding countervailing duty order on lime from Mexico, provided for in subheadings 2522.10.00, 2522.20.00 and 2522.30.00 of the Harmonized Tariff Schedule of the United States. In accordance with USTR's request, the Commission will submit its report to the President within 150 days of the date of the request, or by July 10, 1989.

EFFECTIVE DATE February 8, 1989.

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the persons on the service list on May 5,  
1089.

By order of the Commission.

**Kenneth R. Mason,**  
*Secretary.*

Issued: March 7, 1989.

(FR Doc. 89-8036 Filed 3-14-89 8:45 am)

11111.1ING CODE 7020-03-111

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THE UNITED STATES TRADE REPRESENTATIVE  
 Executive Office of the President  
 Washington, D.C. 20506 .

FEsl op'aidaiyOk, 1989

The Honorable Anne E. Brunsdale<sup>CEC;;</sup>  
 Acting Chairman  
 U.S. International Trade Commission  
 500 E Street, S.W.  
 Washington, D.C. 20436

Dear Chairman Brunsdale:

Pursuant to the authority of section 332(g) of the Tariff Act of 1930 (the "Act") (which the President has delegated to the U.S. Trade Representative), and at the urging of the Secretary of Commerce, I request that the U.S. International Trade Commission conduct an investigation into, and report to the President on whether, the probable economic effect on an industry in the United States of revocation by the Department of Commerce of the outstanding countervailing duty order on Lime from Mexico 49 Fed. Reg. 35672 would be such that (1) an industry in the United States would be materially injured, or would be threatened with material injury, or (2) the establishment of an industry in the United States would be materially retarded.

At the time the order on Lisa was issued, Mexico was not entitled to an injury test under U.S. and international law. Accordingly, countervailing duties were imposed upon these products despite the absence of a determination that these entries were harming the relevant domestic industry. On August 24, 1986, Mexico acceded to the General Agreement on Tariffs and Trade ("GATT"). Consistent with its earlier positions in ?listeners from India (47 Fed. Reg. 44129) and Wire Rod from Trinidad and Tobago (50 Fed. Reg. 19561), the Department of Commerce has concluded that it lacks the authority under Article VI of the GATT and section 303(a)(2) of the Act, to levy countervailing duties on Mexican duty-free imports of lime if there has not been a prior affirmative injury determination. Therefore, in order to fulfill our international obligations, and to ensure the continued enforcement of America's unfair trade laws, the Department of Commerce has urged me to make this request to the Commission.

To determine whether there is sufficient interest in the investigation, the Commission may, if necessary, after institution of the investigation, publish a notice in the Federal Register that invites any person expressing an interest in the continuation of the investigation to provide information regarding the probable economic effect of any revocation of the order. If the Commission concludes, on initial review, that there is insufficient interest, the Commission may so advise and terminate the investigation.

Honorable Anne E. Brunsdale  
Page Two


In investigating whether revocation of the order would result in a U.S. industry being materially injured or threatened with material injury, or the establishment of an industry being materially retarded, the Commission should inquire into the following elements: (i) the volume of imports of the merchandise that is the subject of investigation, (ii) the effect of imports of the merchandise on prices in the United States for like products and (iii) the impact of such imports on domestic producers of like products. The terms used above are defined at 19 U.S.C. section 1677.

In light of the considerable importance of this investigation to the United States, the Commission should submit its report, together with the information that provided the basis for the report (including confidential business information), within 150 days of the date of this request. In this regard, in accordance with section 332(g) of the Act, as amended by section 1613 of the Omnibus Trade and Competitiveness Act of 1968, the Commission should inform all parties that may submit information that the Commission considers to be confidential business information that such information will be forwarded to the Department of Commerce.. Any confidential information in the report will be examined by only those officials and employees in the Office of the U.S. Trade Representative and the Department of Commerce who are directly involved in reviewing the Commission's report. In addition, Commerce may release some confidential information under protective order.

The Commission's report should be submitted in confidence, with all business confidential information contained therein clearly identified. Concurrently, with the submission of the report, a public report with all business confidential information removed should be issued.

Thank you for your cooperation in this matter.

Sincerely,

  
Alan F. Molnar  
Acting

AFH:kw

APPENDIX B

COMMERCE'S FINAL DETERMINATION



determined *de minimis* estimated net bounties or grants.

**EFFECTIVE DATE:** September 11, 1984

**FOR FURTHER INFORMATION CONTACT:** Kenneth Haldenstein or Vincent Kane. Office of Investigations, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-4136 or 5414.

**SUPPLEMENTARY INFORMATION:**

Final Determination and Order

Based upon our investigation, we determine that certain benefits that constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers or exporters in Mexico of lime as described in the "Scope of Investigations" section of this notice. For purposes of this investigation, the following programs are found to confer bounties or grants:

- Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX)
- Import Duty Reductions and Exemptions
- Fund for Industrial Development (FONEI)
- Preferential Federal Tax Incentives (CEPROFI)
- Guarantee and Development Fund for Medium and Small Industries (FOGAIN)
- Certain Equity Infusions
- Loans from Mexican Trust for Nonmetallic Minerals
- Delay of Payment of Fuel Charges
- Delay of Payment on Other Loans
- Loans from the Mexican National Bank for Foreign Trade (BANCOMEXT)

We determine the estimated bounty or grant to be the rate specified for each company in the "Suspension of Liquidation" section of this notice. The net bounty or grant on the products under investigation produced by seven companies is *de minimis*. With respect to these companies, the suspension of liquidation ordered in our preliminary affirmative countervailing duty determination shall be terminated. All estimated countervailing duties shall be refunded and all appropriate bonds shall be released with respect to imports of the products under investigation from the companies for which we have determined *de minimis* estimated net bounties or grants.

Case History

On March 21, 1984, we<sup>A-9</sup> received a petition from the Paul Lime Division of

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**International Trade Administration,  
Import Administration**

**EC-201-4021**

**Final Affirmative Countervailing Duty  
Determination and Countervailing Duty  
Order; Lime From Mexico**

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

**ACTION:** Notice.

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**SUMMARY:** We determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Mexico of lime and are thus instituting a countervailing duty order. The net bounty or grant for each firm is listed in the "Suspension of Liquidation" section of this notice. The net bounty or grant on the products under investigation produced by Mexicana de Cobre, Productos Calizos de Baja California, Incalpa, Cales de Chiapas, Cal de Apasco, Cales de Puebla, and Materiales Titan is *de minimis*. With respect to these companies, the suspension of liquidation ordered in our preliminary affirmative countervailing duty determination shall be terminated. All estimated countervailing duties shall be refunded and all appropriate bonds shall be released with respect to imports of the products under investigation from the companies for which we have

Can-Am Corporation, Chemical Lime Inc., Genstar Lime Company, and the United Cement, Lime, Gypsum and Allied Workers International Union. AFL-CIO/CLC. filed on behalf of the U.S. lime manufacturers. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 333.26), the petition alleges that manufacturers or exporters in Mexico of lime receive bounties or grants within the meaning of section 303(a)(1) of the Tariff Act of 1930, as amended (the Act).

Since Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, section 303 of the Act applies to this investigation. Because the subject merchandise is nondutiable and there are no "international obligations" within the meaning of section 303(a)(2) of the Act which require an injury determination for nondutiable merchandise from Mexico, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten to cause material injury to a U.S. industry.

We presented a questionnaire concerning the allegations to the government of Mexico in Washington, D.C. on April 10, 1984. On May 21 and 29, 1984, we received responses to the questionnaire.

On June 14, 1984, we issued our preliminary determination in this investigation (49 FR 25658, June 22, 1984). We preliminarily determined that benefits constituting bounties or grants within the meaning of the Act are being provided to manufacturers, producers, or exporters in Mexico of lime.

We received a supplemental response from Sonocal on July 13, 1984, and from Mexicana De Cobre on July 25, 1984.

Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. We received written views from interested parties and **have taken them into consideration in this determination.**

### Scope of Investigation

The products covered by this investigation are calcium oxide (CaO), commonly called quicklime or lime, and calcium hydroxide (Ca(OH)<sub>2</sub>), commonly called hydrated lime or hydrate. Hydrated lime is currently classified under 512.1100 of the *Tariff Schedules of the United States Annotated* (TSUSA) and lime, other than hydrated, is currently classified under TSUSA item number 512.1400.

There are three known manufacturers and exporters in Mexico of lime which export to the United States and eight other producers that have applied for

exclusion from this investigation because they received either no benefits or benefits in *de minimis* amounts. We have received information from the government of Mexico regarding Sonocal, S.A., Mexicana de Cobre, S.A., Productos Calizos de Baja California, S.A. (PCBC), Incalpa, S.A., Materiales BYM, S.A. Cales de Chiapas. S.A., Cal de Apasco, S.A., Cales de Puebla. S.A. Materiales Titan, S.A., Industrias Quimicas de Yucatan, S.A. (IQ'i), and Calteco, S.A. Two other companies, Apex, S.A. and Refractarios Barrios, S.A., submitted responses that were too late to be considered in this investigation.

The period for which we are measuring benefits is the most recent fiscal or calendar year for which we have complete data, calendar year 1983. In their responses, the government of Mexico and respondents provided data for the applicable period.

### Analysis of Programs

Throughout this notice, we have applied to the facts of the current investigation general principles described in detail in the Subsidies Appendix of the "Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina"; 49 F.R. 18006 (April 28, 1984). As per the **Subsidies Appendix**, we have used the national average commercial rate as the benchmark for short-term peso-denominated borrowing. For this purpose, we chose the nominal rate published monthly by the Banco de Mexico in the *Indicadores Economicos* (the "1E" rate). These rates are the weighted averages of the rates charged by commercial banks **on peso loans. Because we lack information to construct company-specific long-term benchmarks, we have also used this benchmark on long-term benchmarks. we have also used this benchmark on long-term peso loans for 1982 and 1983 as the best information available. The "1E" rate is the representative benchmark for both short and long-term borrowing in the past 2 years because Mexico's recent inflationary experience has virtually eliminated all long-term fixed-rate financing. Long-term loans are generally provided at variable short-term interest rates. As the benchmark for long-term loans given prior to 1982 we are using the domestic corporate bond yield in Mexico, published in the "World Financial Markets" journal of the Morgan Guarantee Trust Company of New York. For loans provided in dollars, we used the U.S. domestic corporate bond yield as the long-term benchmark and the short-term**

commercial and industrial loan rate published under "Domestic Financial Statistics" in the *Federal Reserve Bulletin* as the short-term benchmark.

As specified in 19 CFR 355.28(a)(3), "if separate enterprises have received materially different benefits, such differences shall also be estimated and stated." Because the companies under investigation received materially different benefits, we have calculated company-specific rates.

We have consistently held that government provision of, or assistance in obtaining, capital or loans or credit does not *per se* constitute a subsidy. Government equity purchases and financial backing bestow a countervailing benefit only when they are carried out on terms inconsistent with commercial considerations. To determine if such actions are commercially unsound, we review and assess financial data for the company in question. With regard to whether a company was a reasonable equity investment (a condition we have termed "equityworthiness"), we examine the financial ratios, operating profits or losses and other relevant data to evaluate the company's current and future ability to earn a reasonable rate of return on equity investments.

Based upon our examination of these factors with respect to Sonocal, a company alleged to be unequityworthy, we determined that this company was unequityworthy as of 1982. Our examination of these factors for Mexicana de Cobre revealed that this company has been equityworthy.

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

### I. Programs Determined To Confer Bounties or Grants

We determine that bounties or grants are being provided to manufacturers or exporters in Mexico of lime under the following programs:

#### A. FOMEX

FOMEX is a trust established by the government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury Department with the Bank of Mexico acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions that establish contracts for lines of credit with manufacturers and exporters. On July 27, 1983, FOMEX was formally incorporated into the National Bank for Foreign Trade.



In order for a company to be eligible for FOMEX financing for exports, the following requirements have to be met: (1) The product to be manufactured must be included on a list made public by FOMEX; (2) the company must have majority Mexican capital; (3) the articles of incorporation be exported must have a minimum of 50 percent national content in direct production costs; (4) loans granted for pre-export financing must be in Mexican currency, while loans for export sales are established in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; (5) the exporter must carry insurance against commercial risks to the extent of the loans. The maximum annual interest rate for FOMEX export financing is 8 percent.

Sonocal received short-term export financing from FOMEX for exports to the U.S. of the subject merchandise. Since FOMEX export financing provides loans for export-related purposes at interest rates significantly less than those for comparable commercially available loans, we determine that this program confers a bounty or grant upon the exportation of lime.

Sonocal has not paid either interest or principal on its FOMEX loans, which were due to be repaid in early 1983. We treated the missed payments as additional loans to Sonocal at the rate of the penalty interest rate being assessed on them. We considered these loans to be rolled over each time a payment was missed. Since the penalty rate was above the benchmark, we found no benefit for the additional loans. We used as our benchmark, for purposes of calculating the bounty or grant, the IE rate, as described *supra*. We allocated the benefit from the FOMEX loans over the value of Sonocal's 1983 U.S. exports of lime and calculated a bounty or grant in the amount of 0.38 percent *ad valorem*. FOMEX loans to Mexicana de Cobre are described in the "Programs Found Not to Confer Bounties or Grants" section of this notice.

#### B. Fund for Industrial Development, (FONDI)

FONDI is a specialized financial development fund, administered by the Bank of Mexico, which grants long-term credit at below-market rates for the creation, expansion or modernization of enterprises in order to foster industrial decentralization and the efficient production of goods capable of competing in the international market. FONDI loans are available under various programs having different eligibility requirements.

Sonocal had one FONDI loan outstanding during the period for which we are measuring bounties or grants. It

received the loan for plant expansion. Calteco had two loans outstanding, one for the purchase of capital equipment and the other an industrial mortgage loan.

We have evidence that these FONDI loans are only available to companies located outside of Zone IIIA (Mexico City and environs). Because such loans appear to be limited to particular geographic regions and are made at below-market rates, we determine that these FONDI loans confer a bounty or grant upon Sonocal and Calteco.

We have determined the benefits from these loans according to the methodology outlined in the Subsidies Appendix. We used the IE rate, as described *supra*. Since Sonocal has not paid either interest or principal on these loans, we treated the missed payments as additional loans to Sonocal at the rate of the penalty interest rate being assessed on them. We considered these loans to be rolled over each time a payment was missed. We allocated the benefit over Sonocal's total sales value of lime and determined a bounty or grant in the amount of 0.89 percent *ad valorem* for Sonocal and 1.25 percent *ad valorem* for Calteco.

#### C. CEPROFI

CEPROFIs are tax credits used to promote National Development Plan (NDO) goals, which include increased employment, encouragement of regional decentralization, and industrial development, particularly of small and medium sized firms.

CEPROFI certificates are tax certificates of fixed value which may be used for a five-year period to pay federal taxes. Certain CEPROFI certificates are granted for carrying out investments in "priority" industrial activities; others are available to all industries on equal terms.

Industries Químicas de Yucatan and Sonocal received CEPROFIs for carrying out investments in priority industrial activities. These CEPROFIs were for investment to increase productivity. Because this type of CEPROFI is limited to a specific group of industries or to companies located in specific regions, we determine that this program confers a bounty or grant.

Article 25 of the decree authorizing the issuance of CEPROFIs published in the *Diario Oficial de la Federación (Diario Oficial)* on March 9, 1979, states that a 4 percent supervision fee must be "paid in order to qualify for, or to receive" the CEPROFIs. This is an allowable offset from the gross bounty or grant, as provided in section 771(6)(A) of the Act. Therefore, the benefit provided by CEPROFIs is the amount of

the certificate received less the supervision fee.

We allocated the CEPROFI benefit over the total sales of each company and determined a bounty or grant in the amount of 1.37 percent *ad valorem* for Industrias Químicas de Yucatan and 0.73 percent *ad valorem* for Sonocal.

#### D. Import Duty Reductions and Exemptions

Petitioner alleged that lime exporters receive import duty reductions or exemptions on equipment used in the production of lime. Mexicana de Cobre received reductions on import duties for equipment used in manufacturing lime under a special tax agreement between it and the government of Mexico. Because this reduction resulted in a benefit provided to a specific company, we determine that it conferred a bounty or grant on Mexicana de Cobre. We calculated the benefit by dividing the amount of the reduction in 1983 by total sales of lime of the company to calculate a bounty or grant of 0.07 percent *ad valorem*.

#### E. Certain Equity Infusions

Petitioner alleged that the government of Mexico has provided bounties or grants through equity infusions to Mexican companies on terms inconsistent with commercial considerations. NAFINSA, a government-owned development bank, purchased stock in Sonocal, a company whose stock is not publicly traded, between 1978 and 1983. Using the criteria described in the "Analysis of Programs" section of this notice, we determined that Sonocal became an unequityworthy company as of 1982. Therefore, we determine that the investments in 1982 and after confer a bounty or grant because they were made on terms inconsistent with commercial considerations.

We calculated the benefits from these purchases according to the methodology outlined in the Subsidies Appendix. We allocated the amount of Sonocal's benefit over its total sales value for 1983, using as our discount rate the "IE" rate, as described *supra*. We calculated a bounty or grant of 40.49 percent *ad valorem*. Government equity infusions in another lime company are described in the "Programs Determined Not to Confer Bounties or Grants" section of this notice.

#### F. Loans From the Mexican Trust for Non-Metallic Minerals

Sonocal received loans from the Mexican Trust for Non-Metallic Minerals. Since these loans were

provided at interest rates lower than those for comparable commercially available loans and were limited to a specific industry or group of industries. We determine that these loans conferred a bounty or grant on Sonocal.

Since neither interest nor principal was paid on these loans during 1983, we treated the missed payments as additional loans to Sonocal at the rate of the penalty interest rate being assessed on them. We considered these loans to be rolled over each time a payment was missed. For purposes of this determination, we are using as our benchmark the IE rate, as described *supra*. We allocated the amount of the benefit over Sonocal's total 1983 sales value and determined a bounty or grant of 2.22 percent *ad valorem*.

#### G. Guarantee and Development Fund for Medium and Small Industries (FOGAIN)

Productos Calizos de Baja California (PCBC), Materiales BYM, and Industrias Quimicas de Yucatan (IQY) received FOGAIN loans that had outstanding principal during the period of investigation. We determine that the FOGAIN program confers a benefit which constitutes a bounty or grant within the meaning of the countervailing duty law upon these respondent lime companies. The FOGAIN program provides preferential financing at interest rates below prevailing commercial rates to all small and medium sized firms in Mexico. However, interest rates will vary depending upon: (a) Whether a small or medium sized business has a designated priority status, and (b) the geographical location of the business. Small and medium sized business with priority designation and located in specific zones targeted for industrial growth receive the most preferential rate: Medium sized businesses, not designated as priority and located in an area of controlled industrial growth, may receive the least preferential FOGAIN interest rate. We determine this program to be countervailable because it provides preferential financing on the basis of priority status for designated industries and regional preferences within the program. Without these designations, FOGAIN would not be countervailable, since all small and medium sized firms in Mexico are at least eligible to receive FOGAIN loans at the least preferential rate of interest available under this program. Therefore, we determine the program is countervailable to the extent that the interest rate received by a particular company is below the least preferential rate that a company would have received under FOGAIN. All three

companies obtained their loans at rates lower than the least preferential rates applicable.

Since the FOGAIN loans have variable interest rates, we treated the loans as a series of short-term loans and computed the difference in interest payments between the FOGAIN loans received by PCBC, Materiales BYM and IQY and those which would have been incurred had the loans been made at the least preferential rate of interest under this program. We allocated the amount of benefit from the loans over each company's total value of sales of all products during 1983. We determine the net amount of benefit to be 0.48 percent *ad valorem* for PCBC, and 0.70 percent *ad valorem* for Materiales BYM and 0.20 percent *ad valorem* for IQY.

#### N. Delay of Payment of Fuel Charges

Sonocal received fuel oil and diesel fuel during 1983 from PEMEX, a Mexican government entity, for which it has not yet made payments. We have evidence that other customers, including Mexican producers of lime and their products, pay for such fuel as received on a monthly basis. Therefore, we find the delay of payment to confer a bounty or grant on Sonocal. We treated the amounts owed by Sonocal to PEMEX as interest-free short-term loans.

We have determined the benefits from these loans according to the methodology outlined in the Subsidies Appendix. We used as our benchmark the IE rate, as described *supra*. We allocated the benefits over Sonocal's total sales value and determined a bounty or grant in the amount of 4.78 percent *ad valorem*.

#### I. Delay of Payment on Other Loans

Sonocal has four loans outstanding from "Banco Mexicano Somex," formerly a private bank that was nationalized during the Mexican banking industry reforms of 1982. Two are short-term loans in dollars which were due to be repaid prior to the review period but have not been repaid. The other two are long-term loans in pesos. Sonocal did not pay the principal and interest due on the loans during 1983. Since this delay in payments was provided to a specific industry or group of industries, we determine that these loans conferred a bounty or grant on Sonocal.

We treated the missed payments as additional loans to Sonocal at the rate of the penalty interest rate being assessed on them. We considered the loans to be rolled over each time a payment was missed. We used our peso and dollars benchmarks as appropriate, as

described *supra*. We allocated the amount of the benefit over Sonocal's total 1983 sales value and determined a bounty or grant of 0.02 percent *ad valorem*.

#### J. Loans From the Mexican National Bank for Foreign Trade (BANCOMEXT)

Sonocal has several loans outstanding from BANCOMEXT. One of these loans was originally contracted as a guarantee, but it operates like a direct loan because BANCOMEXT has made all the principal and interest payments to the foreign lender on behalf of Sonocal. This loan is in dollars; the others are in pesos. These loans were provided at interest rates lower than those for comparable commercially available loans and we were not allowed to verify whether they were provided for exports or limited to a specific industry or group of industries. Therefore, as the best information available, we determine that these loans conferred a bounty or grant on Sonocal.

Since interest on these loans was not paid during 1983, we treated the missed payments as additional loans to Sonocal at the rate of the penalty interest rate being assessed on them. We considered the loans to be rolled over each time a payment was missed. For purposes of this determination, we are using as our benchmark for the peso loans the IE rate, as described *supra*. The benchmark for the dollar loan loans is the long-term U.S. corporate bond rate, also described *supra*. We allocated the amount of the benefit over Sonocal's total 1983, sales value and determined a bounty or grant of 0.40 percent *ad valorem*.

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

We determine that bounties or grants are not being provided to manufacturers or exporters in Mexico of lime under the following programs:

##### A. Other Equity Infusions

Both NAFINSA and the Commission de Fomento Minero, a publicly-owned lending institution, purchased stock in Mexicana de Cobre. Private parties made purchases of the company's stock at comparable terms on approximately the same dates. Using the criteria described in the "Analysis of Programs" section of this notice, and considering the fact that government investments in this company were on the same terms and conditions as private investments, we determine that this government equity investment did not confer a bounty or grant on Mexicana de Cobre.

### *B. Dual Level Currency Exchange Rate System*

Petitioner alleged that the dual level exchange rate system existing in Mexico constitutes a countervailable benefit to the lime industry.

Petitioner alleged that priority industries, including lime, when exchanging pesos for dollars to make foreign purchases, are allowed to convert currency at a "controlled" rate, but that other industries must make foreign purchases at the free market rate. Currently, the controlled rate is less than the "free" rate of exchange.

We have found that all industries in Mexico, including lime, obtain dollars from the government under the same terms to purchase imports. Therefore, we determine that the dual currency exchange rate system does not confer a bounty or grant to the manufacturers or exporters in Mexico of lime.

### *C. CEPROFIs for Salary Increases and Investment in Mexican-Made Equipment*

Sonocal received certain CEPROFIs for salary increases and for investment in Mexican-made equipment. We determine that these types of CEPROFIs do not confer a bounty or grant because they are not limited to a specific industry, group of industries, or to companies located in specific regions of the country.

### *D. Loan Guarantees Provided by NAFINSA*

Petitioner alleged that various Mexican government entities guaranteed loans to the lime industry. During the period of investigation, Mexicana de Cobre had several outstanding loans guaranteed by NAFINSA, a government-controlled institution which is a shareholder of Mexicana de Cobre. Mexicana de Cobre paid a guarantee fee to NAFINSA and provided security for the guarantees. Further, we have evidence that the provision of guarantees by major shareholders of companies is a normal commercial practice in Mexico. Therefore, the terms of the guarantees appear to be consistent with commercial considerations and do not confer a bounty or grant on Mexicana de Cobre.

### *E. Value-Added Tax Rate Reduction*

Petitioner alleged that lime producers in border areas receive a countervailable benefit from a reduction in the rate of value-added tax (VAT) they pay on purchases in such areas. We have found that such reductions exist in border areas, but that under the value-added tax system, these

reductions do not result in any benefit to lime producers. Only the final consumers of goods ultimately pay the VAT, not producers or suppliers such as the respondent companies. These companies act only as collection agents for the government. They file regular statements with the government in which they settle their value-added tax accounts. Since lime producers are reimbursed for the amount of tax they pay and have no liability for the VAT tax, the border reductions do not confer a bounty or grant on them.

### *F. Provision of Land to Sonocal*

At verification we learned for the first time during this investigation that Sonocal received land free of charge from the Mining Development Commission and that the Commission had received the land at no cost from private parties. Based on this verification, we determine that the provision of this land at no cost was not inconsistent with commercial considerations and does not confer a bounty or grant on Sonocal.

### *G. Accelerated Depreciation Allowances*

Petitioner alleged that the lime industry benefited from federal income tax reductions through accelerated depreciation. For purposes of economic development, the Income Tax Department may grant accelerated depreciation allowances to industries in certain geographical regions or for designated industrial activities. Mexicana de Cobre used accelerated depreciation in 1982 under an agreement with the government of Mexico. The program did not confer a bounty or grant on Mexicana de Cobre, however, because the registered losses for tax purposes exceeded the depreciation claimed by the company.

### *X. Waiver of Foreign-Lender Tax*

Foreign loans to Mexicana de Cobre are subject to an exemption on the Mexican interest tax paid by foreign lenders. This exemption is provided under an agreement with the Mexican Department of the Treasury. As a result of this exemption, the company could receive a countervailable benefit in the form of reduced rates of interest on foreign loans. Most of Mexicana de Cobre's foreign loans, however, were provided specifically for operations other than lime. Its other foreign loans were provided at rates above the benchmark for long-term dollar borrowings. Therefore, we determine that this program did not confer a bounty or grant on Mexicana de Cobre.

### III. Programs Determined Not To Be Used

We determine that the following programs have not been used by manufacturers or exporters of lime.

#### *A. Article 94 Loans*

Under section II of Article 94 of the *General Law of Credit Institutions and Auxiliary Organizations* (the Banking Law), the Bank of Mexico establishes channels of credit to different sectors of economic activity. There are 12 categories of credit under section II.

Most categories carry their own maximum interest rate which is set by the Bank of Mexico. Loans granted under category 12 are targeted to exports of manufactured products. The maximum interest rate under this category is 8 percent. We have found that these loans were not used by the companies under investigation.

#### *B. FOMEX and BANCOMEXT Loans to U.S. Importers*

U.S. customers of lime were alleged to have received FOMEX and BANCOMEXT loans. We have found that no U.S. customers of Mexican lime producers received FOMEX or BANCOMEXT loans that has outstanding principal during the period of investigation..

#### *C. National Preinvestment Fund for Studies and Projects (FONEP)*

FONEP, administered by NAFINSA, finances economic, technical and feasibility studies, as well as basic and detailed engineering projects. We have found that this program was not used by the companies under investigation.

#### *D. Trust for Industrial Parks, Cities, and Commercial Center (FIDEIN)*

This program is aimed at developing industrial parks and cities. We have found that this program was not used by the companies under investigation.

#### *E. Fondo Nacional de Fomento Industrial (FOMIN)*

FOMIN operates as a trust fund, providing assistance to certain small and medium sized companies by either buying stock or providing loans at rates below those of commercial lending institutions. We have found that this program was not used by the companies under investigation.

#### *F. PROFIDE*

PROFIDE has been established under the auspices of FOMEX to administer a new financing program to provide exporters with foreign currency needed for imports. We have found that this

program was not used by the companies under investigation.

*G. Preferential Prices for Natural Gas, Oil, Electricity, Diesel Fuel and Petrochemicals*

Petitioner alleged that prices for natural gas, oil, diesel fuel, petrochemicals and electricity are set by the Mexican government and could include a 30 percent discount for respondents. The Mexican lime industry has not received price discounts for these items.

*H. Other FOMEX Loans*

Mexicana de Cobre received several FOMEX export and pre-export loans that had outstanding principal during the review period. We found at verification that these loans were used exclusively for operations of the company other than the production of lime. Therefore, we determine that these loans were not used for Mexicana de Cobre's production or exportation of lime.

*I. Nacional Financiera, EA., Loans*

Mexicana de Cobre received loans from the Nacional Financiera, S.A. (NAFINSA), a government-owned development bank, during the last month of the period of investigation. Because we calculate benefits from variable interest rate loans on a date of payment basis, we find that these loans were not used by Mexicana de Cobre during the period of investigation.

*I. Income Tax Rate Reductions*

Mexicana de Cobre is eligible for an income tax rate reduction under an agreement with the Mexican Department of the Treasury. No benefits were realized in 1983 because the company did not have taxable income in tax year 1982.

*Petitioner's Comments*

*Comment 1:* Petitioner argues that logic, the statute and judicial authority all mandate the conclusion that the Mexican government's provision of fuel to Mexican lime producers at a price far below its international market value confers a subsidy that must be countervailed.

*DOC Response:* As stated in the "Notice of Initiation" of this case, we did not investigate this allegation because it has previously been found not to confer a bounty or grant, and petitioners did not allege new facts to justify a review of this finding.

*Comment 2:* Petitioner argues that because of Sonocal's poor economic performance, the equity infusions received by it in 1978 and all succeeding

years conferred a bounty or grant that must be countervailed.

*DOC Response:* The Department's position is fully described in its response to respondent's comment 3.

*Comment 3:* Petitioner argues that the provision of free land and free mineral rights to Sonocal by the Mexican government is a countervailable subsidy and that the value of the property grant is the value of the property in October, 1983, when the grant to Sonocal was made. Petitioner suggests we calculate a benefit to Sonocal based on the value of land of U.S. lime companies across the border.

*DOC Response:* We based our determination on the evidence concerning the value of the land as measured in Mexico since we believe it is inappropriate to do cross-border comparisons. As a result of verification, we conclude that the provisions of the land at no cost was not inconsistent with commercial considerations in Mexico and did not confer a bounty or grant on Sonocal. We will reconsider this issue during the first review of this order.

*Comment 4:* Petitioner argues that plant and equipment CEPROFIs received in the years before 1983, when that plant and equipment were used to produce lime during the period of investigation, must be countervailed.

*DOC Response:* CEPROFIs constitute a tax deduction to recipient companies. It is the Department's consistent practice to recognize tax benefits as one-time benefits pertaining to the year in which they were realized.

*Comment 5:* Petitioner argues that due to its poor financial performance Sonocal should be found uncreditworthy as of 1978.

*DOC Response:* Counsel for petitioners had access to Sonocal's financial statements as of June 4, 1984. Using those statements as a basis, they alleged uncreditworthiness on July 25, 1984, roughly one month prior to the final determination. Considering the complexity of analysis necessary to investigate this allegation, we consider it to be too late to be considered in this investigation.

*Comment 6:* Petitioner argues that no lime manufacturer should be excluded from a final affirmative countervailing duty order. They state that those who have requested exclusion submitted certifications supporting their requests for exclusion that were incomplete.

*DOC Response:* Exclusions have been granted where the applications were made on a timely basis and we have found that the companies received either no benefits or benefits in *de minimis* amounts. Under these

circumstances exclusions are consistent with Commerce Regulations (19 CFR 355.38).

*Comment 7:* Petitioner argues that, for loans on which Sonocal paid no principal or interest during 1983, the penalty rate of interest being assessed should be compared to the penalty that would be assessed in similar circumstances in a corresponding commercial loan rather than to normal commercial rates on sound loans.

*DOC Response:* Where Sonocal failed to meet its loan interest and principal repayments, we treated these as new loans taken out at the penalty interest rate on the date the original payments were due. We consider that any benefit from the new loans should be calculated under our normal loan methodology, using the 1E rate as benchmark. For every missed payment, we rolled over the previous amount of principal and interest due and constructed a new loan at the penalty rate and compared it to the LE rate in effect at that time. We calculated the present value of the original amount of the loan as a grant and compared it to the subsidy amount calculated under the methodology above to ensure that we did not countervail more than if we treated the benefit as a grant.

*Comment &* Petitioner argues that Mexicana de Cobre received a countervailable subsidy by reason of accelerated depreciation it is permitted to take for income tax purposes. Petitioner contends that:

- Mexicana de Cobre's argument that it is not a benefit is based on a computation and data that are artificial constructs which do not in fact disclose the extent to which it actually applied accelerated depreciation on particular facilities in computing its taxes.

- Mexicana de Cobre's computation is methodologically unsound because it does not accurately state the depreciation the company would have been entitled to claim on its facilities for tax purposes.

- The company benefits from any such special depreciation even in a tax loss year: both to the extent that the special allowance helped to reduce or eliminate taxable earnings and to the extent that any resulting tax loss can be carried forward or back to other years.

*DOC Response:* Since the company incurred a tax loss during 1982 that exceeded the amount of depreciation taken by it, the company could not have benefited from this program. Any future effects from loss carry forward will be considered in annual reviews of this determination.

*Comment 9:* Petitioner argues that loans and loan guarantees to Mexicana de Cobre should be considered to be either directly or indirectly related to Mexicana de Cobre's lime operations unless it is established that the loan authorization: (a) Expressly precludes the use of the proceeds for ancillary operations such as lime production; or (b) expressly required dedication of the proceeds exclusively to the acquisition and construction of specific facilities that are used only for production of products other than lime and it is clear that related, ancillary facilities are not covered.

*DOC Response:* For certain loans to Mexicana de Cobre, we found at verification that the loan contract specifically stated that the intended use of the proceeds is for operations of the company other than lime. We consider this sufficient evidence to establish that these loans did not benefit the company's lime production.

*Comment 10:* Petitioner argues that the waiver of the foreign lender tax on loans to Mexicana de Cobre is clearly preferential and is also clearly a countervailable benefit.

*DOC Response:* We find the tax exemption is not countervailable because the tax is normally paid by the foreign lender, not the Mexican company, and thus the foreign lender benefits from the tax savings. As stated above, we looked to see if Mexicana de Cobre benefitted from reduced interest rates on foreign loans as a result of this exemption and found that it did not.

*Comment 11:* Petitioner contends that Sonocal's CEPROFIs for salary adjustment may not have been granted under the Mexican Decree of April M. 1982 as Sonocal claims. Petitioner also contends that Sonocal's CEPROFIs for investment in machinery and equipment are targeted to specific priority industries and/or regions of the country, and thus are countervailable.

*DOC Response:* The documents we examined at verification clearly established that Sonocal's CEPROFIs for salary adjustment were provided under the Decree of April 18, 1982. Further, two of the three CEPROFIs to Sonocal for investment in plant and equipment are not countervailable. They were provided under the Decree of March 8, 1979, which states that CEPROFIs of 5 percent of the investment in Mexican-made equipment are available to all industries in all regions of Mexico, and were shown to be provided for 5 percent of Sonocal's investment in Mexican-made machinery.

#### Respondents Comments

*Comment 1:* Counsel for Productos Calizos de Baja California, Materiales Titan, Industrias Quimicas de Yucatan, Apex and Refractarios Basicos ("The Five") contend that Apex and Refractarios Basicos did not receive any benefits and should be excluded from any final affirmative determination or, if exclusion is denied, receive a zero countervailing duty deposit rate.

*DOC Response:* Apex and Refractarios Basicos were not considered for exclusion because they did not submit responses or requests for exclusion on a timely basis.

*Comment 2:* Counsel for The Five argue that FONEP benefits are generally available and therefore FONEP should be found not to constitute a bounty or grant under Section 303 of the Act.

*DOC Response:* It was established that these benefits were not used by the companies under investigation, and therefore this issue is moot.

*Comment 3:* Counsel for Sonocal argues that Sonocal has been an equityworthy company throughout its existence, based upon:

- favorable feasibility studies in 1977 and 1980
- Increasing sales
- the context of Mexico's recent economic history

*DOC Response:* The evidence presented by Sonocal's counsel has been taken into account in our finding of unequityworthiness. Early feasibility studies projected success for the company, and the company did reflect a profit for 1978 and 1979. However, its later performance did not match these projections and while the company's sales increased, losses continued.

It was also pointed out that adverse economic conditions affected all companies in Mexico. Comparison of the rate of return on equity for Sonocal to that of other companies in Mexico was one of the factors considered by the Department in its equityworthy determination. We also note that comparisons of rates of return are performed when assessing the *ad valorem* subsidy rate. Therefore, if Sonocal's performance was average or better than the average return in Mexico during the review period, no subsidy rate would be found bailed upon equity infusions.

*Comment 4:* Counsel for Sonocal argues that it can be accountable only for the difference between what it owes the Mexican government in unpaid fuel bills and what the government owes it under the value-added tax regime and that this difference does not represent a

subsidy because it is just a sales price PEMEX has not yet collected.

*DOC Response:* We find that the uncollected bills of PEMEX confer a bounty or grant on Sonocal because the delay in payment is a financial benefit to it which appears to be provided solely to that company. Further, we do not consider the amount owed Sonocal under the value-added tax regime an allowable offset under section 771(6)(A) of the Act.

*Comment 5:* Counsel for Sonocal argues that loans and equity received for use in connection with its unfinished Colima plant are not countervailable benefits because the plant has not yet produced any of the products under investigation.

*DOC Response:* The loans and equity received by Sonocal for its Colima plant, which will be used exclusively to produce lime, saved the company funds it would otherwise have had to spend on that project. This resulted in lower costs to the company for the production of lime. This benefit is similar to that of funds for research and development and grants for restructuring, which we have in the past found countervailable. Therefore, those loans and equity conferred benefits that constitute countervailable subsidies.

*Comment & Counsel for Mexicana de Cobre* argues that the Department should base its determination with respect to the use of accelerated depreciation upon the tax return for its 1983 fiscal year, not its 1982 fiscal year, because such a "lag" in quantification is inconsistent with generally accepted accounting principles.

*DOC Response:* The Department has a consistent policy of valuing income tax benefits at the time of the filing of the official tax return when the actual benefit to the company can be calculated, rather than simply estimated.

#### Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determination. During this verification, we followed normal procedures, including meetings and inspection of documents with government officials and on-site inspection of the records and operation of the companies exporting the merchandise under investigation to the United States.

#### Administrative Procedures

We afforded interested parties an opportunity to present information and written views in accordance with Commerce regulations MATS 355.34(a). Written views have been

received and considered in reaching this final determination.

*Suspension of Liquidation*

The suspension of liquidation ordered in our preliminary affirmative determination shall remain in effect with regard to Sonocal, IQY, Calteco and Materiales BYM. until further notice. The net bounty or grant for duty deposit purposes for each of these firms is as follows:

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The net bounty or grant for PCBC is 0.48 percent for Mexicana de Cobre is 0.07 percent for Incalpa. Cales de Chiapas, Cal de Apasco, Cales de Puebla and Materiales Titan is zero. These are *de minimis*. Accordingly, the products subject to this investigation produced by these companies are being excluded from this determination. The suspension of liquidation ordered in our preliminary affirmative countervailing duty determination shall be terminated with respect to these firms. All estimated countervailing duties shall be refunded and all appropriate bonds shall be released for entries of the products under investigation manufactured by these firms. - .

In accordance with section 706(a)(3) of the Act, we are directing the U.S. Customs Service to require a cash deposit in the amount indicated above for each entry of lime from Mexico which is entered or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register and to assess countervailing duties in accordance with sections 706(a)(1) and 751 of the Act.

In accordance with section 751(a)(1) of the Act (19 U.S.C. 1875(a)(1)), the Department hereby gives notice that it is commencing an administrative review of this order on September 11, 1984. For further information regarding this review, contact Richard Moreland at (202) 377-2788.

This notice is published pursuant to sections 303 and 708 of the Act (19 U.S.C. 1303.1871e).

Christopher Perlin.

*Acting Assistant Secretary for Trade Administration.*

APPENDIX C

COMMERCE'S FEDERAL REGISTER NOTICES





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**DEPARTMENT OF COMMERCE**
**International Trade Administration**

[C-201-4021]

**Time From Mexico****Initiation of Changed Circumstances  
Countervailing Duty Administrative  
Review**

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

**ACNON:** Notice of initiation of changed circumstances countervailing duty administrative review.

**SUMMARY:** The Department of Commerce is initiating a changed circumstances administrative review of the countervailing duty order on lime from Mexico. In this review, we will determine whether bounties or grants received by Sonocal continue to provide benefits to Bomintzha. This review will be conducted for the purpose of determining whether the deposit rate of estimated countervailing duties for exports by Bomintzha should be changed.

**EFFECTIVE OA=** August 2, 1988.

**FOR FURTHER INFORMATION CONTACT:** Terri Ann Benny or Paul McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3337.

**SUPPLEMENTARY INFORMATION****Background**

On September 11, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 35872) a notice of final affirmative countervailing duty determination and countervailing duty order on lime from Mexico. The order,

which excluded seven firms, established rates of cash deposit of estimated countervailing duties of 55.89 percent for Sonocal and 1.21 percent for all other firms. On April 14, 1987, after receiving information that lime produced at the Sonocal facility was being exported under a new company name, Bomintzha, the Department instructed the U.S. Customs Service to collect estimated countervailing duties on exports by Bomintzha at the same 55.89 percent rate applicable to Sonocal. We had also received some information concerning the **purchase of Sonocal by Bomintzha** along with a claim that the purchase was an arm's-length transaction. But, given our final determination that Sonocal had benefited from substantial bounties or grants, we could not consider Bomintzha a new company, eligible for the 1.21 percent "all other" rate, absent an administrative review. In such a review we could determine whether Bomintzha had benefited from a pass through of benefits received by Sonocal or whether, absent such benefits, Bomintzha should be subject to a country-wide countervailing duty rate.

On September 30, 1987, the Government of Mexico requested in accordance with **19 CFR 355.10** an administrative review of the order for calendar year 1988. We published the initiation of the administrative review on October 20, 1987. On April 15 and July 7, 1988, we received requests from Bomintzha that the ongoing review covering 1987 exports be expanded to include 1987 exports because Bomintzha, which exported in 1987 but not in 1988, could not demonstrate that it did not receive countervailable benefits without the inclusion of the 1987 period. Under our normal procedures, the opportunity to request a review for calendar year 1987 would not occur until September 1988. On July 21, 1988, we received a request from the Government of Mexico for a changed circumstances administrative review of this order in accordance with section 751(b) of the Tariff Act of 1930.

The Government of Mexico requested the section 751(b) review because of the unusual circumstances present in this case and because the huge difference between the 55.89 percent rate and the 1.21 percent "all other" rate imposed a considerable burden on Bomintzha. As a way to remedy this situation as soon as possible, the Mexican government requested that the section 751(b) review address the issue of the potential pass through of benefits in the Sonocal/Bomintzha transaction and, pending

completion of the 1980 and 1987 review, establish a cash deposit of estimated countervailing duties for Bomintzha at the 1.21 percent "all other" rate.

**Initiation of Review**

In accordance with section 751(b) of the Tariff Act of 1930, we are initiating a changed circumstances administrative review of the countervailing duty order on lime from Mexico. In this review, we will **determine** whether bounties or grants received by Sonocal continue to provide benefits to Bomintzha. The review will be conducted to determine whether the deposit rate of estimated countervailing duties for exports by Bomintzha should be changed to the "all other" rate. We still intend to complete the section 751(a) review for the 1986 period and, if requested during the anniversary month, for the 1987 period.

We believe that there are "changed circumstances sufficient to warrant review," as defined by section 355.41(b) of the Commerce Regulations, for the following reasons: (1) Information submitted by Bomintzha in the section 751(a) review of calendar year 1986 provides a sufficient basis for examining the circumstances associated with the sale of Sonocal to Bomintzha; (2) **because Bomintzha did not export during 1988, completion of the** section 751(a) review for that period will not result in the determination of assessment and estimated countervailing duty deposit rates based on Bomintzha's exports; (3) maintaining an estimated duty deposit rate that includes benefits received by Sonocal until completion of the 1987 section 751(a) review may constitute an excessive burden on Bomintzha; (4) a review under section 751(b) provides an expeditious means by which to examine the nature of the Sonocal/Bomintzha transaction and the impact on Bomintzha of bounties and grants received by Sonocal; and (5) conduct of this review would not impose an administrative burden on the Department. •

This initiation and notice are in accordance with section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) and 19 CFR 355.41(b).

Date: July 27, 1988.

Jan W. Mares,

Assistant Secretary, Import Administration.

(FR Doc. 88-17378 Filed 8-1-88; 8:45 am)

IDLING CODE 3610-08-M

[C-201-4021

**Ume From Mexico; Preliminary Results of Changed Circumstances Countervailing Duty Administrative Review**

**AGENCY:** International Trade Administration/Import Administration. Department of Commerce.

**ACTION:** Notice of preliminary results of changed circumstances countervailing duty administrative review.

**SUMMARY:** The Department of Commerce has conducted a changed circumstances administrative review of the countervailing duty order on lime from Mexico. We preliminarily determine that, following the sale of Sonocal to Bomintzha, bounties or grants previously received by Sonocal do not provide benefits to Bomintzha. We also preliminarily determine that the deposit rate of estimated countervailing duties for Bomintzha is the "all other" rate currently in effect of 1.21 percent *ad valorem*. We invite interested parties to comment on these preliminary results.

**EFFECTIVE DATE** January 17, 1989.

**FOR FURTHER INFORMATION CONTACT:** Paul McGarr or Bernard Carreau. Office of Countervailing Compliance. International Trade Administration, U.S. Department of Commerce. Washington, DC 20230; telephone: (202) 377-2786.

**SUPPLEMENTARY INFORMATION:**

**Background**

On September 11, 1984, the Department of Commerce ("the Department") published in the Federal Register (49 FR 35672) a notice of final affirmative countervailing duty determination and countervailing duty order on lime from Mexico. The order, which excluded seven firms, established rates of cash deposit of estimated countervailing duties of 55.89 percent for one firm, Sonocal, and 1.21 percent for all other firms. These rates are still applicable.

On July 21, 1988, the Government of Mexico requested a changed circumstances administrative review of this order in accordance with section 751(b) of the Tariff Act of 1930 ("the Tariff Act"). The Government of Mexico requested the Department to examine the purchase of Sonocal by Bomintzha ("Sociedad Cooperativa E.E.R.R. Bomintzha, S.C.L.") and to determine whether the transaction was at "arm's length," thereby permitting the Department to apply to Bomintzha the "all other" rate for purposes of cash deposit of estimated countervailing duties.

On August 2, 1983, the Department published in the Federal Register (53 FR 29076) a notice of initiation of changed circumstances administrative review of the countervailing duty order on lime from Mexico. We stated that, in this review, we would determine whether an actual sale took place and whether bounties or grants received by Sonocal continued to provide benefits to Bomintzha. We further stated that the review would be conducted to determine whether the rate of cash deposit of estimated countervailing duties for exports by Bomintzha should be changed to the "all other" rate.

#### Scope of Review

The United States, under the auspices of the Customs Cooperation Council, has developed a system or tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after this date is now classified solely according to the appropriate FITS item number(s).

Imports covered by this review are shipments from Mexico by Bomintzha of calcium oxide (CaO), commonly called quicklime or lime, and calcium hydroxide [Ca(OH)<sub>2</sub>], commonly called hydrated lime or hydrate. These products are currently classifiable under FITS item numbers 2520.20.00, 2522.10.00 and 2522.30.00. U.

#### Analysis of the Transaction

On September 2, 1986, Bomintzha signed a contract for the purchase of Sonocal. The co-signers included a commercial bank acting as the government's agent for the sale, and the various government entities that together owned all of Sonocal's shares. In purchasing 100 percent of Sonocal's shares, Bomintzha acquired all of Sonocal's assets and liabilities with the exception of Sonocal's bank debt, which was assumed by the Government of Mexico.

The sale of Sonocal took place under the auspices of a program, begun by the Mexican government in 1983, for rationalizing the parastatal sector and privatizing parastatal companies in nonpriority sectors. (A parastatal company is one that is owned in whole or in part by the government.) As part of this program, numerous parastatal companies were liquidated, merged, terminated or sold. For each company to

be sold, the government appointed a major bank as its agent for conducting the sale. The agent was charged with undertaking studies to evaluate the company in preparation for its sale, announcing the sale in the media, preparing a timetable for the receipt of bids, and defining the terms and arrangements for the sale. In conducting the sale, the agent, who received a commission based on the sales price, was to consider the various goals of privatization, among them ensuring the economic viability of the company and preserving productive capacity and employment. Agents were expected to seek the best conditions of sale for the government but, at the same time, were authorized to be pragmatic and flexible. The assumption of bank debt, where conditions warranted, was one of the procedures authorized by the governmental committee overseeing the sale of parastatals.

On January 20, 1986, a public notice appeared in newspapers nationwide that Sonocal, along with other parastatals, was for sale. The notice announced that interested parties were to contact the designated agent for more information. Prospective buyers were able to obtain the independent appraisals of Sonocal's physical assets, a valuation of its land, geological studies of Sonocal's limestone deposits, and Sonocal's financial statements from the government's designated agent.

Before making its bid, Bomintzha made an on-site inspection of the Sonocal plant and its limestone deposits. As part of its bid, Bomintzha submitted its own financial statements, statements of financial condition and financial forecasts, along with relevant information on its experience and future plans.

The agent accepted Bomintzha's bid and recommended the bid for approval to the governmental committee overseeing the sale of parastatals. On May 15, 1986, in a letter to the agent, the committee stated that it had determined, following a financial analysis of Sonocal as well as the various bids to buy it, that selling Sonocal to Bomintzha assured the best conditions for the government and that the government would assume Sonocal's bank debt.

In analyzing the sale of Sonocal to Bomintzha, we stated in our initiation of this changed circumstances review that we had two concerns: (1) Whether ownership of Sonocal was actually transferred such that Sonocal, which was a 100-percent government-owned company when we made our final determination, ceased to exist; and (2) whether bounties or grants received by

Sonocal continue to provide benefits to Bomintzha.

Based on the terms of the September 2, 1988 purchase contract, we conclude that ownership of Sonocal was transferred to Bomintzha. Bomintzha financed the purchase with loans from the Mexican government (see below) and now owns Sonocal in much the same way as any purchaser owns mortgaged property. Therefore, we preliminarily determine that Sonocal is no longer a government-owned company.

With respect to the question of whether bounties or grants received by Sonocal continue to benefit Bomintzha (*i.e.*, whether such benefits were passed through to Bomintzha), we based our analysis on the proposition that, to the extent that the price paid for a government-owned company reflects the company's market value, we believe it is reasonable to presume, as outlined below, that any countervailable benefits previously granted to the company are fully reflected in the purchase price and that such benefits are not passed through to the purchaser.

**In our final determination, we found the following benefits to Sonocal countervailable:** government equity infusions since 1982, which we determined was the year that Sonocal became unequityworthy; delayed fuel payments to Pemex (the government-owned oil monopoly), which we considered to be interest-free loans; and various types of preferential loans.

The government equity infusions, which ceased as a result of the sale, increased Sonocal's net worth. The continued obligation for operating liabilities, such as Sonocal's unpaid Pemex bills, had the effect of decreasing the company's net worth. Finally, with the government's assumption of Sonocal's bank debt, the company's net worth increased. As a consequence, any effect from the countervailable benefits provided to Sonocal would be reflected in Sonocal's current net worth, and a prospective buyer would take the current net worth into account when estimating Sonocal's market value and making an offer.

Ultimately, a company's value is whatever price the market will bear, regardless of its net worth. Thus, while a logical starting point for analyzing Sonocal's market value is the value of its assets minus liabilities ("net worth"), we recognize that Sonocal's net worth, or the appraised value of its physical assets, or any other objective measure of its value, is not necessarily an accurate measure of its market value.

innumerable factors can influence a company's market value. Some of the most important being a company's net worth and the value of its physical assets. While some of these factors are measurable, many factors whose value is difficult to quantify also affect the market value, such as future expectations of inflation, recession, or changes in interest rates.

To ensure that market forces are allowed to operate, an important consideration is whether an open, competitive bidding process is in place. We have examined the bidding process and the Government of Mexico's stated goals for the sale of Sonocal and other parastatals. The Government of Mexico's agent conducted an open bidding process, in which Bomintzha participated along with other bidders. Bomintzha's bid was selected by the Government and subsequently approved by the Mexican government as representing the best conditions of sale for the government. In addition to the price offered, the agent had to consider various factors in making this determination, among them the continued economic viability of the company and the preservation of employment.

Although the Mexican government had goals other than solely to maximize its financial return when selling parastatals, it does not necessarily follow that, with such goals, the Mexican government's sale of Sonocal provided a benefit to Bomintzha. All prospective buyers were subject to the same conditions and were evaluated with the same goals in mind. Any conditions attached to the sale had to be taken into consideration by prospective buyers and, to the extent that these conditions (such as the obligation to make necessary investments and maintain employment) were perceived as acting to the detriment rather than the benefit of the buyer, they may have resulted in lower bids. However, the lower level of bidding would not provide a benefit to the eventual buyer if it merely reflected the perception of additional risk and cost attached to the purchase. In this context, accepting the bid that represented the best terms for the government could still indicate that the tendered price reflected the company's market value.

At the time of the sale, Sonocal was in considerable financial difficulty. Its accumulated losses were well in excess of its paid-in capital. It had bank debt nearly equal to the appraised value of its physical assets and in excess of the price offered by Bomintzha. With the Mexican government's assumption of

Sonocal's bank debt, Sonocal's net worth was somewhat higher than Bomintzha's bid and somewhat lower than the appraised value of the physical assets.

In determining an appropriate sales price for Sonocal, a prospective buyer and the Mexican government would have had to consider many factors, including: the current market demand for the company's products; the condition of its physical assets and the need for any major repairs; the degree of technical sophistication of the machinery; and the recent and expected financial performance of the company. Depending on the results of such an analysis, the parties involved in the sale could have determined that Sonocal was either overvalued or undervalued in relation to the value that appeared in its financial records. After assessing Sonocal's value based on such factors, a prospective buyer would have offered what he estimated would be a successful bid and the Mexican government would have had to determine what was an acceptable bid.

Sonocal had been cut off from a substantial portion of its traditional market in the United States by the high countervailing duty rate. In purchasing Sonocal, Bomintzha expected that the countervailing duty would no longer be applicable and had reason to believe that its long-term market prospects were very good. Bomintzha, as well as other bidders, had an opportunity to inspect Sonocal's physical plant, and while Bomintzha's subsequent problems with repairs and plant operation suggest that the condition of the equipment was far from optimal, we have no evidence that Bomintzha or the Mexican government was aware of this at the time of the sale. Therefore, we have no reason to assume that the value of the physical assets was anything less than the value recorded in the June 30, 1988 balance sheet, a document that was considered in the purchase contract to be an accurate representation of Sonocal's current financial condition.

However, Sonocal's financial performance in the several years prior to the sale was daunting. It had not made a profit in more than five years. In 1984 and 1985, the two completed fiscal years prior to the sale, Sonocal's combined losses exceeded the total value of its paid-in capital. At the time of the sale, its accumulated losses accounted for half of its total liabilities. Even in the first six months of 1986, its losses were well in excess of the difference between the price Bomintzha paid and Sonocal's net worth. On this basis alone, the purpose of Sonocal clearly involved a

risk. Any potential buyer, however confident in his ability to turn the company around, would have expected continued losses in the near term. At the same time, the Mexican government would have had to take Sonocal's financial condition into consideration in determining what it could expect to receive for Sonocal.

Given such dire financial circumstances, a seller would weigh heavily the alternative of continued substantial losses and declining net worth in determining the reasonableness of any offer. A buyer, faced with the inherent risk in purchasing such a company, would have to factor into the costs of making the company viable (the cost of possible failure) against any objective measure of the company's value, such as the appraised value of its physical assets or its net worth. In this context, the price that the Mexican government accepted appears reasonable because that price, although lower than these measures of Sonocal's value, reflects the risks involved in purchasing Sonocal. On this basis, we preliminarily determine that the price Bomintzha paid reflected Sonocal's market value and, therefore, that no benefits to Sonocal passed through to Bomintzha.

The petitioners have alleged that the terms of the mortgage obtained by Bomintzha from the Mexican government are preferential. Based on this premise, they conclude that the Department must determine that bounties or grants provided to Sonocal passed through to Bomintzha. We do not agree. If the financing were preferential, we would consider it a benefit provided directly to Bomintzha and, therefore, outside the scope of this review. The purpose of this review is very limited—to determine whether, pending completion of a section 751(a) review, Bomintzha should be subject to the rate of cash deposit of estimated countervailing duties applicable to Sonocal or the rate applicable to all other, including new, exporters. We will examine the mortgage terms and any other potential benefits provided to Bomintzha in the recently initiated section 751(a) administrative review for calendar year 1987 and any subsequent reviews, if requested.

#### Preliminary Results of Review

As a result of our review, we preliminarily determine that bounties or grants provided by the Government of Mexico to Sonocal before its sale to Bomintzha in 1988 do not continue to provide benefits to Bomintzha. Therefore, the Department preliminarily

determines that the appropriate rate of cash deposit of estimated countervailing duties for Bomintzha's exports of time to the United States is the "all other" rate of 1.21 percent *od valorem*.

The Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 1.21 percent of the f.o.b. invoice price on shipments from Bomintzha of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice, and may request disclosure and/or a hearing within seven days of the date of publication. Any hearing, if requested, will be held 30 days from the date of publication or the next workday following.

Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(b)(1) of the Tariff Act (19 U.S.C. 1075(b)(1)) and 19 CFR 355.41(b).

Date: January 9, 1989.

Jan W. Mares.

Assistant Secretary for Import  
Administration.

[FR Doe. 89-1007 Filed 1-13-89 INS aml  
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**FOR PORTION INFORMATION CONTACT:**  
 Bernard T. Carreau or Richard W. Moreland, Office of Countervailing Compliance or Office of Antidumping Administration, U.S. Department of Commerce, Washington, DC 20473; telephone (202) 377-4733/2788

**OPTIONAL INFORMATION**

**Background**

On August 13, 1985, the Department of Commerce (hereinafter "the Department") published in the Federal Register (15 FR 32538) a notice outlining the procedures for requesting administrative reviews. The Department has received timely requests, in accordance with §§ 353.53a (OW), (OM), (aX3), and 355.10(eX1) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders and findings.

**Initiation of Review**

In accordance with §§ 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews no later than November 30, 1989.

	Periods to be reviewed
least Freers Cut Roses (C-504-064)..	10/1/87 9/30/87.
Mod= Urns (C-201-402)	1/1/87 to 12/31/87.
Modern Portland Hydraulic Cement and Cement Clinitor (C-201-013)	1/1/87 to 12/31/87
Non-Ferrous Metal Uwe Meet 4C-41 SOW	4/1/87 to 3/31/88.
Netherlands Zeeland Ned Wire (C-61s-001).	7/1/87 to 6/30/81.
Sweden Cardin Cuban Sled Pilt-d was (0-401-404	1/1/57 to 12/31/52.

Interested parties are encouraged to submit applications for administrative protective orders as early as possible in the review process.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1875(a)) and 19 CFR 353.53a(c) and 355.10(c).

Ionia A. Seetrini.

*Dopey Assistant Secretary for Compliance.*

Date November 1988

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Inds Careen bon Meld Camino (C-433-4113).	1/1/87 to 12/31/87.

**Department of Commerce**

**International Trade Administration**

**Initiation of Antidumping and Countervailing Duty Administrative Reviews**

**AGENCY:** International Trade Administration/Import Administration, U.S. Department of Commerce.

**Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews.**

The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

DATE December 5, 1988

**APPENDIX D**  
**MAP OF SOUTHWEST REGION**





