Bulk Acetylsalicylic Acid (Aspirin) from China

Investigation No. 731-TA-828 (Preliminary)

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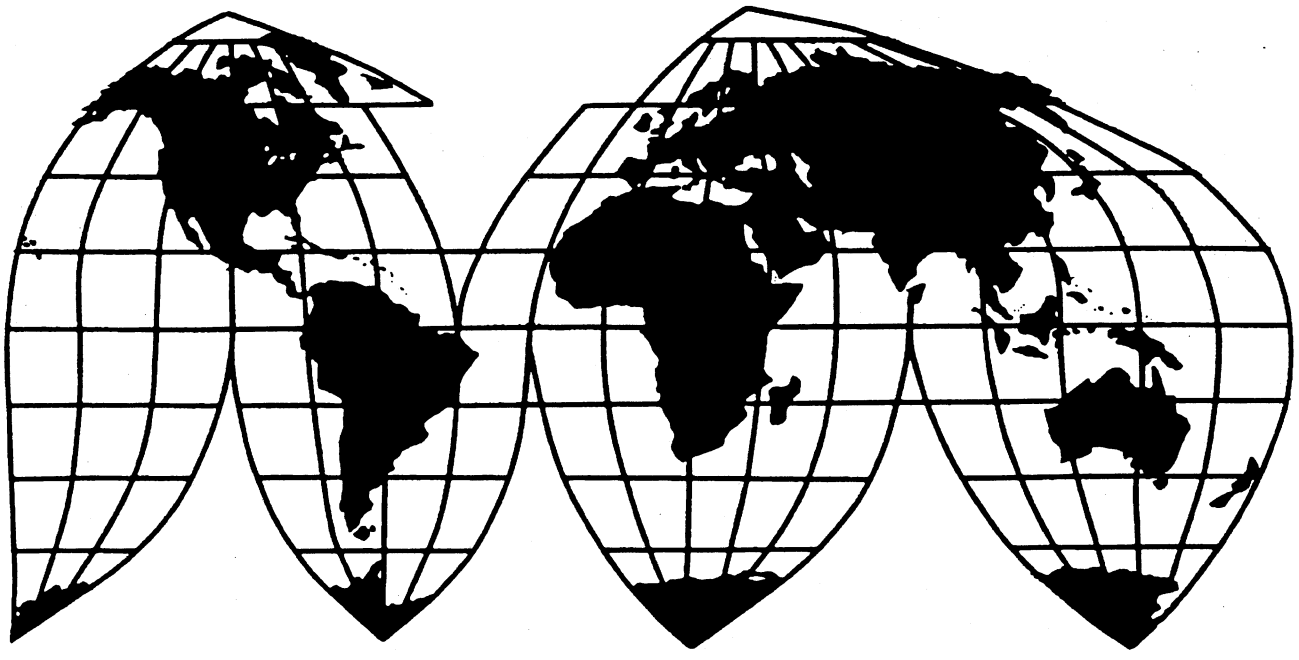
U.S. International Trade Commission



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CONTENTS

CONTENTS

Appendixes

Figures

ii

CONTENTS

Page

Tables

iii

CONTENTS

Page

Tables--*Continued*

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

iv

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-828 (Preliminary)

BULK ACETYLSALICYLIC ACID (ASPIRIN) FROM CHINA

DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from China of bulk acetylsalicylic acid (aspirin), provided for in subheadings 2918.22.10 and 3003.90.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).[2]

COMMENCEMENT OF FINAL PHASE INVESTIGATION

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

BACKGROUND

On May 28, 1999, a petition was filed with the Commission and the Department of Commerce by Rhodia, Inc., Cranbury, NJ, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of bulk aspirin from China. Accordingly, effective May 28, 1999, the Commission instituted antidumping investigation No. 731-TA-828 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S.International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of June 7, 1999 (64 FR 30355). The conference was held in Washington, DC, on June 18, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

[2] Commissioner Carol T. Crawford determines that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports from China that are alleged to be sold in the United States at LTFV.

VIEWS OF THE COMMISSION

Based on the record in these investigations, we find a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of bulk aspirin from China that are allegedly sold in the United States at less than fair value ("LTFV").[1]

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

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

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[4] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[5] In turn, the Act defines "domestic like product" as: "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."[6]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[7] No single factor is dispositive, and the Commission

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[1] Commissioner Crawford found that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of bulk aspirin from China that are allegedly sold in the United States at less than fair value. See Views of Commissioner Carol T. Crawford. She joins in sections I-III of these views.

[2] 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT __, Slip Op. 96-51 at 4-6 (March 11, 1996).

[3] American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[4] 19 U.S.C. § 1677(4)(A).

[5] 19 U.S.C. § 1677(4)(A).

[6] 19 U.S.C. § 1677(10).

[7] See, e.g., NEC Corp. v. Department of Commerce, Slip Op. 98-164 at 8 (Ct. Int'l Trade, Dec. 15, 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749, n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455, (continued...)

may consider other factors it deems relevant based on the facts of a particular investigation.[8] The Commission looks for clear dividing lines among possible like products, and disregards minor variations.[9] Although the Commission must accept the determination of the Department of Commerce ("Commerce") as to the scope of the imported merchandise allegedly sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[10]

B. Product Description

In its notice of initiation, Commerce defined the imported merchandise within the scope of these investigations as:

> [B]ulk acetylsalicylic acid, commonly referred to as bulk aspirin, whether or not in pharmaceutical or compound form, not put up in dosage form (tablet, capsule, powders or similar form for direct human consumption). Bulk aspirin may be imported in two forms, as pure ortho-acetylsalicylic acid or as mixed ortho-acetylsalicylic acid. Pure ortho-acetylsalicylic acid can be either in crystal form or granulated into a fine powder (pharmaceutical form). This product has the chemical formula $C_9H_8O_4$. It is defined by the official monograph of the United States Pharmacopoeia (USP) 23. It is classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 2918.22.1000.
>
> Mixed ortho-acetylsalicylic acid consists of ortho-acetylsalicylic acid combined with other inactive substances such as starch, lactose, cellulose, or coloring materials and/or other active substances. The presence of other active substances must be in concentrations less than that specified for particular nonprescription drug combinations of aspirin and active substances as published in the Handbook of Nonprescription Drugs, eighth edition, American Pharmaceutical Association. This product is classified under HTSUS subheading 3003.90.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.[11]

Bulk acetylsalicylic acid, commonly known as bulk aspirin, is a white, odorless, organic compound with the chemical formula $C_9H_8O_4$.[12] It is used for medicinal purposes, primarily for mild pain relief, fever

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[7] (...continued)
n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[8] See, e.g., S. Rep. No. 96-249, at 90-91 (1979).

[9] Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49. See also S. Rep. No. 96-249, at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

[10] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

[11] 64 Fed. Reg. 33463 (June 23, 1999).

[12] Confidential Staff Report ("C.R.") at I-2, Public Staff Report ("P.R.") at I-2.

relief, or as an anti-inflammatory agent.[13] Aspirin also is used in low dosages for the treatment of stress and cardiovascular disease.[14]

For the purposes of this investigation, bulk aspirin may be in pharmaceutical or compound form but not in measured doses, tablets, or capsules for direct human consumption.[15] It may be pure acetylsalicylic acid in crystal form or granulated into a fine powder. The acetylsalicylic acid also may be mixed with small amounts of inactive materials, such as starch, lactose, cellulose, or coloring agents.[16]

C. Domestic Like Product Issues

Petitioner asserts that the Commission should find a single domestic like product consisting of bulk aspirin.[17] Respondents[18] claim that defining the like product in this manner wrongfully would include their aspirin starch product.[19] As discussed below, we determine for the purpose of the preliminary phase of this investigation that there is one domestic like product consisting of all bulk aspirin.

The Commission's analysis of like product issues begins with the scope. The scope covers bulk aspirin in pharmaceutical and compound form, not put up in dosage form ready for human consumption. The scope therefore clearly includes all bulk aspirin crystals and aspirin starch. We have considered whether to find that domestically produced crystal aspirin and aspirin starch are two separate like products and have declined to do so. The Commission generally does not find separate like products based on different grades of a chemical or mineral product.[20] Moreover, aspirin crystal and aspirin starch both ultimately are used to produce dosage forms of aspirin or other medicaments which use aspirin as an input.[21] Aspirin processors may purchase aspirin starch compounds to avoid the additional step of blending bulk aspirin and starch during their production process. The processors who purchase aspirin starch can purchase pure aspirin and blend it with starch themselves, provided they have the manufacturing equipment needed to complete this production step.[22] As a result, we find that there are no clear dividing lines between these products and find that the domestic like product includes all forms of bulk aspirin within the scope of this investigation.

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[13] C.R. at I-2-3, P.R. at I-2.

[14] C.R. at I-3, P.R. at I-2.

[15] C.R. at I-2, P.R. at I-2.

[16] C.R. at I-3, P.R. at I-2.

[17] Petition Requesting the Imposition of Antidumping Duties on Imports of Bulk Aspirin From the People's Republic of China at 26.

[18] Respondent A&S submitted a brief which contained identical information to that contained in the brief of Dastech Corporation and Jilin Pharmaceutical, Co. Therefore, this determination does not refer specifically to the brief of A&S.

[19] Post-Conference Brief Submitted on Behalf of Dastech Corporation and Jilin Pharmaceutical Co. ("Resp. Postconf. Br.") at 1. Respondents confuse the scope of the investigation with the definition of the like product. Our analysis, in contrast to Respondents' arguments, focuses on the characteristics of domestically produced bulk aspirin. The use of the term "domestic" in the statutory term "domestic like product" plainly indicates that such a product is one produced in the United States. See also Rollerchain from Japan, Inv. No. 1921-AA-111; Torrington, 747 F. Supp. at 749 (in making a like product determination, the Commission is determining whether differences exist "among the domestic products, not between the domestic products and imported products").

[20] See, e.g., Glycene from the People's Republic of China, Inv. No. 731-TA-718 (Preliminary), USITC Pub. 2804 at I-6 (August 1994); Silicon Carbide from the People's Republic of China, Inv. No. 731-TA-651 (Final), USITC Pub. 2779 at I-9 (June 1994); Saccharin from China and Korea, Inv. Nos. 731-TA-675-676 (Preliminary), USITC Pub. 2716 at I-6-7 & n.20 (Jan. 1994); Sebacic Acid from the People's Republic of China, Inv. No. 731-TA-563 (Preliminary), USITC Pub. 2676 at 8 & n.18 (Sept. 1993).

[21] C.R. I-8-9, P.R. at I-7.

[22] C.R. at I-9, P.R. at I-7.

D. Domestic Industry

The domestic industry is defined as "the producers as a [w]hole of a domestic like product . . . ."[23] In defining the domestic industry, the Commission's general practice has been to include in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[24] Based on our finding that the domestic like product consists of all bulk aspirin, we find that the domestic industry currently consists of the sole domestic producer of bulk aspirin, Rhodia, Inc.[25]

III. CONDITIONS OF COMPETITION

The following conditions of competition are pertinent to our analysis in these investigations. As an input, the demand for bulk aspirin is derived from the demand for any finished tablet containing aspirin.[26] Additionally, aspirin competes with acetaminophen and ibuprofen in the finished analgesics market.[27] Chemically, however, there are no direct substitute products for bulk aspirin.[28] Aspirin accounted for roughly 23.4 percent of the analgesics market in 1998. The demand for aspirin has grown modestly in recent years, largely because of aspirin's use as a preventative measure against second heart attacks.[29]

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

All bulk aspirin sold in the United States must meet certain minimum standards. Aspirin must meet the specifications defined in the official monograph of United States Pharmacopoeia (USP) 23 and the Food and Drug Administration must qualify all bulk aspirin products.[31] A question exists about the length of time that it takes to qualify a bulk aspirin product. The parties assert that the qualification period may

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[23] 19 U.S.C. § 1677(4)(A).

[24] See United States Steel Group v. United States, 873 F. Supp. 673, 681-684 (Ct. Int'l Trade 1994), aff'd, 96 F. 3d 1352 (Fed. Cir. 1996).

[25] C.R. at III-1, P.R. at III-1. Our data include production by Dow Chemical Company ("Dow"), a former domestic producer of bulk aspirin in the early period of this investigation. Rhodia's parent company purchased Dow's aspirin business in 1995. Thereafter, *** C.R. at III-1 and III-1 n.1, P.R. at III-1 and III-1 n.1, C.R. & P.R. at Table III-1.

[26] C.R. at II-5, P.R. at II-3.

[27] C.R. at I-9, II-5, P.R. at I-7, II-3 .

[28] C.R. at II-6, P.R. at II-4.

[29] C.R. at II-6, P.R. at II-3.

[30] C.R. at III-1-2, P.R. at III-1. Affiliated firms that also produce bulk aspirin include Rhodia Thai Industries Ltd. (Bangpoo, Thailand) and Rhodia Chemie (St. Fons, France). C.R. at III-2 n.2, P.R. at III-1 n.2.

[31] C.R. at I-7, P.R. at I-6.

6

be as short as three months or as long as two years.[32] Even assuming that Chinese bulk aspirin meets these minimum requirements, the parties also disagree about whether further quality differences limit the subject imports' interchangeability with domestic bulk aspirin.[33] We intend to explore these two issues further in the final phase of the investigation.

Bulk aspirin may be purchased in different forms: pure aspirin crystals, typically available in 20, 40, 80, or 20/60 mesh sizes; granular 100 percent aspirin; and pure aspirin mixed with starch, usually a blend of 90 percent aspirin and 10 percent starch.[34] ***[35] One of the two Chinese producers who provided data, *** is unable to sift both its pure crystal aspirin and aspirin starch by size due to technological limitations.[36]

Aspirin processors can either purchase the pre-mixed aspirin starch or, if they have the appropriate equipment, they can purchase pure aspirin and blend their own starch mixture.[37] Aspirin starch is generally priced higher than pure aspirin.[38] There may be some incentive to use imported, subject aspirin starch over subject pure aspirin because aspirin starch may enter the U.S. duty free under HTS heading 3003, whereas 100 percent aspirin has an 8.4 percent duty.[39]

The different size of the crystals in the Chinese aspirin starch compound apparently has made it difficult for some domestic processors to use the Chinese product. For example, one domestic processor reported that the Chinese product frequently caused the tableting machine to stop because the particles in the mix were too big.[40] In addition, *** cannot produce aspirin starch with the same precise proportions of aspirin and starch as ***[41]

Finally, the volume of imports from nonsubject countries was large and grew steadily over the period of investigation. In 1996, nonsubject countries shipped 1.1 million pounds of bulk aspirin to the United States, and this volume increased to 2.1 million pounds in 1997 and 2.8 million in 1998. Nonsubject imports' market share also grew from *** percent in 1996 to *** percent in 1998.[42] These imports include nonsubject merchandise from Rhodia's affiliated firm in Thailand.[43]

IV. REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY SUBSIDIZED AND/OR LTFV IMPORTS

Section 771(7)(F) of the Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an

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[32] C.R. at II-7 n.23, P.R. at II-4 n.23.

[33] C.R. at I-7-8, P.R. at I-6. In addition to FDA certification, tableters apparently must "approve" their sources for bulk aspirin in order to ensure the consistent quality of their products and the smooth functioning of their machinery. See C.R. at V-15-18, P.R. at V-5.

[34] C.R. at I-9, P.R. at I-7.

[35] C.R. at I-8, P.R. at I-7.

[36] C.R. at II-4, P.R. at II-3. *** We intend to explore the capability of Chinese producers to sift bulk aspirin according to size in the final phase of the investigation.

[37] C.R. I-9, P.R. at I-7.

[38] C.R. at I-9, P.R. at I-7.

[39] C.R. at I-9, P.R. at I-7.

[40] C.R. at II-4, P.R. at II-3.

[41] C.R. at II-8, P.R. at II-5. *** aspirin starch compound is exactly 90 percent aspirin and 10 percent starch; *** even sells two products that contain 10.7 percent starch. *** is not able to match *** consistency. Id.

[42] C.R. & P.R. at Tables IV-2 & IV-3.

[43] C.R. at IV-2 n.3, P.R. at IV-1 n.3.

7

order is issued or a suspension agreement is accepted."[44] The Commission may not make such a determination "on the basis of mere conjecture or supposition,"[45] and considers the threat factors "as a whole." In making our determination, we have considered all factors that are relevant to these investigations.[46] [47] [48] Based on an evaluation of the relevant statutory factors, for the reasons described below, we find a reasonable indication that the domestic industry is threatened with material injury by reason of subject imports from China.

As part of our threat of material injury analysis, we have taken into account the current state of the domestic industry.[49] The domestic industry has reported substantial *** in 1998, which the domestic producer claims are a result of the decrease in sales volumes.[50] We note, however, that Rhodia's losses may reflect a significant increase in the ***[51] In interim 1999, sales volumes and profitability were increasing once again.[52] Rhodia argues that this upturn in 1999 was an anomaly resulting from a build-up of inventory by some of its customers.[53] We will explore these issues further in the final phase of the investigation.

There was a significant rate of increase of the volume and market penetration of Chinese bulk aspirin, indicating the likelihood of substantially increased imports.[54] The quantity and value of imports from China increased significantly over the entire period of investigation, with the largest increase occurring in the most recent period, from 1997 to 1998.[55] The volume of imports from China resulted in an increase in the market share of these imports, while the market share of the domestic industry declined

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[44] 19 U.S.C. §§ 1673b(a) and 1677(7)(F)(ii).

[45] 19 U.S.C. §1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984). See also Calabrian Corp. v. United States, 794 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992), citing H.R. Rep. No. 1156, 98th Cong., 2d Sess. 174 (1984).

[46] 19 U.S.C. § 1677(7)(F)(i). Factors I and VII are inapplicable since these investigations do not involve a countervailable subsidy or the importation of agricultural products. See 19 U.S.C. § 1677(7)(F)(iii)(I).

[47] In its notice of initiation, Commerce stated that the estimated dumping margin ranged from 8.28 to 144.02 percent.

[48] Chairman Bragg notes that she does not ordinarily consider the alleged margin of dumping to be of particular significance in evaluating the effects of subject imports on domestic producers. See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996).

[49] Suramerica de Aleaciones Laminadas, C.A. v. United States, 44 F.3d 978 (Fed. Cir. 1994).

[50] Postconference Brief on Behalf of Rhodia, Inc. ("Pet. Postconf. Br.") at 32. We note that some decrease in sales volume likely resulted from Rhodia's cessation of shipments of factory "seconds." C.R. at V-15-16, P.R. at V-5. Rhodia curtailed production in 1998 to *** which may have drawn imports into the market in greater quantities to meet unfilled demand. C.R. at VI-2, P.R. at VI-1. We intend to explore this issue further the final phase of the investigation.

[51] C.R. at VI-2, P.R. at VI-1. SG&A expenses increased nearly 400 percent from 1996 to 1998.

[52] C.R. & P.R. at Table III-2.

[53] Pet. Postconf. Br. at 34.

[54] §771(7)(F)(i)(III) of the Act, 19 U.S.C. § 1677(F)(i)(III)

[55] C.R. & P.R. at Table IV-2. Imports from China were *** million pounds in 1996, *** million pounds in 1997, *** million pounds in 1998, *** pounds in interim 1998, and *** million pounds in interim 1999. The volume of imports from China increased by *** percent from 1996 to 1997 and then increased another *** percent in 1998. Over the interim period, the volume of imports from China also increased *** percent. Imports from China were valued at *** million in 1996, *** million in 1997, *** million in 1998, *** million in interim 1998, and *** million in interim 1999. Domestic shipments were valued at *** million in 1996, *** million in 1997, *** million in 1998, *** million in interim 1998, and *** million in interim 1999. C.R. & P.R. at Table IV-2.

significantly,[56] particularly in the period between 1997 and 1998.[57] The extent to which the increased subject imports represent business taken from the domestic industry by the subject imports is unclear, however, because the record indicates that quality differences may significantly limit the degree of competition between Chinese and U.S. bulk aspirin.[58] We intend to explore this issue in the final phase of the investigation.

A significant percentage of Chinese production is exported, and, between 1997 and 1998, Chinese producers decreased the share of their shipments sold in the domestic Chinese market or sent to other export markets while increasing shipments sent to the United States.[59] This correlation seems to indicate that Chinese producers increasingly are focusing their sales efforts on exports to the United States market. Petitioner alleges that Chinese exports to the United States will increase once U.S. processors qualify the Chinese product, thus presenting the U.S. producer with the prospect of further declining shipments and reduced market share. Indeed, some domestic processors, including Rhodia's largest customer, are in the process of approving the Chinese subject merchandise.[60] While it is unclear when the qualification process will be completed, these efforts provide support for our finding that further subject imports are likely.

The record shows a high capacity utilization rate for Chinese producers, and an increase in this utilization rate over the period of investigation.[61] However, we have received data on capacity from only two of the three largest producers in China.[62] Moreover, the total production reported by the two producers exceeds the total capacity reported. We therefore intend to gather more information and explore this issue further in the final phase of the investigation.

The limited data provided by Chinese producers show low levels of inventories of the subject

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[56] C.R. & P.R. at Table IV-3. Chinese market share based on quantity was *** percent in 1996, *** percent in 1997, *** percent in 1998, *** percent in interim 1998, and *** percent in interim 1999. The domestic share based on quantity was *** percent in 1996, *** percent in 1997, *** percent in 1998, *** percent in interim 1998, and *** percent in interim 1999. The share of apparent consumption based on value for the Chinese product was *** percent in 1996, *** percent in 1997, *** percent in 1998, *** percent in interim 1998, *** percent in interim 1999. The share of apparent consumption based on value for the domestic product was *** percent in 1996, *** percent in 1997, *** percent in 1998, *** percent in interim 1998, *** in interim 1999. C.R. & P.R. Table IV-3.

[57] The domestic producers lost *** percent of their market share between 1997 and 1998; market share of subject imports increased *** percent during that period, while nonsubject imports' market share increased *** percent. C.R. & P.R. at Table C-1.

[58] Producer and importer questionnaires identified few common tableter customers for domestic and Chinese aspirin. See also Resp. Postconf. Br. at 3-8, Ex. 5 (ACS Affidavit) (Chinese aspirin servicing the growing low-price generic market abandoned by domestic producers).

[59] C.R. & P.R. at Table VII-1. Chinese exports to the United States were *** percent of total shipments in 1996, *** percent in 1997, *** percent in 1998, *** percent in interim 1998, and *** percent in interim 1999. Chinese home market sales were *** percent of shipments in 1996, *** percent in 1997, *** percent in 1998, *** percent in interim 1998, and *** percent in interim 1999. Chinese exports to other markets were *** percent of total shipments in 1996, *** percent in 1997, *** percent in 1998, *** percent in interim 1998, and *** percent in interim 1999. C.R. & P.R. at Table VII-1.

[60] C.R. at V-15-18, P.R. at V-5. Aspirin must be qualified by the FDA in order to be sold in the U.S. market and must also meet standards set by each processor. It is unclear from the record whether what is preventing further imports is the time needed to obtain FDA approval or individual processor approval. In addition, Rhodia alleges that qualification is a relatively simple process that takes only several months, while the Chinese Respondents argue that the process takes two years. See Pet. Postconf. Br. at 43; Resp. Postconf. Br. at 14. We intend to gather more information on the alleged future qualifications and will explore this issue further in the final phase of the investigation.

[61] C.R. & P.R. at Table VII-1. We note the steady increase in reported Chinese capacity during the period of investigation, as well as Petitioner's allegations that total capacity is substantially higher than reported.

[62] C.R. at VII-1 n.1, P.R. at VII-1 n.1.

9

merchandise, and that the ratio of inventories to production fluctuated at low levels over the period of investigation.[63] In addition, the inventories of U.S. importers of the subject merchandise were quite low during this same period of investigation.[64] These inventories have risen consistently over the period of investigation, however.

In considering whether the subject imports are likely to depress or suppress domestic prices to a significant degree, we note that subject imports undersold the domestic product in every comparison over the period examined. In addition, Chinese prices for each product fell over the period of investigation.[65] However, domestic prices showed no clear trend over the period of investigation, and the average unit value of shipments of the domestic product did not decrease over the period of investigation.[66] The apparent underselling instead may reflect quality and substitutability issues that we intend to examine further in the final phase of the investigation. As discussed above, U.S. processors have begun the procedures for qualifying the Chinese product in the United States for use in their aspirin tableting operations. The subject merchandise is likely to have more prevalent price effects once U.S. processors succeed in their efforts to qualify the Chinese product.

We have also examined the statutory criterion concerning the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.[67] Rhodia alleges that the negative trends in profitability have caused it to ***[68]

Finally, we are unaware of any other demonstrable adverse trends suggesting that the subject imports will imminently materially injure the industry.[69]

CONCLUSION

For the reasons stated above, we find a reasonable indication that the domestic industry producing bulk aspirin is threatened with material injury by reason of subject imports from China.

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[63] C.R. at VII-4, P.R. at VII-2.

[64] C.R. & P.R. at Table VII-2.

[65] C.R. & P.R. at Tables V-I, V-2, V-3. The margins of underselling over all products ranged from *** percent to *** percent. C.R. at V-10, P.R. at V-4.

[66] C.R. at III-6, V-9, P.R. at III-3, V-4. The average unit value of Dow's and Rhodia's combined domestic sales fell by *** per pound between 1996 and 1997 and then increased by *** per pound in 1998. The average unit value of Rhodia's product alone, however, increased by *** per pound over the period. It then decreased by *** from interim 1998 to interim 1999. C.R. at III-6, P.R. at III-3.

[67] 19 U.S.C. § 1677(7)(F)(i)(IX).

[68] Pet. Postconf. Br. at 38.

[69] 19 U.S.C. § 1677(7)(F)(i)(IX).

10

VIEWS OF COMMISSIONER CAROL T. CRAWFORD

On the basis of information obtained in these preliminary investigations, I determine that there is a reasonable indication that the industry in the United States producing bulk aspirin is materially injured by reason of imports of bulk aspirin from China that allegedly are sold in the United States at less-than-fair-value ("LTFV"). I join my colleagues in their discussion of the appropriate legal standard for preliminary investigations and with their findings concerning the like product and domestic industry. I also join the majority in their discussion of the conditions of competition that are distinctive to the domestic industry. However, I do not concur in the majority's determination that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of the subject imports. Rather, I determine that there is a reasonable indication that the industry in the United States producing bulk aspirin is materially injured by reason of the allegedly LTFV imports of bulk aspirin from China. Because my analysis and determination differ from the majority, my separate views follow.

I. ANALYTICAL FRAMEWORK

In determining whether there is a reasonable indication that a domestic industry is materially injured by reason of the allegedly LTFV imports, the statute directs the Commission to consider:

(I) the volume of imports of the merchandise which is the subject of the investigation,
(II) the effect of imports of that merchandise on prices in the United States for like products, and
(III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States...[1]

In making its determination, the Commission may consider "such other economic factors as are relevant to the determination."[2] In addition, the Commission "shall evaluate all relevant economic factors which have a bearing on the state of the industry ... within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[3]

The statute directs that we determine whether a domestic industry is materially injured "by reason of" the unfairly traded imports. Thus we are called upon to evaluate the effect of dumped imports on the domestic industry and determine if they are causing material injury. There may be, and often are, other "factors" that are causing injury. These factors may even be causing greater injury than the dumping. However, the statute does not require us to weigh or prioritize the factors that independently are causing material injury. Rather, the Commission is to determine whether any injury "by reason of" the unfairly traded imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effects of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry."[4] It is important, therefore, to assess the effects of the unfairly traded imports in a way that distinguishes those effects from the effects of other factors unrelated to and dumping. To do this, I compare the current condition of the industry to the industry conditions that would have existed without dumping, that

[1] 19 U.S.C. § 1677(7)(B)(I).
[2] 19 U.S.C.§ 1677(7)(B)(ii).
[3] 19 U.S.C. § 1677(7)(C)(iii).
[4] S. Rep. No. 100-71 at 116 (1987)(emphasis added); Gerald Metals, Inc. v. United States, 132 F.3d 716 (Fed. Cir. 1997)(rehearing denied).

is, had subject imports all been fairly priced. I then determine whether the change in conditions constitutes material injury.[5]

In my analysis of material injury, I evaluate the effects of dumping[6] on domestic prices, domestic sales, and domestic revenues. To evaluate the effects of dumping on domestic prices, I compare domestic prices that existed when the imports were dumped with what domestic prices would have been if the imports had been priced fairly. Similarly, to evaluate the effects of dumping on the quantity of domestic sales,[7] I compare the level of domestic sales that existed when imports were dumped with what domestic sales would have been if the imports had been priced fairly. The combined price and quantity effects translate into an overall domestic revenue impact. Understanding the impact on the domestic industry's prices, sales, and overall revenues is critical to determining the state of the industry, because the effects on the statutory impact factors[8] (*e.g.*, employment, wages, *etc.*) are derived from the impact on the domestic industry's prices, sales, and revenues.

I then determine whether the price, sales, and revenue effects of dumping, either separately or together, demonstrate that the domestic industry would have been materially better off if the imports had been priced fairly. If so, the domestic industry is materially injured by reason of the dumped imports.

For the reasons discussed below, I determine that there is a reasonable indication that the domestic industry producing bulk aspirin is materially injured by reason of allegedly LTFV imports of bulk aspirin from China.

II. CONDITIONS OF COMPETITION

To understand how an industry is affected by unfair imports, we must examine the conditions of competition in the domestic market. The conditions of competition constitute the commercial environment in which the domestic industry competes with unfair imports, and thus form the foundation for a realistic assessment of the effects of dumping. This environment includes demand conditions, substitutability among and between products from different sources, and supply conditions in the market.

A. Demand Conditions

An analysis of demand conditions tells us what options are available to purchasers, and how they are likely to respond to changes in market conditions, for example, an increase in the general level of prices in the market. Purchasers generally seek to avoid price increases, but their ability to do so varies with conditions in the market. The willingness of purchasers to pay a higher price will depend on the importance of the product to them (*e.g.*, how large a cost factor), whether they have options that allow them to avoid the price increase, for example by switching to alternative products, or whether they can exercise buying power to negotiate a lower price. An analysis of these demand-side factors tells us whether demand for the product is elastic or

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[5] Both the Court of International Trade and the United States Court of Appeals for the Federal Circuit have held that the "statutory language fits very well" with my mode of analysis, expressly holding that my mode of analysis comports with the statutory requirements for reaching a determination of material injury by reason of the subject imports. United States Steel Group v. United States, 96 F.3d 1352, at 1361 (Fed.Cir. 1996), *aff'g* 873 F.Supp. 673, 694-695 (Ct. Int'l Trade 1994).

[6] As part of its consideration of the impact of imports, the statute as amended by the URAA now specifies that the Commission is to consider in an antidumping proceeding, "the magnitude of the margin of dumping." 19 U.S.C. § 1677(7)(C)(iii)(V).

[7] In examining the quantity sold, I take into account sales from both existing inventory and new production. 12

[8] 19 U.S.C. § 1677(7)(C)(iii).

inelastic, that is, whether purchasers will reduce the quantity of their purchases if the price of the product increases. For the reasons discussed below, I find that the overall elasticity of demand for bulk aspirin is relatively high. Therefore, purchasers are likely to reduce their purchases if prices for these products increase.

Importance of the Product and Cost Factor. Key factors that measure the willingness of purchasers to pay higher prices are the importance of the product to purchasers and the significance of its cost. Record evidence in this investigation shows that the cost share of bulk aspirin accounts for a relatively high percentage of the downstream products in which it is used.[9] This high cost share is evidence of a fairly high elasticity of demand.

Alternative Products. Another important factor in determining whether purchasers would be willing to pay higher prices is the availability of viable alternative products. Often purchasers can avoid a price increase by switching to alternative products. If such an option exists, it can impose discipline on producer efforts to increase prices.

Information on the record indicates that only limited alternative products are available that can substitute for bulk aspirin.[10] There may be some limited substitution between aspirin and alternative products such as ibuprofen and acetaminophen. Each are analgesic products designed for mild pain relief. Yet, each of these products is also utilized for other distinctive properties. For example, aspirin is known to be an effective treatment for certain stress and cardiovascular related problems, ibuprofen is more effective with arthritic pain, and acetaminophen is touted as an effective fever reducer. Thus, while there reportedly are limited substitute products for bulk aspirin, those products that can be substituted generally serve different markets and may cost two to five times more than bulk aspirin. The limited availability of alternative products is evidence of a relatively lower elasticity of demand.

Overall, based on the high cost share of bulk aspirin in the final downstream products in which they are used coupled with the mitigating effects of the limited availability of substitutable alternative products, I find that the elasticity of demand for bulk aspirin is moderately high. That is, purchasers likely will reduce significantly the amount of bulk aspirin they buy in response to a general increase in prices for these products.

B. Substitutability

Simply put, substitutability measures the similarity or dissimilarity of imported versus domestic products from the purchaser's perspective. Substitutability depends upon 1) the extent of product differentiation, measured by product attributes such as physical characteristics, suitability for intended use, design, convenience or difficulty of usage, quality, *etc.*; 2) differences in other nonprice considerations such as reliability of delivery, technical support, and lead times; and 3) differences in terms and conditions of sale. Products are close substitutes and have high substitutability if product attributes, other nonprice considerations, and terms and conditions of sale are similar.

While price is nearly always important in purchasing decisions, nonprice factors that differentiate products determine the value that purchasers receive for the price they pay. If products are close substitutes, their value to purchasers is similar, and thus purchasers will respond more readily to relative price changes. On the other hand, if products are not close substitutes, relative price changes are less important and are therefore less likely to induce purchasers to switch from one source to another.

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[9] The cost share of bulk aspirin in downstream production varies significantly fluctuating between *** percent of the direct cost of aspirin tablet production. CR at II-6; PR at II-4.

[10] CR at I-9; PR at I-7.

Because demand elasticity for bulk aspirin is moderately high, overall purchases will decline significantly if the overall prices of bulk aspirin increase. However, purchasers can avoid price increases from one source by seeking other sources of bulk aspirin. In addition to any changes in overall demand for bulk aspirin, the demand for bulk aspirin from different sources will decrease or increase depending on their relative prices and their substitutability. If bulk aspirin from different sources are substitutable, purchasers are more likely to shift their demand when the price from one source (*i.e.*, subject imports) increases. The magnitude of this shift in demand is determined by the degree of substitutability among the sources.

Purchasers have three potential sources of bulk aspirin: the domestic product, subject imports, and nonsubject imports. Purchasers are more or less likely to switch from one source to another depending on the similarity, or substitutability, between and among them. For purposes of this preliminary investigation, I find that the available evidence indicates that there is a moderate level of substitutability between and among subject imports, nonsubject imports and the domestic like product

In general terms, all three sources of bulk aspirin must meet certain basic pharmacological requirements. However, the level of substitutability between and among these sources is reduced somewhat by certain nonprice factors such as quality and the conditions of sale. For example, certain evidence shows that domestic and subject merchandise are not interchangeable primarily due to the perceptions of lower quality of Chinese bulk aspirin. Moreover, unlike the domestic product, the record shows that at least one subject producer is unable to sift its bulk aspirin by particular mesh size. This fact has reportedly made it difficult for some processors (tableters) to handle the Chinese material in their production processes. Thus, some processors have described strict preferences for a particular mesh size because their machines have been calibrated to run under precise specifications. Yet, the available evidence also indicates that processors can recalibrate their equipment to run with different mesh sizes without much difficulty.[11]

Further available evidence also suggests that there is a moderate substitutability between and among domestic, subject and nonsubject merchandise. In fact, the petitioner states that ***.[12] In general terms, a processor receives FDA approval for a product with a particular specification. Such processor then seeks suppliers that can produce bulk aspirin that meet those specifications. However, if a supplier can offer a low enough price, a processor can adjust its formulation and processing equipment to utilize the less expensive bulk aspirin.[13]

Based on the available record, I find that there is a moderate level of substitutability between and among domestic, subject and nonsubject merchandise. However, I intend to explore this issue further in any final phase of the investigation.

C. Supply Conditions

Supply conditions in the market are a third condition of competition. Supply conditions determine how producers would respond to an increase in demand for their product, and also affect whether producers are able to institute price increases and make them stick. Supply conditions include producers' capacity utilization, their ability to increase their capacity readily, the availability of inventories and products for export markets, production alternatives and the level of competition in the market. For the reasons discussed below, I find that the elasticity of supply of bulk aspirin appears to be relatively high.

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[11] CR at II-4; PR at II-3.

[12] CR at II-9; PR at II-5.

[13] CR at II-4; PR at II-2. Hearing Transcript at 50-51.

Capacity Utilization and Capacity. Unused capacity can exercise discipline on prices. If there is a competitive market, no individual producer can make a price increase stick. Any attempt at a price increase by one producer would be beaten back by competitors who could produce more product to sell at the prevailing price. Here, the domestic industry operated at rather moderate levels of capacity utilization throughout the period of investigation. In 1998, Rhodia's capacity utilization, and thus the domestic industry's capacity utilization, was *** percent. In absolute terms, the domestic industry had unused capacity of *** pounds in 1998. Thus, in 1998 *** percent of the domestic industry's capacity to produce bulk aspirin was not used and therefore was available to increase production.[14] Consequently, the domestic industry has *** capacity available to supply the demand for subject imports.

Inventories and Exports. In 1998, the domestic industry's inventories of *** pounds accounted for *** percent of its shipments, while its exports of *** pounds accounted for *** percent of shipments.[15] Thus, the domestic industry's available inventories and export shipments represented a significant source of supply that could have been used to fill the demand supplied by subject imports.

Level of Competition. The level of competition in the domestic market has a critical effect on producer responses to demand increases. A competitive market is one with a number of suppliers in which no one producer has the power to influence price significantly. In the U.S. market, there is only one domestic producer of bulk aspirin. However, nonsubject imports are a substantial source of competition in this market, accounting for *** percent of consumption in 1998.[16] Even though there is only one domestic producer of bulk aspirin, competition from nonsubject imports indicates that there is a significant level of competition overall in the U.S. market.

Given the level of competition in the U.S. market and the domestic industry's apparent ability to supply the demand for subject imports, I find that the elasticity of supply is relatively high.

III. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS OF BULK ASPIRIN FROM CHINA

The statute requires us to consider the volume of subject imports, their effect on domestic prices, and their impact on the domestic industry. I consider each requirement in turn.

A. Volume of Subject Imports

Subject imports from China increased from *** pounds in 1996 to *** pounds in 1997, and to *** pounds in 1998. The value of subject imports from China was $*** in 1996, $*** in 1997, and $*** in 1998.[17] By quantity, the subject imports held a market share of *** percent in 1996, *** percent in 1997, and *** percent in 1998. Their market share by value was *** percent in 1996, *** percent in 1997, and *** percent in 1998.[18] While it is clear that the larger the volume of subject imports, the larger the effect they will have on the domestic industry, whether the volume is significant cannot be determined in a vacuum, but must be evaluated in the context of its price and volume effects. Based on the market share of subject imports and the conditions of competition in the domestic market, I find that the volume of subject imports is significant in light of its price and volume effects.

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[14] CR and PR at Table III-1.
[15] CR and PR at Table III-4.
[16] CR and PR at Table IV-3.
[17] CR and PR at Table IV-1.
[18] CR and PR at Table IV-3.

15

B. Effect of Subject Imports on Domestic Prices

I find that subject imports are not having significant effects on domestic prices for bulk aspirin. To determine the effect of the subject imports on domestic prices, I examine whether the domestic industry could have increased its prices if the subject imports had not been dumped. As discussed, both demand and supply conditions in the domestic market are relevant. Examining demand conditions helps us understand whether purchasers would have been willing to pay higher prices for the domestic product, or buy less of it, if subject imports had been sold at fairly traded prices. Examining supply conditions helps us understand whether available capacity and competition among suppliers to the market would have imposed discipline and prevented price increases for the domestic product, even if subject imports had not been unfairly priced.

If the subject imports had not been dumped, their prices in the U.S. market would have increased significantly. Thus, if subject imports had been fairly priced, they would have become more expensive relative to domestic bulk aspirin. In such a case, if subject imports are good substitutes with other bulk aspirin, purchasers would have shifted towards the relatively less expensive products.

In this investigation, the alleged dumping margins for the subject imports generally are quite large, ranging from 8.28 to 144.02 percent.[19] Therefore, subject imports likely would have been priced significantly higher had they been fairly traded. At the higher, fairly traded prices a substantial portion of the demand supplied by subject imports from China likely would have shifted away from this source and toward other sources of supply. Moreover, it is likely that most of this shift in demand away from subject imports would have been captured by both the domestic industry and nonsubject imports because they are moderate substitutes for each other. Thus, it is likely that demand for both the domestic product and nonsubject imports would have increased.

Since subject imports from China held a market share of *** percent by quantity in 1998, the shift in demand away from the subject imports likely would have been fairly large. By quantity, nonsubject imports accounted for *** percent of the market in 1998, and thus represent significant competition for the domestic industry, which accounted for *** percent of the market in 1998. Since subject imports from China and domestic bulk aspirin are moderate substitutes for each other, a significant portion of the demand for subject imports likely would have shifted to the domestic product.

The elasticity of demand indicates the sole domestic supplier should have been able to increase prices in response to this shift in demand. However, any attempt by the domestic industry to increase its prices in response to the shift in demand would have been unsuccessful. There is significant competition from nonsubject imports, and the domestic industry has substantial unused production capacity available, as well as some inventory and export supply, with which it would have competed for sales, had demand shifted away from the subject imports. This competition would have enforced price discipline in the market. In these circumstances, any effort by the domestic producer to raise its prices would have been beaten back by the competition. Therefore, significant effects on domestic prices cannot be attributed to the unfair pricing of these subject imports. Consequently, I find that the subject imports are not having significant effects on prices for domestic bulk aspirin.

C. Impact of Subject Imports on the Domestic Industry

[19] 64 Fed. Reg. 33463, 33464 (June 23, 1999).

To assess the impact of subject imports on the domestic industry, I consider output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development and other relevant factors.[20] These factors together either encompass or reflect the volume and price effects of the dumped imports, and so I gauge the impact of dumping through those effects.

The domestic industry would not have been able to increase its prices significantly if the subject imports had been sold at fairly traded prices. Therefore, any impact of the dumped imports on the domestic industry would have been on the domestic industry's output and sales.

As I have discussed above, competition from nonsubject imports is significant, and thus, had the subject imports not been unfairly traded, only some of the demand satisfied by the subject imports would have shifted to the domestic product. The increase in demand for the domestic product likely would have been significant, and the domestic producer could have increased its production and sales to satisfy the increased demand. The domestic industry likely would have captured enough of the demand for subject imports from China that its output and sales, and therefore its revenues, would have increased significantly had the subject imports not been dumped. Consequently, the domestic industry likely would have been materially better off if the subject imports had been fairly traded.

IV. CONCLUSION

On the basis of the foregoing analysis, I find that the domestic industry would not have increased its prices, but would have increased its output and sales, and therefore its revenues, significantly had the subject imports been fairly traded. Therefore, I find that the domestic industry would have been materially better off if the subject imports had not been dumped. Consequently, I determine that there is a reasonable indication that the domestic industry producing bulk aspirin is materially injured by reason of allegedly LTFV imports of bulk aspirin from China.

[20] 19 U.S.C. § 1677(7)(C)(iii).

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by Rhodia, Inc., Cranbury, NJ, on May 28, 1999, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of bulk acetylsalicylic acid (aspirin)[1] from the People's Republic of China (China). Information relating to the background of the investigation is provided below.[2]

Date	*Action*
May 28, 1999	Petition filed with Commerce and the Commission;[3] institution of Commission investigation (64 FR 30355, June 7, 1999)
June 18, 1999	Commission's conference[4]
June 23, 1999	Commerce's notice of initiation (64 FR 33463)
July 9, 1999	Date of the Commission's vote
July 12, 1999	Commission's determination transmitted to Commerce

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on the questionnaire response of the one firm (Rhodia, Inc.) that is believed to have accounted for the entirety of U.S. production of bulk aspirin during 1998. U.S. imports are based on official statistics of the Department of Commerce as well as Chinese export data.

PREVIOUS INVESTIGATIONS

Bulk aspirin has been the subject of two previous Commission investigations. On October 31, 1986, the Commission instituted investigations Nos. 701-TA-283 (Preliminary) and 731-TA-364 (Preliminary) following the filing of petitions on behalf of Monsanto Company (St. Louis, MO) alleging

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[1] For purposes of this investigation, the product covered is bulk acetylsalicylic acid, commonly referred to as bulk aspirin, whether or not in pharmaceutical or compound form, not put up in dosage form (tablet, capsule, powders or similar form for direct human consumption). Bulk aspirin may be imported in two forms, as pure ortho-acetylsalicylic acid or as mixed ortho-acetylsalicylic acid. Pure ortho-acetylsalicylic acid can be either in crystal form or granulated into a fine powder (pharmaceutical form). This product has the chemical formula $C_9H_8O_4$. It is defined by the official monograph of the United States Pharmacopoeia (USP) 23. It is provided for in subheading 2918.22.10 of the HTS with a 1999 general duty rate of 8.4 percent *ad valorem*, applicable to imports from China.

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

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

[3] According to Commerce's notice of initiation, the petitioner's calculated dumping margins on bulk aspirin range from 8.28 to 144.02 percent, based on a comparison of export price to normal value.

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

I-1

that subsidized and LTFV imports of bulk aspirin from Turkey were being sold in the United States. On December 10, 1986, the Commission determined that there was a reasonable indication that an industry in the United States was materially injured by reason of the alleged subsidized and LTFV imports from Turkey. Following final affirmative countervailing duty and antidumping determinations by Commerce, the Commission, in August 1987, made affirmative final determinations of injury with respect to the subsidized and LTFV imports from Turkey. Final weighted-average dumping margins as determined by Commerce ranged from 27.35 percent to 38.60 percent, and the final countervailable subsidy rate was 6.54 percent.[5]

Also, on March 1, 1999, the Commission gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on aspirin from Turkey would be likely to lead to a continuation or recurrence of material injury. Finding no circumstances that would warrant a full review, the Commission determined that it would conduct an expedited review and gave notice to that effect. The Commission has scheduled a vote on the review for July 22, 1999.

THE PRODUCT

Description and Uses

The imported product subject to this investigation is bulk acetylsalicylic acid, commonly known as bulk aspirin, whether or not in pharmaceutical or compound form, but not put up in measured doses, capsules, or tablets for direct human consumption, as defined on page I-1. Acetylsalicylic acid, a white, odorless organic compound with the chemical formula $C_9H_8O_4$, is used for medicinal purposes, primarily as an analgesic (mild pain relief), an anti-pyretic (fever relief), or an anti-inflammatory agent. As a secondary therapeutic application, aspirin is also used in low dosages for the treatment of stress and cardiovascular disease. Bulk aspirin consists of pure acetylsalicylic acid in crystal form, granulated into a fine powder (pharmaceutical form), or mixed with small amounts of other materials, such as excipients (starch, lactose, cellulose, or coloring materials).

Manufacturing Process

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

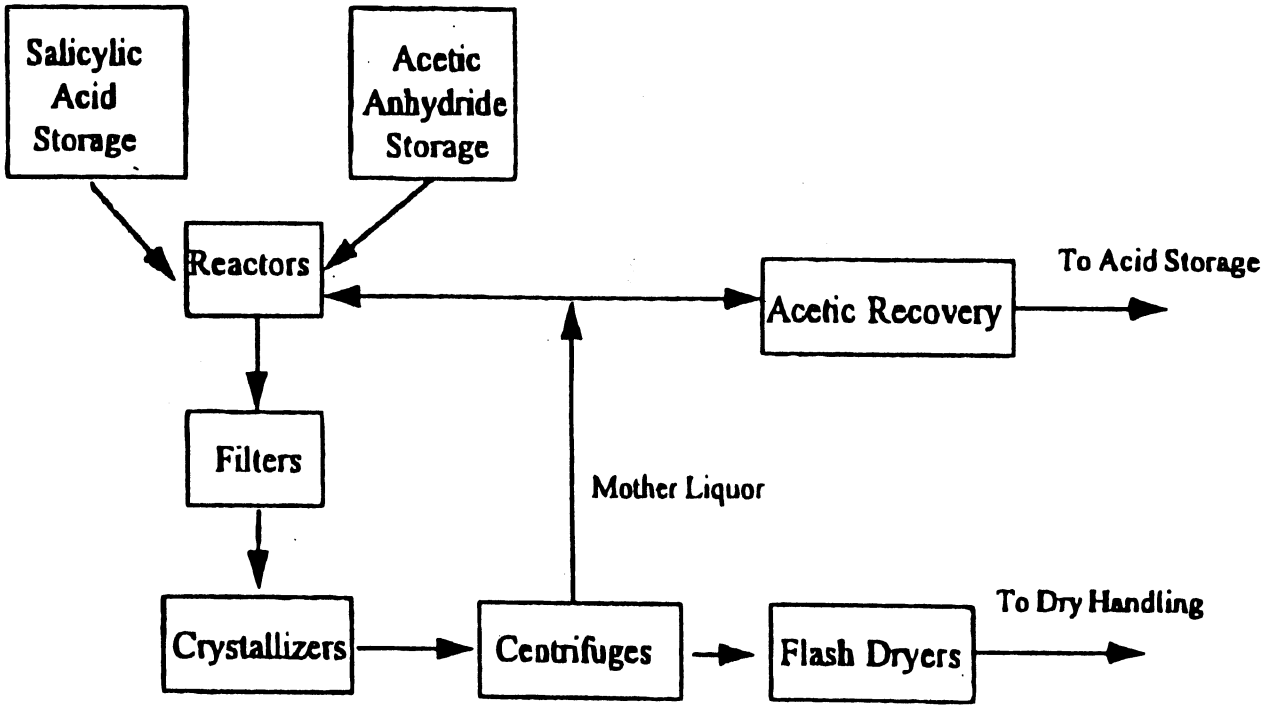
The dried aspirin, which includes a broad range of crystal sizes, is further scrubbed and purified. It is then sent (1) through a sifter, essentially a series of screens of increasingly small mesh openings, to separate the crystals by size or (2) to a granulator (figures I-2 and I-3). In Rhodia's St. Louis plant, aspirin crystals are sifted as 20 mesh (largest), 40 mesh, and 80 mesh (finest). Rhodia generally can adjust

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

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

Figure I-1

ASPIRIN PROCESS BLOCK FLOW DIAGRAM

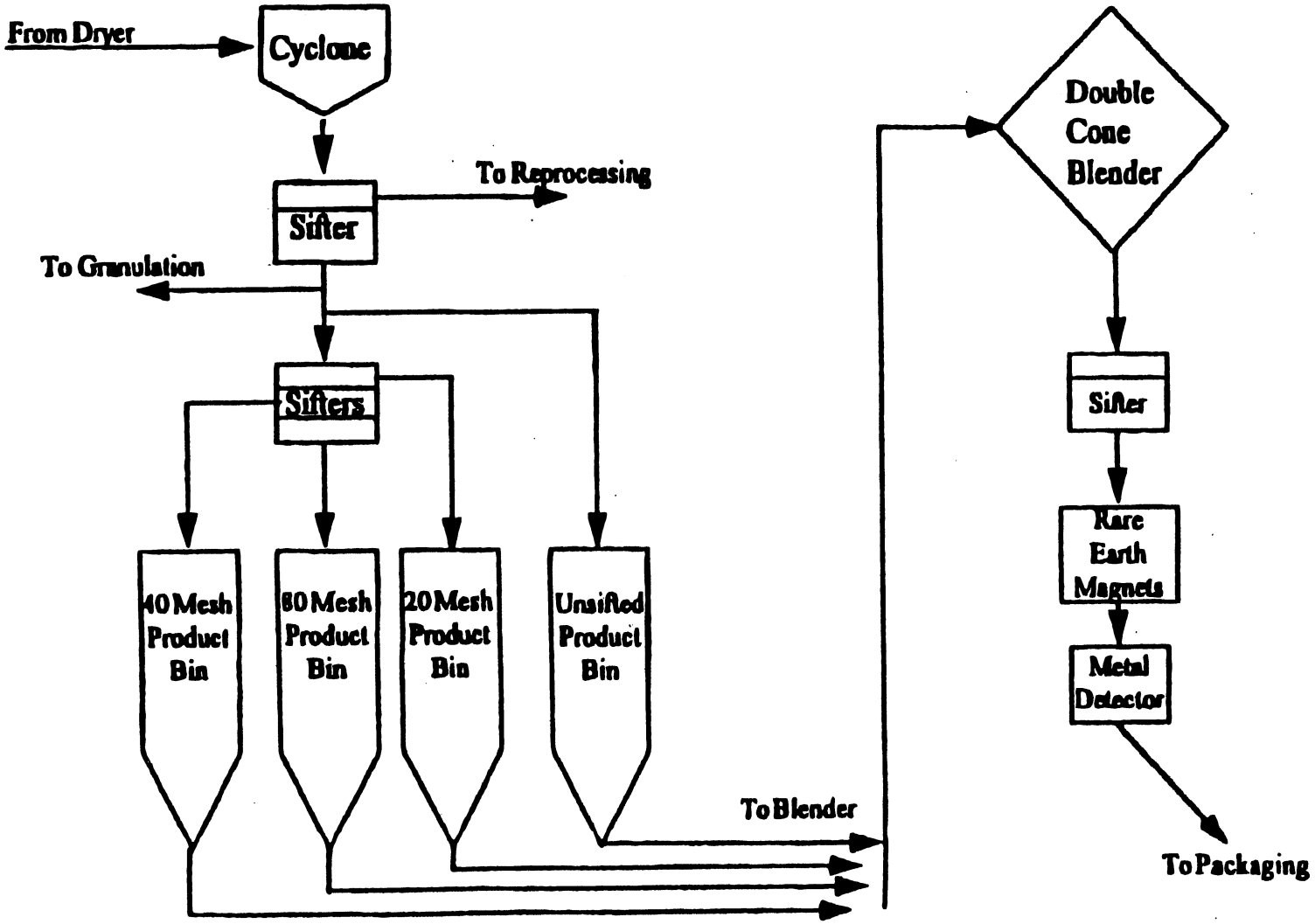


Source: Rhodia, Inc.

I-3

Figure I-2

CRYSTAL ASPIRIN PROCESS FLOW

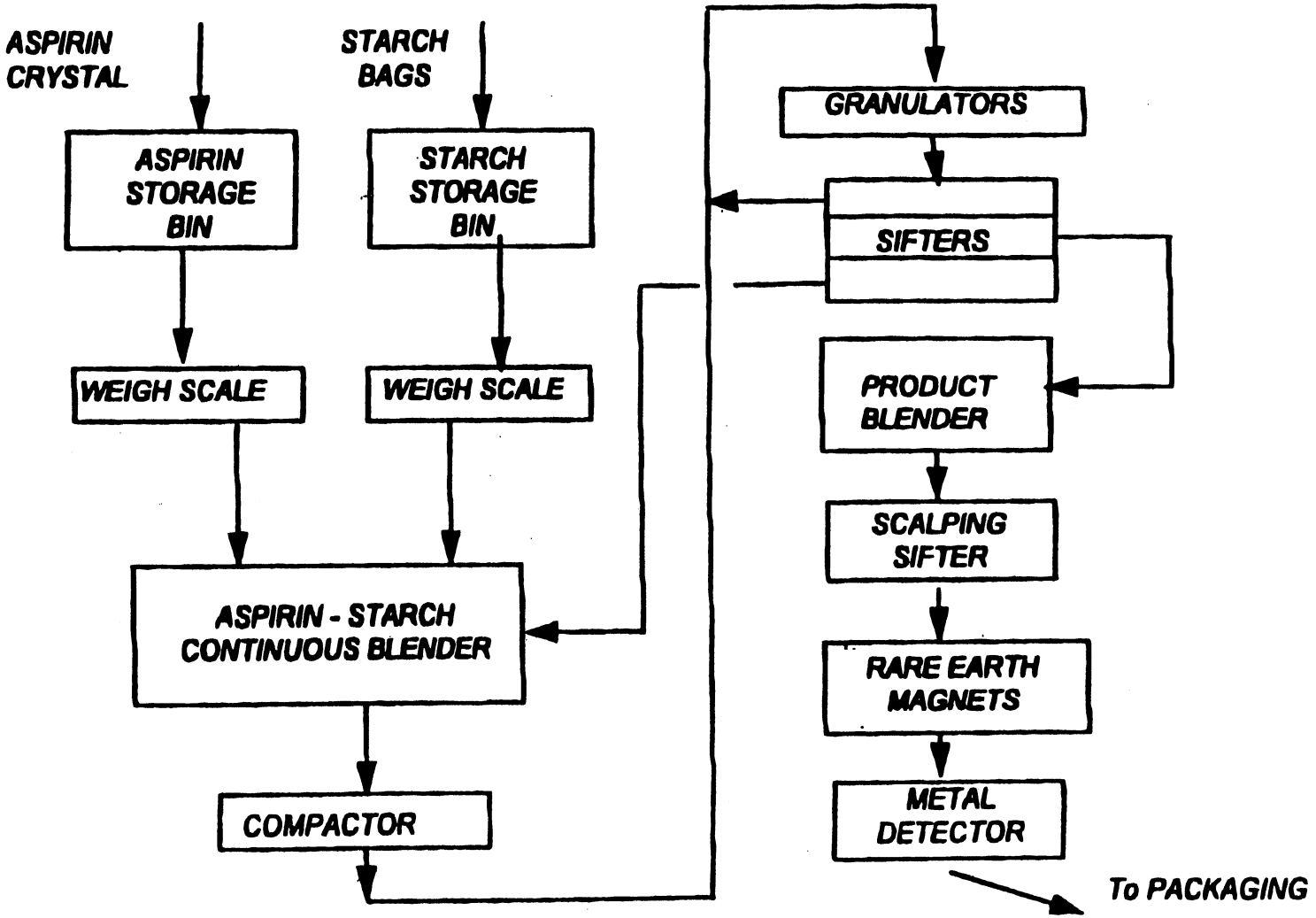


Source: Rhodia, Inc.

I-4

Figure I-3

GRANULATION PROCESS FLOW



Source: Rhodia, Inc.

I-5

its manufacturing process to meet customer crystal size specifications by changing the sifter screen sizes; in certain circumstances, modifications to the crystallization process may also be necessary.[7]

Aspirin can also be granulated, either alone or with another ingredient, typically starch. If granulating a mixture, aspirin and starch (which aids processing into tablets) are added to a blender in a predetermined weight ratio, generally 90 percent aspirin to 10 percent starch. The straight aspirin or the blended mixture is compressed into a sheet and then sent through the granulator, "a knife that pushes this aspirin sheet through a wire mesh."[8] From the granulator, the product is sifted to remove the largest and smallest granules from the desired middle-size product, which is then sent through the final processing steps; the large and small granules are recycled through the blender with a fresh mixture of aspirin and starch.[9]

One notable reported difference between U.S. and Chinese production is ***.[10] Additionally, the Chinese producers reportedly do not have the equipment to manufacture and isolate crystal size with the same consistency as Rhodia; the majority of Chinese crystal product is 20/60 mesh (a mix in the range between 20 mesh and 60 mesh) or 20 mesh.[11]

The manufacturing equipment used to produce bulk acetylsalicylic acid is used only in the manufacture of that product. Likewise, production workers are dedicated exclusively to the production of aspirin.[12]

Interchangeability

The U.S. producer asserts that all bulk aspirin is interchangeable based on the fact that it is has the same chemical formula ($C_9H_8O_4$); it is subject to USP specifications; the U.S. Food and Drug Administration (FDA) must qualify producers;[13] and only pharmaceutical processors (or distributors to such processors) are purchasers of the product.[14] The Chinese producers assert that the significant differences in product quality and consistency have led to two distinct types of bulk aspirin: high-quality product made to strict specifications, used only by brand-name producers, and less expensive, lower quality aspirin, such as used by generic and discount brand producers.[15] In particular the Chinese report that, ***, their bulk product is significantly more difficult to process into dosage form. For tableters competing in the discount finished aspirin market, where low price is critical, the cost savings of the Chinese product justify ***. The Chinese bulk aspirin is also of ***. Additionally, the Chinese aspirin may have *** not found in the Rhodia bulk product.[16]

Respondents assert that as recently as 1998, Rhodia sold its factory ***. However, recent refurbishments to Rhodia's St. Louis facility have eliminated its production of ***. This discount aspirin

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

[8] Ibid., p. 10.

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

[10] Petition, exh. 6.

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

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

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

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

[15] Respondent's postconference brief, pp. 4-6.

[16] Ibid., p. 3.

tableter was not willing to pay the *** and therefore turned to a Chinese supplier.[17] The arguable existence of significant differences in quality may raise an issue about the interchangeability of the Rhodia and Chinese bulk aspirin.

Bulk acetylsalicylic acid may be purchased in any of several different forms. Crystals are typically available as 20, 40, or 80 mesh, or as a 20/60 mesh, which includes a range of sizes. The 20 mesh and 20/60 mesh are used in the most economical aspirin products, while the 80 mesh is used in more specialized products, such as effervescent tablets[18] ***.[19] Aspirin processors select crystal size based on their equipment specifications and on their particular dosage form (e.g., tablets, capsules). Adjusting aspirin processing equipment to handle a different crystal size requires at least a 3-month qualifying process because raw materials are qualified for a specific crystal size. As a result, there is an issue of interchangeability of crystal mesh grades over the short run.[20]

Granular 100 percent aspirin is typically used for filming and coating in slow-release aspirin products.[21] Granulated bulk aspirin is also commonly sold mixed with starch, usually at a 90/10 ratio by weight. The granules are available in a range of sizes as required by customer specifications. Using the granulated mixture allows aspirin processors to avoid a step, the blending of bulk aspirin and starch, in the production of dosage form aspirin. For those processors choosing to purchase 100 percent aspirin and blend their own starch mixture, additional manufacturing equipment is required. In both cases, however, the end product is dosage form aspirin.[22] Because aspirin mixed with starch may be imported free of duty into the United States under HTS heading 3003, there may be certain price incentives for importing the mixed product in place of 100-percent aspirin, which has a 8.4 percent *ad valorem* rate of duty. However, the compounded aspirin is more expensive, generally priced *** than the unmixed aspirin.[23]

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

Channels of Distribution

Both U.S. and foreign bulk aspirin producers sell their product either to pharmaceutical processing companies or to chemical distributors, which in turn sell the bulk product to pharmaceutical processors. Pharmaceutical facilities put up the bulk product into dosage form (tablets, capsules, etc.), in some cases adding other active pharmaceutical ingredients or excipients (such as coloring). Aspirin processors then sell the finished product to retail outlets, including pharmacies, drugstores, and grocery stores, or to medical facilities.

The Chinese aspirin producers assert that bulk aspirin is supplied to two tiers of aspirin tableters, brand-name and generic. The tableters producing brand-name aspirin products reportedly require higher

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[17] Ibid.

[18] Andrew McMaster, Plant Manager, Rhodia, Luling, LA, conference transcript, p. 11.

[19] Petition, exh. 1.

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

[21] Petition, exh. 1.

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

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

I-7

quality bulk product than those producing for the generic or store brand market, especially in the "dollar store" discount chain that ***. Generic tableters, particularly in the dollar store market, allegedly compete in the consumer aspirin market based solely on price and therefore are not willing to pay the additional cost for higher quality bulk aspirin.[24]

Price

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

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

I-8

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

MARKET SEGMENTS AND CHANNELS OF DISTRIBUTION

Two principal bulk aspirin products are 100 percent crystal bulk acetylsalicylic acid and crystal mixed with around 10 percent starch. Tableters purchase the bulk aspirin and produce aspirin tablets for retail and institutional markets. Some tableters, like those that mix the bulk aspirin with other medicines to form combination products, can only use the 100 percent crystal form. Others may only purchase the aspirin starch form. Only if the tableter has the equipment to mix the starch (or other excipient) with the aspirin to make a directly compressible form of aspirin can the tableter switch from buying the aspirin starch mix to buying the crystal form. Bulk aspirin accounts for *** percent of the direct cost of aspirin tablet production.[1]

Aspirin tablets are marketed using brand names or as generics. The first, higher priced, tier includes the national-brand makers of aspirin tablets such as Bayer and Bristol-Myers Squibb. Producers such as *** supply tablets for store-specific brands (such as Walgreens, Wal-Mart, and Rite-Aid) and for generic aspirin to "dollar" stores such as Dollar Tree and Family Dollar.[2] Tableters producing store brand and generic aspirin tablets are increasingly more price-sensitive to changes in the cost of bulk aspirin than those in the first tier.[3]

*** sells its product to both large tableters and distributors, although it sells ***. Distributors serve mainly the smaller tableters. Importers reported shipping around *** percent of their bulk aspirin to tableters.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

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

Industry Capacity

The U.S. producer's capacity remained steady throughout the period of study at *** pounds per year. Its utilization rates increased from *** percent in 1996 to *** percent in 1997, and then declined to *** percent in 1998. Capacity utilization rates increased from *** percent in January-March 1998 to *** percent in January-March 1999.[4]

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[1] Telephone conversation with ***; telephone conversation with ***; and affidavit of ***.

[2] Telephone conversation with ***.

[3] Response to producer's questionnaire.

[4] Response to producer's questionnaire.

II-1

Export Markets

The U.S. producer's export shipments were moderate compared to shipments to the U.S. market, but have been steadily declining. The percentage of the value of the U.S. producer's export shipments relative to its total shipments *** from *** percent in 1996 to *** percent in 1997 and then to *** percent in 1998. The decline can also be seen in the most recent quarterly data, where the percentage of export shipments was *** percent during the first quarter of 1998 compared to *** percent during the first quarter of 1999.[5]

Inventories

Inventories tend to be relatively high in the bulk aspirin market in order to meet customer needs with a very short lead time. End-of-period inventory levels *** from *** percent of U.S. producer's U.S. shipments in 1996 to *** percent of such shipments in 1997, and then *** to *** percent in 1998. During the first quarter of 1998, inventories were near their highest reported level (*** percent of U.S. shipments), but they have since declined to their lowest during the period of investigation (*** percent in the first quarter of 1999).

Production Alternatives

No other products are made domestically using the same equipment and workers as bulk acetylsalicylic acid. Further, the process has been automated, changing "from stand-alone areas in the plant where people operated manually to a computer-controlled plant."[6] Although methyl salicylate is also produced at the St. Louis facility, its production is in a separate, stand-alone building that shares no production workers.

U.S. Demand

Demand Characteristics

Until 1996, U.S. demand for bulk aspirin was steadily declining in the 1990s. However, over the past 2-3 years, demand has been growing at a rate of 1-3 percent per year due to recent news that aspirin is helpful in the prevention of cardiovascular disease and specific cancers. In addition, growth has been refueled by the increased advertising of aspirin in the media, especially since Bayer has reacquired the rights to the Bayer trade name.[7]

While some tableters can use only the aspirin starch mixtures, those with the most flexible production techniques have the ability to mix the crystal aspirin with starch and make their own aspirin starch mixtures. This occurs if the difference in price between the products is too large.[8] Some tableters have strict preferences for mesh size of crystal aspirin because their machines have been calibrated to run with that size crystal. They can change without much difficulty, however, to run with a different mesh size,

[5] Petitioner's postconference brief, p. 33.
[6] Mr. McMaster, plant manager, Rhodia, Inc., conference transcript, p. 39.
[7] Response to producer's questionnaire.
[8] Affidavit of ***.

II-2

since they maintain data on log sheets for future reference.[9] *** has identified, as examples, various end-use products that would contain the different mesh size crystals. For example, ***.[10]

The Chinese product *** is not sifted by mesh size, either in pure crystal or starch mixture form.[11] This has made it difficult for some U.S. tableters to handle the Chinese material in their production processes.[12] For instance, *** trial analysis of the Chinese product revealed that it ***.[13] David Zhao of Jilin Pharmaceuticals (USA) has noted that Jilin Pharmaceuticals, Inc. has tried to implement technology to separate bulk aspirin crystals by size in order to gain market share, but was not successful and has since stopped trying.[14]

The Analgesic End-Use Market

Since bulk acetylsalicylic acid is an input into the production of tablets, demand for it is derived from the demand for any type of tablet that contains aspirin. As such, although bulk aspirin does not compete with other over-the-counter analgesics such as bulk ibuprofen or bulk acetaminophen in the production process, tableted aspirin may compete with tableted ibuprofen and tableted acetaminophen in the end-use market. Each of these has analgesic properties in addition to their distinctive properties: aspirin helps with cardiovascular problems and stress; ibuprofen is more effective against arthritic pain; and acetaminophen is a more effective anti-pyretic (fever-reducer).[15] Hence, although not exactly the same product, there may be some substitution between aspirin, ibuprofen, and acetaminophen tablets.

The value of the market for over-the-counter analgesics in the United States increased by 4.1 percent in nominal terms in the five years ending in 1998, but, accounting for inflation, declined in real terms by 5.5 percent. Firms have struggled to increase prices as an increase of discount-oriented retailing and the use of analgesics as "loss leaders" has put downward pressure on prices.[16] Private-label products have flourished in this market, now accounting for 17 percent of the entire analgesic market value.[17] Though aspirin tablet sales growth in general has been slow, the generic "dollar" store sales of aspirin are expected to grow at around 10 percent.[18] Of the analgesic market, aspirin held a market share of 23.4 percent in 1998, up from 22.4 percent in 1995, due mostly to the discovery of aspirin's use as a preventative measure against second heart attacks.[19]

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[9] Conference transcript, p. 51.

[10] ***.

[11] ***.

[12] Telephone conversation with *** and respondents' postconference brief, p. 4.

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

[14] Conference transcript, p. 61.

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

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

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

[18] Telephone conversation with ***.

[19] Petitioner's postconference brief, exh. 4, pp. 14 and 15.

II-3

Substitute Products

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

Cost Share

Bulk aspirin accounts for a relatively high percentage of the cost of aspirin tablets, the most widely produced final product in which it is used. The exact percentage varies by producer. One bulk aspirin purchaser estimated that the bulk aspirin has a *** percent cost share in production of aspirin tablets.[20] Another tableter estimated that *** percent of the cost of production comes from the bulk aspirin,[21] and another estimated that aspirin starch accounts for approximately *** percent of the total cost of manufacture of 100-count containers of aspirin tablets.[22]

SUBSTITUTABILITY ISSUES

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

Comparison of Domestic Products and Subject Imports

Interchangeability

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

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[20] Telephone conversation with ***.

[21] Telephone conversation with ***.

[22] Affidavit of ***.

[23] The petition and petitioner's testimony indicated that the approval process for new products only requires three months. This is only the length it takes for the accelerated stability test. Staff has learned the following in a conversation with ***. ***.

II-4

process advantages in some applications, and in other cases U.S.-produced material offers process advantages.

Quality

As previously noted, *** Chinese bulk aspirin is not separated by mesh size. *** also is not able to match *** consistency in producing aspirin starch mixture; the latter's product is exactly 90 percent aspirin and 10 percent starch.[24] ***.

The material that *** uses to produce its aspirin tablets is also of a lower quality in terms of color, clarity, and cohesion. At times, the bulk aspirin that *** gets from China is not pure white, but rather slightly discolored. Other times, there are small black flecks, which are tedious and time consuming to remove. In addition, sometimes the aspirin does not compress to form perfectly shaped, cohesive tablets.[25]

All four importers responding to the Commission's question regarding differences between domestic and Chinese bulk aspirin replied that differences exist. *** said that the Chinese product cannot offer the range or consistency of mesh sizes. ***. *** acknowledged that its aspirin starch is produced for a special cheap tablet producer, and the quality is not as good as *** aspirin starch. Its 20/60 combined mesh cannot be used in the applications that use 20, 40, or 80 mesh aspirin. *** testified that the domestic advantage is quality, availability, product range, and technical support. Alternately, *** noted that, according to its customer, since each country's products are a little different, the physical characteristics of the Chinese material (as with all other foreign and domestic bulk aspirin) may provide process advantages.[26]

Lead Times/Delivery

Rhodia reported lead times of ***. Importers' lead times varied greatly, however. *** reported that it just ships as scheduled for contract customers, but did not give a specific lead time for any spot customers. *** needs only two days of lead time. *** reported that it only needs a week, as it keeps a stock on hand.

The other importers apparently order bulk aspirin from a manufacturer after an order comes in. Hence, *** carries a lead time of six to eight weeks (42 to 56 days), *** has a lead time of no less than 60 days, and *** requires 75 to 90 days notice.

Comparison of Domestic Products and Subject Imports to Nonsubject Imports

The vast majority of nonsubject imports (in order of volume of 1998 imports) originate from Argentina, Mexico, Colombia, and Thailand, with a somewhat smaller quantity from Spain.[27] Rhodia notes that ***.[28]

Three of five responding importers answered that the U.S. and nonsubject bulk aspirin products are generally used interchangeably. Of the dissenters, *** reported that they should be interchangeable, but are not due to quality and status of the factories in China (non-FDA approved, non-GMP, and producing

[24] Conference transcript, p. 66.
[25] Telephone conversation with ***.
[26] Responses to importer questionnaires.
[27] ***.
[28] Response to producer's questionnaire.

II-5

inconsistent mesh size lots), and *** reported that in different applications, U.S., Chinese, and Mexican products offer their own process advantages.

Four of seven importers did not know or respond to whether nonsubject and Chinese products were interchangeable. Only *** answered in the affirmative. *** reported that the nonsubject material has a better chance to replace the Chinese imports than domestic material does but did not say why it believed this, and that each company has developed a niche market for itself. *** once again reported that each country's product offers process advantages.

Three of four importers that answered the query did not know of any differences in product characteristics or sales conditions between U.S. and nonsubject imports. *** asserted that the domestic producer offered better quality, availability, product range, and technical support. Three of six importers either did not know or did not answer if there were any differences between nonsubject and Chinese production quality or sales conditions. Of the remaining three, *** replied that nonsubject quality and technical support were different; ***, as before, reported process advantages to each; and *** attested that about 6 or 7 years ago there were conflicts, but tableters have since developed their own niche supplier and they have remained with the same sources.

II-6

PART III: CONDITION OF THE U.S. INDUSTRY

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire response of one firm that is believed to have accounted for all U.S. production of bulk aspirin during 1998.

U.S. PRODUCERS

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

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

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[1] ***.

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

[3] Conference transcript, p. 16.

[4] Ibid., p. 39.

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

III-1

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

Rhodia states that its St. Louis, MO, production facility utilizes the latest technological advances and enjoys substantial economies of scale. The only limiting factor or constraint on its production capability is ***. The elimination of this constraint, Rhodia asserts, would boost its bulk aspirin production capability by roughly *** pounds annually.[6] Production also could be expanded by ***.[7] Asked in the Commission's producer questionnaire whether it had experienced any changes (e.g., plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns) in the character of its operations relating to the production of bulk aspirin since January 1, 1996, Rhodia reported *** the consolidations and restructuring that occurred within the industry prior to 1996.

Data concerning the U.S. industry's bulk aspirin production capability, production, and capacity utilization are shown in table III-1. As noted previously, Dow reportedly ***.[8] Rhodia's bulk aspirin production increased *** from 1996 to 1997 and decreased *** from 1997 to 1998. Rhodia attributes the 1997 increase to ***. ***.[9] Rhodia's production capacity was unchanged from 1996 to 1998 and between interim January-March 1998 and January-March 1999. Capacity utilization therefore fluctuated in conjunction with the increase and decrease in production. Such capacity utilization rose from *** percent in 1996 to *** percent in 1997, fell to *** percent in 1998, and increased from *** percent in January-March 1998 to *** percent in January-March 1999.

Table III-1
Bulk aspirin: U.S. production capacity, production, and capacity utilization, 1996-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

* * * * * * *

As shown in the tabulation that follows, *** comprised the bulk of Rhodia's bulk aspirin production between 1996 and 1998, although *** production was more prevalent in 1998 than before.

* * * * * * *

U.S. PRODUCER'S SHIPMENTS

U.S. Shipments

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

Data on the U.S. producer's domestic shipments of bulk aspirin are presented in table III-2. The quantity and value of Dow's and Rhodia's combined domestic shipments rose by *** percent and *** percent, respectively, between 1996 and 1997 and decreased by *** percent and *** percent from 1997 to

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[6] Rhodia's response to the Commission's producer questionnaire, p. 4.

[7] Ibid.

[8] ***.

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

III-2

Table III-2
Bulk aspirin: U.S. producer's domestic shipments, by firms, 1996-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

* * * * * * *

1998. The quantity and value of Rhodia's domestic shipments rose by *** percent and *** percent, respectively, between 1996 and 1997 and decreased by *** percent and *** percent, respectively, between 1997 and 1998. Overall, Rhodia's domestic shipments between 1996 and 1998 increased by *** percent on the basis of quantity and *** percent on the basis of value. Between the interim periods, the quantity and value of such domestic shipments increased by *** percent and *** percent, respectively. In terms of unit value, the average unit value of Dow's and Rhodia's combined domestic shipments fell by *** per pound between 1996 and 1997 and increased by *** per pound between 1997 and 1998. The average unit value of Rhodia's domestic shipments rose *** from 1996 to 1998, increasing by *** percent or by *** per pound over the period, but then declined by *** percent, or by *** per pound, from January-March 1998 to January-March 1999.

As shown in the tabulation that follows, the bulk of Rhodia's and Dow's combined domestic shipments of bulk aspirin consisted of ***.

* * * * * * *

Export Shipments

Data concerning U.S. producers' export shipments of bulk aspirin are shown in table III-3. As a share of its total shipments, Rhodia's exports of bulk aspirin *** from *** percent of total shipments in 1996 to *** percent of total shipments in 1998. *** are Rhodia's most important export markets. The most significant markets within these regions include ***. The quantity and value of Rhodia's export shipments fell *** during the period for which information was requested. Between 1996 and 1998, such exports fell by *** percent on the basis of quantity and declined by a similar magnitude on the basis of value.

Table III-3
Bulk aspirin: U.S. producer's export shipments, by firms, 1996-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

* * * * * * *

U.S. PRODUCER'S INVENTORIES

The volume of inventories held by Rhodia was *** percent higher at year-end 1997 than at year-end 1996 and was *** percent lower at year-end 1998 than at year-end 1997 (table III-4) . Such end-of-period inventories fell between the interim periods by *** percent. The ratio of Rhodia's end-of-period inventories to its U.S. production peaked in *** at *** percent and declined from *** percent as of March 31, 1998, to *** percent as of March 31, 1999. Relative to its U.S. shipments, the ratio of inventories *** in all periods, *** by *** percentage points from 1996 to 1998 and *** by *** percentage points between the interim periods.

III-3

Table III-4
Bulk aspirin: U.S. producer's end-of-period inventories, by firms, as of Dec. 31, 1996-98, and as of Mar. 31, 1998 and Mar. 31, 1999

* * * * * * *

The reported questionnaire data also show that Dow held some bulk aspirin inventories at year-end 1996; however, the volume of such inventories represented only about *** of the volume held by Rhodia at the end of the same time period and they were sold off in the following year.

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Rhodia's bulk aspirin is produced in dedicated, stand-alone facilities utilizing workers dedicated solely to its production. Aside from Rhodia's involvement in the consolidations heretofore mentioned, the firm reported no other changes to its operations that might have otherwise affected its bulk aspirin production operations during the period for which the Commission requested information.[10] Employment data pertaining to Rhodia's bulk aspirin operations are shown in table III-5. Trends are somewhat mixed. Between 1996 and 1997, a period in which Rhodia experienced a *** percent increase in production, the number of its production-and-related workers (PRWs) producing bulk aspirin fell by *** percent. The reduced number of workers, however, worked *** percent more hours and the firm had higher productivity (up by *** percent) than in 1996. The same number of PRWs were employed in 1998 as were employed in 1997, except that these workers worked *** percent fewer hours and the firm had *** productivity than in 1997. Total wages paid rose and fell relative to the number of workers employed and the number of hours worked by such workers. Hourly wages, however, rose steadily throughout the period, increasing by *** percent from 1996 to 1997 and by *** percent from January-March 1998 to January-March 1999.

Table III-5
Average number of production-and-related workers (PRWs) producing bulk aspirin, hours worked, wages paid to such workers, and hourly wages, productivity, and unit labor costs, 1996-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

* * * * * * *

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

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

U.S. IMPORTERS

The Commission sent importers' questionnaires to 18 firms, of which 12 responded. Of those that responded, five indicated that since January 1, 1996, their firm had no imports of bulk aspirin from any source. Seven firms indicated that they did import bulk aspirin during the period in question and supplied information on such U.S. imports. Six of the seven firms imported the subject merchandise from China, while one firm imported bulk aspirin only from Spain. At least two of the six firms that imported product from China also imported bulk aspirin either from Argentina or Mexico. Four of the seven firms that imported product from any source are either directly or indirectly owned by a foreign company. One such firm, Jilin Pharmaceutical (USA), Inc. (Jilin USA), is owned by the Chinese producer Jilin Pharmaceutical Co., Ltd., which estimates that its exports alone account for approximately *** percent of all Chinese exports of bulk aspirin to the United States.[1]

In addition to the seven U.S. importers discussed above, Rhodia also imported bulk aspirin during the period for which information was requested. All such imports ***. Rhodia explains that it imported the subject merchandise for two reasons: (1) *** and (2) ***.[2] The volume of Rhodia's U.S. imports in 1997 represented *** percent of its domestic production in the same year.

U.S. IMPORTS

U.S. imports of bulk aspirin enter the United States under HTS subheading 2918.22.10 (aspirin crystal) or subheading 3003.90.00 (bulk medicament mixtures). Subheading 3003.90.00 includes mixtures other than aspirin and therefore cannot be used to establish an accurate count of U.S. imports. Furthermore, because the sum of the data for U.S. imports from China as reported in the Commission's importer questionnaires is well below official Chinese export data, questionnaire data also are not relied upon in this section of the report. It is believed, therefore, that Chinese export statistics offer the best statistics on the volume of U.S. imports from China. Official statistics under subheading 2918.22.10 are relied upon for U.S. imports from all other sources; principal nonsubject sources of bulk aspirin in 1998 were Argentina, Colombia, Mexico, and Thailand.[3]

Data on U.S. imports of bulk aspirin are presented in table IV-1. As shown in the table, total U.S. imports from all sources rose steadily in all periods, increasing from 1996 to 1998 by 88.6 percent on the basis of quantity and more then doubling in terms of value. From January-March 1998 to January-March 1999, such imports rose by 29.3 percent in terms of quantity and increased by 32.1 percent on the basis of value. The quantity and value of U.S. imports from China rose similarly between 1996 and 1998, rising by 55.4 percent and by 43.3 percent, respectively. The quantity of such U.S. imports increased by 13.7 percent between the interim periods while decreasing by 2.5 percent in terms of value. Unit values of U.S. imports from China were significantly below those for U.S. imports from all other sources.

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

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

[3] It is Rhodia's belief that all bulk aspirin exports from Thailand to the United States are ***.

IV-1

Table IV-1
Bulk aspirin: U.S. imports, by sources, 1996-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

Item	Calendar year			Jan.-Mar.	
	1996	1997	1998	1998	1999
	Quantity (*1,000 pounds*)				
China[1]	2,307	2,632	3,586	983	1,118
All other sources[2]	1,093	2,068	2,825	847	1,249
Total	3,400	4,700	6,411	1,830	2,367
	Value (*1,000 dollars*)				
China[3]	2,463	2,806	3,530	1,046	1,020
All other sources[2]	2,001	4,160	5,684	1,659	2,554
Total	4,464	6,966	9,214	2,705	3,574
	Unit value (*per pound*)				
China	$1.07	$1.07	$0.98	$1.06	$0.91
All other sources	1.83	2.01	2.01	1.96	2.04
Average	1.31	1.48	1.44	1.48	1.51

[1] Based on official Chinese export statistics under HTS subheadings 2918.22.10 and 3003.90.00 as published in *World Trade Atlas* and as shown in petition at exhibit 4.
[2] Based on official Chinese export statistics as reported under HTS classification number 2918.22.10.
[3] Based on official Chinese export statistics as published in *World Trade Atlas* using *f.o.b.* values. Because the data do not take into account ocean freight, insurance, and import duties, the data shown are somewhat understated.

Source: Compiled from data submitted in the petition and from official statistics of the U.S. Department of Commerce.

APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption of bulk aspirin are shown in table IV-2. Led by fluctuations in the U.S. producer's U.S. shipments, apparent consumption quantity fluctuated upward by *** percent between 1996 and 1998, increasing first by *** percent from 1996 to 1997 and then falling by *** percent from 1997 to 1998. Apparent consumption value increased similarly between 1996 and 1997 but then dipped to a level below that in 1996 in 1998. Apparent consumption quantity and value increased between the interim periods, rising by *** on the basis of quantity and by *** percent on the basis of value.

U.S. MARKET SHARES

The U.S. producer's share of the domestic bulk aspirin market declined steadily between 1996 and 1998 and continued to fall between the interim periods. The U.S. producer's market shares based on quantity fell from *** percent in 1996 to *** percent in 1998, a drop of *** percentage points (table IV-3). The U.S. producer suffered a further drop in market share between the interim periods, experiencing a

IV-2

Table IV-2
Bulk aspirin: U.S. shipments of domestic product, U.S. imports, by sources, and apparent consumption, 1996-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

Item	Calendar year			Jan.-Mar.	
	1996	1997	1998	1998	1999
	Quantity (*1,000 pounds*)				
U.S. producer's U.S. shipments	***	***	***	***	***
U.S. imports from--					
China[1]	2,307	2,632	3,586	983	1,118
All other sources[2]	1,093	2,068	2,825	847	1,249
Total	3,400	4,700	6,411	1,830	2,367
Apparent consumption	***	***	***	***	***
	Value (*1,000 dollars*)				
U.S. producer's U.S. shipments	***	***	***	***	***
U.S. imports from--					
China[3]	2,463	2,806	3,530	1,046	1,020
All other sources	2,001	4,160	5,684	1,659	2,554
Total	4,464	6,966	9,214	2,705	3,574
Apparent consumption	***	***	***	***	***

[1] Based on official Chinese export statistics under HTS subheadings 2918.22.10 and 3003.90.00 as shown in petition at exhibit 4.
[2] Based on official statistics as reported under HTS subheading 2918.22.10.
[3] Based on official Chinese export statistics as published in *World Trade Atlas* using *f.o.b.* values. Because the data do not take into account ocean freight, insurance, and import duties, the data shown are somewhat understated.

Source: Compiled from data submitted in the petition and from official statistics of the U.S. Department of Commerce.

Table IV-3
Bulk aspirin: Apparent U.S. consumption and market shares, 1996-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

* * * * * * *

IV-3

decline of *** percentage points from January-March 1998 to January-March 1999. On the basis of value, the U.S. producer's market shares fell by *** percentage points between 1996 and 1998 and declined by *** percentage points between the interim periods. China's market share on the basis of quantity increased from *** percent in 1997 to *** percent in 1998 and dipped from *** percent in January-March 1998 to *** percent in January-March 1999. On the basis of value, China's market share rose from *** pecent in 1996 to *** in 1998 and fell back from *** in interim 1998 to *** percent in interim 1999. Market shares for U.S. imports from sources other than China rose steadily in all periods, increasing from 1996 to 1998 by nearly *** percentage points on the basis of quantity and value and rising between the interim periods by *** and *** percentage points, respectively.

IV-4

PART V: PRICING AND RELATED DATA

FACTORS AFFECTING PRICING

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

Raw Material Inputs

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

U.S. Transportation Costs

All aspirin is packaged in drums, and inland shipping takes place via truck. The U.S. producer and most importers reported that U.S. inland transportation costs are minimal. They account for 3 percent or less of the total delivered price of bulk acetylsalicylic acid for four out of six importers. The other two importers reported transportation costs accounting for 5 and 10 percent of costs, respectively, and U.S. transport costs for *** account for *** percent of total delivered cost.[3] All importers and the domestic producer arrange for the product to be shipped. While Rhodia quotes all prices on a delivered basis, importers vary on their pricing practices. Three importers quote on a delivered basis, another either on a delivered or f.o.b. warehouse basis, and a fifth discusses pricing with the customer based on other quotes the customer has received.

U.S. Tariff Rates

Bulk acetylsalicylic acid is imported into the United States under two separate HTS classifications. Pure aspirin crystal is classified in HTS subheading 2918.22.10. Aspirin, as well as other medicines (most notably acetaminophen), in mixtures with other ingredients, but not put up in dosages (tablets, powders, etc.) is classified in HTS subheading 3003.90.00. This subheading includes all aspirin starch mixtures. The aspirin-starch mixtures imported under HTS subheading 3003.90.00 are given duty-free treatment, while pure aspirin crystal from China is subject to an 8.4 percent *ad valorem* tariff under normal trade relations status.

Exchange Rates

Quarterly nominal exchange rates reported by the International Monetary Fund for China during the period January 1996 - December 1998 are shown in figure V-1. The Chinese yuan has remained

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[1] Petition, pp. 18-20.

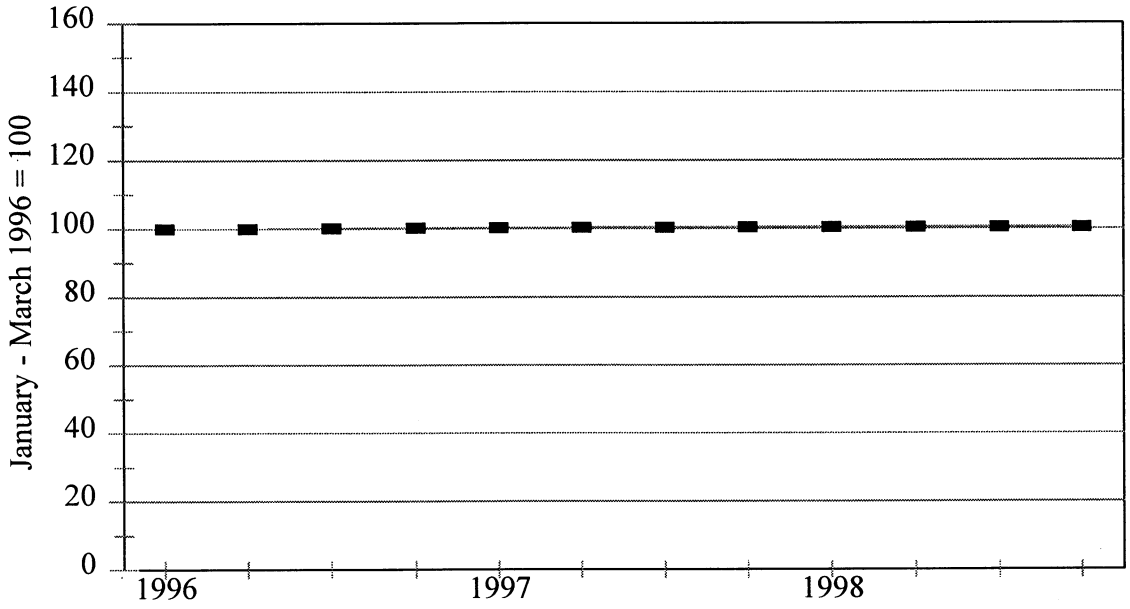
[2] Ibid, p. 19.

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

V-1

relatively steady relative to the U.S. dollar throughout the past three years. Although the yuan has been slightly appreciating against the dollar since the second quarter of 1996 (from 8.320 yuan per dollar to 8.278 yuan per dollar in the fourth quarter of 1998), its rise has slowed. It depreciated slightly in the middle of 1998 before appreciating again in the fourth quarter.

Figure V-1
Exchange rates: Index of the nominal exchange rate of the Chinese yuan relative to the U.S. dollar, by quarters, Jan. 1996 - Dec. 1998



Source: International Monetary Fund, *International Financial Statistics*, June 1999.

PRICING PRACTICES

Bulk acetylsalicylic acid is sold primarily on a contract basis. Five out of six importers replying to the questionnaire noted that between *** and *** percent of their sales are on a contract basis.[4] Rhodia estimated that *** percent of its sales were on a contract basis. Suppliers quote prices according to product specifications given by the purchaser. Specifications may include which form of aspirin (pure crystal or directly compressible), mesh size, color (in special cases), and other requirements.

Rhodia typically sells off its published price list ***.[5] ***.[6]

In contrast, no responding importers use a set price list. Three of six use transaction-by-transaction negotiations, while the remaining three have blanket orders for multiple shipments. Accordingly, the three negotiating importers offer discounts during the negotiation process. Further, all three importers using multiple shipment contracts give quantity discounts based on the annual total

[4] ***.

[5] Telephone conversation with ***.

[6] Rhodia's response to the Commission's questionnaire.

volume sold.[7] Typical contracts fix both price and quantity and last an average of one year, although one importer responded that its contracts typically last for two years, while two others reported that their contracts can be as short as six months.[8]

PRICE DATA

The Commission requested U.S. producers, importers, and purchasers to provide quarterly quantity and value data between January 1996 and March 1999 for the following three products:

Product 1: 100-percent Crystalline Bulk Acetylsalicylic Acid, 20 mesh.

Product 2: 100-percent Crystalline Bulk Acetylsalicylic Acid, combined mesh 20/60.

Product 3: Compound Bulk Acetylsalicylic Acid with 10-percent starch content (DC-90).

Rhodia and six importers provided usable pricing data for sales of the requested products, although not necessarily for all products or all quarters.[9, 10]

Price Trends

U.S. producer and importer weighted-average pricing data and margins of underselling from the start of 1996 through the first quarter of 1999 are presented in tables V-1 to V-3 and figures V-2 and V-3.

Pure crystal aspirin prices are reported in tables V-1 and V-2. Two pure crystal aspirin domestic products were used for comparison purposes - 20 mesh crystal and 40 mesh crystal.[11] No importers reported any pricing data for product 1.[12] They only import pure crystal aspirin in combined mesh form.[13] Therefore, the data reported in the tables below use cross-product price comparisons, although both are 100 percent crystalline aspirin products. When looking at the price comparisons, one should keep in mind that the domestic product has gone through one more stage of preparation (sorting), and there is some value added in that process. The separated grain size allows high speed machines to run more efficiently.

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[7] *** responded that the customer has to buy the product on a regular basis and meet a minimum quantity of 220,000 pounds.

[8] Importers' responses to Commission's questionnaires.

[9] ***.

[10] ***.

[11] Rhodia does not produce a combined mesh product (e.g., 20/60), since part of its production process involves the sifting of the crystals into different mesh sizes. The sifting process does not produce only crystals of one specific size, but rather a very tight range. When looking at differences across products, 20 mesh, 40 mesh, and 80 mesh can be considered large, medium, and small crystal sizes, respectively. Therefore, Rhodia reported data for its medium-sized crystals to be the nearest product to the imported combined mesh product.

[12] At the conference, David Zhao of Jilin Pharmaceuticals (USA) noted that the Jilin Pharmaceuticals Company in China does not have the technology to separate the crystals into different crystal sizes, even though it has tried.

[13] *** reported its closest product, 20/80 mesh pure crystal aspirin, for pricing data.

Table V-1
Domestic producer's 20 mesh crystal aspirin and imported 20/60 combined mesh crystal aspirin from China: Weighted-average delivered prices and quantities, and margins of underselling/(overselling), by quarters, Jan. 1996-Mar. 1999

* * * * * * *

Table V-2
Domestic producer's 40 mesh crystal aspirin and imported 20/60 combined mesh crystal aspirin from China: Weighted-average delivered prices and quantities, and margins of underselling/(overselling), by quarters, Jan. 1996-Mar. 1999

* * * * * * *

Table V-3
Aspirin starch (DC-90): Weighted-average delivered prices and quantities reported by the U.S. producer and U.S. importers from China, and margins of underselling/(overselling), by quarters, Jan. 1996-Mar. 1999

* * * * * * *

Figure V-2
Weighted-average net delivered prices (per pound) of products 1 and 2 (100-percent pure crystalline aspirin, either single size mesh or combined mesh), by sources and by quarters, Jan. 1996-Mar. 1999

* * * * * * *

Figure V-3
Weighted-average net delivered prices (per pound) of product 3 (aspirin starch (DC-90)), by sources and by quarters, Jan. 1996-Mar. 1999

* * * * * * *

Domestic crystal aspirin (20 or 40 mesh) has ranged in price between *** and ***. Pricing for domestic crystal aspirin products ***. The price for imported crystal aspirin has been *** since mid-1996 as well, ***. It *** saw *** in early 1998 (second quarter) and has *** since that time. Since contracts are often renegotiated at the beginning of the calendar year,[14] *** in early 1998 may be part of the renegotiations.

Aspirin starch has sold domestically in the range of *** per pound to *** per pound over the past three years. Domestic producers ***. Prices, however, have *** in the following two quarters. Importers saw a decline in their prices for aspirin starch mixtures in the first quarter of 1997 ***, but have enjoyed relatively stable pricing since that time, ***.

In every quarter since 1996, for every product, prices for Chinese bulk aspirin have been below those of the domestic producer. The margins of underselling over all products ranged from *** percent to *** percent.

[14] Telephone conversation with petitioner's counsel, June 21, 1999.

V-4

LOST SALES AND LOST REVENUES

The Commission requested Rhodia to report any instances of lost sales or revenues it experienced due to competition from imports of the subject product from China since January 1996. It reported 14 lost sales allegations totaling *** and involving *** pounds and 3 lost revenue allegations totaling *** and involving *** pounds. Of these, 5 lost sales allegations were confirmed, totaling *** and *** pounds, and 1 lost revenue allegation was confirmed, totaling *** and *** pounds.

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

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

*	*	*	*	*	*	*

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

*	*	*	*	*	*	*
*	*	*	*	*	*	*

V-5

Part VI: FINANCIAL CONDITION OF THE U.S. INDUSTRY

BACKGROUND

The sole current U.S. producer of bulk aspirin, Rhodia, Inc, provided financial data on its bulk aspirin operations. Rhodia[1] is the U.S. subsidiary of Rhodia S.A., which is ***-percent owned by Rhone-Poulenc. Rhodia was created in 1997, and it produces bulk aspirin at its plant in St. Louis, MO.[2] Although Rhone-Poulenc purchased Dow's ***.[3] As noted in petitioner's postconference brief, ***.[4]

Bulk aspirin is marketed by Rhodia under the trade name "Rhodine" in several different grades (powder, crystal, granular, starch, and taste masked). Although Rhodia also produces a pharmaceutical intermediate, methyl salicylate, at the St. Louis, MO plant, that production takes place in a separate dedicated facility and production line, and uses a different work force.[5]

OPERATIONS ON BULK ASPIRIN

The results of bulk aspirin operations of Rhodia are presented in table VI-1, while those of Dow *** are presented in table VI-2, and the consolidated results of Rhodia and Dow are presented in table VI-3. Rhodia's trade sales and the consolidated results differ from those in Part III of this report. Rhodia's reported ***, for example.

Rhodia's total sales quantities increased from 1996 to 1997, but decreased *** in 1998. Sales values increased between 1996 and 1997 because of the higher volume, as former Dow customers approved the St. Louis product,[6] as well as because of a ***. As sales quantities and values declined from 1997 to 1998, Rhodia reduced production to ***. Operating income and margins *** during 1996-97, respectively, but *** during 1998. In part, this *** during 1998 appears to be the result of ***. Also, net income *** between 1997 and 1998, and the ***.

While the average per pound sales value *** during 1996-98 by ***, costs ***, thereby *** operating income by *** for a ***. On the other hand, between January-March 1998 and 1999, the average per pound sales value *** by *** while costs ***, resulting in a per-pound operating income of ***.

---

[1]Rhodia describes itself as "the world's leading manufacturer of analgesics (acetylsalicylic acid and paracetamol/acetaminophen)," and states that "its range of active pharmaceutical ingredients also includes salicylic acid, methyl salicylate, and guaifenesin." The company's web site lists products, grades, and manufacturing locations. See Rhodia Internet, found at Internet site *http://pharmaceutical.us.rhodia.-com/about/main.htm*, retrieved on June 3, 1999.

[2]According to the petitioner, Rhone-Poulenc acquired Monsanto's analgesics business, including the bulk aspirin manufacturing plant in St. Louis, MO, in 1989, and certain assets of the Dow Chemical Company, including its *** in 1995. In a series of transactions in 1997, Rhone-Poulenc spun off its pharmaceutical ingredients and specialty chemicals businesses, creating Rhodia, Inc. Assets of Rhodia include the bulk aspirin plant at St. Louis, MO that was owned by Monsanto, and the assets purchased from Dow. Petition, pp. 2-3.

[3]Telephone conversation with James Cannon, counsel to Rhodia, on June 24, 1999, and letter from counsel to the Commission, dated June 23, 1999, question 12.

[4]Petitioner's postconference brief, p. 15.

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

[6]Letter from counsel for petitioner, dated June 23, 1999, Question 5.

VI-1

Table VI-1
Results of operations of Rhodia in the production of bulk aspirin, fiscal years 1996-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

* * * * * * *

Table VI-2
Results of operations of Dow in the production of bulk aspirin, fiscal years 1996-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

* * * * * * *

Table VI-3
Results of consolidated operations of Rhodia and Dow in the production of bulk aspirin, fiscal years 1996-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

* * * * * * *

The effects of price and volume changes on Rhodia's net sales of bulk aspirin and of costs and volume on its total costs are further shown in table VI-4. The *** in operating income between 1997 and 1998 can be attributed to a ***.

Table VI-4
Variance analysis for bulk aspirin operations of Rhodia, fiscal years 1996-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

* * * * * * *

***.[7] Officials at Rhodia attributed the 1997-98 *** categories other than direct labor to:[8]

* * * * * * *

[7]Petitioner's postconference brief, p. 37.
[8]Letter from counsel to Rhodia of June 23, 1999.

VI-2

CAPITAL EXPENDITURES, R&D EXPENSES, AND INVESTMENT IN PRODUCTIVE FACILITIES

Capital expenditures, R&D expenses, and the original and book value of property, plant, and equipment used in the production of bulk aspirin are shown in table VI-5. Capital expenditures amounted to ***. According to testimony presented at the staff conference, some of the 1997 and 1998 capital expenditures related to upgrading the aspirin facility's packaging line;[9] other capital improvements encompassed the ***.[10] The cost and book value of fixed assets *** during the periods investigated as a result of the capital expenditures. Between 1996 and 1998, depreciation expense ***.

Research and development expenses increased from about *** during 1996-98, and decreased *** between January-March 1998 and the same period in 1999.

Table VI-5
Capital expenditures, research and development expenses, and value of assets of Rhodia with respect to bulk aspirin, fiscal years 1996-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

* * * * * * *

CAPITAL AND INVESTMENT

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

* * * * * * *

[9]Andrew P. McMaster, Rhodia Plant Manager, Luling, LA, conference transcript, pp. 34 and 43.

[10]Petitioner's postconference brief, exh. 8. According to information in this exhibit, petitioner made ***.

VI-3

PART VII: THREAT CONSIDERATIONS

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

THE INDUSTRY IN CHINA

The petition identified three firms and one export company in China that are believed to sell bulk aspirin for export. These are Jilin Pharmaceutical Co., Ltd. (Jilin); Mudanjiang Shuanglong Chemical & Pharmaceutical Co.; Shandong Xinhua Pharmaceutical Group Corp. (Shandong); and China Jiangsu International Economic Technical Cooperation Corp. At the Commission's request, the American Embassy in Beijing verified the existence of these four firms. No other firms that are believed to produce and/or export bulk aspirin from China have been identified by any source. Commission foreign producer questionnaires were either faxed or mailed to each of the firms mentioned above. Only two, Jilin and Shandong, responded to the Commission's request for information.[1] The information presented below on the industry in China is based on questionnaire responses submitted by Jilin and Shandong, as well as on information presented in the petition and information supplied by the American Embassy in Beijing.

Shandong and Jilin are believed to be the *** producers of aspirin in China.[2] Shandong, established in 1943, produces a broad range of chemical, petroleum, and pharmaceutical products. The company is believed to employ more than *** workers.[3] Although Shandong estimates that it alone accounts for about *** percent of all aspirin production in China, aspirin reportedly represents only about *** percent of the company's annual sales. Shandong reportedly operates on an ***. The company's bulk aspirin operations ran at just over *** percent of capacity in 1997 and 1998. Its bulk aspirin capacity increased by *** percent between 1996 and 1998 and is projected to *** in 1999. As a share of its total shipments in 1998, Shandong's home market shipments accounted for *** percent of the total while exports represented *** percent. Exports to the United States accounted for *** percent of the company's total exports in 1998.

Jilin is the parent company to the U.S. importer Jilin (USA). Established in 1962, the company also produces a broad range of chemical and pharmaceutical products. The company estimates that bulk aspirin represented *** percent of its overall sales in its most recent fiscal year. It also estimates that it accounts for about *** percent of all bulk aspirin produced in China. Between 1996 and 1998, the United States was a major market for Jilin's bulk aspirin exports, accounting for *** percent of total exports in 1996, *** percent in 1997, and *** percent in 1998. Jilin reported no change in its production capacity between 1996 and 1998 while operating at between *** percent and *** percent of capacity during that period.

Data on the combined bulk aspirin operations of Jilin and Shandong are shown in table VII-1. The data show that, between 1996 and 1998, the combined production capacity of the two firms increased by *** percent, production rose by *** percent, total exports increased by *** percent, and exports to the

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[1] A questionnaire was sent by mail to Mudanjiang but was returned to the Commission as undeliverable. ***. The Commission also sent a questionnaire to China Jiangsu by facsimile but the firm did not respond.

[2] ***.

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

Table VII-1
Bulk aspirin: Production capacity, production, shipments, and inventory data for Jilin Pharmaceutical Co., Ltd. and Shandong Xinhua Pharmaceutical Group Corp., 1996-98, Jan.-Mar. 1998, Jan.-Mar. 1999, and projections for 1999 and 2000

* * * * * * *

United States ***. Inventory volumes were somewhat insignificant between 1996 and 1998, as the ratio of inventories to production fluctuated between *** percent and *** percent over the same period.

U.S. INVENTORIES OF PRODUCT FROM CHINA

U.S. importers of bulk aspirin from China generally maintained low levels of inventories of the imported Chinese product. Although the ratio of inventories to imports crept upwards over the period for which data were compiled, the ratio never moved to double digits. As shown in table VII-2, the ratio of inventories to imports stood at *** percent in 1998 compared with *** percent in 1996, and rose slightly to *** percent in January-March 1999 as compared with *** percent in the comparable 1998 period. The ratio of inventories to U.S. shipments of imports rose similarly, except that over the interim periods, the ratio rose by *** percentage points.

Table VII-2
Bulk aspirin: U.S. importers' end-of-period inventories of imports from China, 1996-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

* * * * * * *

VII-2

APPENDIX A

FEDERAL REGISTER NOTICES

A-1

Dated: June 1, 1999.

Kirk C. Rodgers,

Acting Regional Director.

[FR Doc. 99-14283 Filed 6-4-99; 8:45 am]

BILLING CODE 4310-94-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-828 (Preliminary)]

Bulk Acetylsalicylic Acid (Aspirin) From China

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731-TA-828 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of bulk acetylsalicylic acid,[1] provided for in subheadings 2918.22.10 and 3003.90.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by July 12, 1999. The Commission's views are due at the Department of Commerce within five business days thereafter, or by July 19, 1999.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and

[1] The product subject to this investigation is acetylsalicylic acid (aspirin), whether or not in pharmaceutical or compound form, but not put up in measured doses, capsules or tablets for direct human consumption. Bulk aspirin consists of pure orthoacetylsalicylic acid in crystal form, or granulated into a fine powder (pharmaceutical form), or mixed with small amounts of inactive materials, such as excipients (starch, lactose, cellulose, or coloring materials). Pure aspirin, or acetylsalicylic acid, has the chemical formula $C_9H_8O_4$. It is defined by the official monograph of the United States Pharmacopoeia (USP) 23.

Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: May 28, 1999.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202-205-3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on May 28, 1999, by Rhodia, Inc., Cranbury, NJ.

Participation in the Investigation and Public Service List

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

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

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on June 18, 1999, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Woodley Timberlake (202-205-3188) not later than June 15, 1999, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before June 23, 1999, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

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

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: June 1, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-14368 Filed 6-4-99; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-853]

Initiation of Antidumping Duty Investigation: Bulk Aspirin From the People's Republic of China

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

EFFECTIVE DATE: June 23, 1999.

FOR FURTHER INFORMATION CONTACT: Craig W. Matney or Alysia Wilson, Office 1, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1778 or (202) 482-0108, respectively.

Initiation of Investigation

The Applicable Statute and Regulations

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

The Petition

On May 28, 1999, the Department received a petition filed in proper form by Rhodia, Inc., referred to hereinafter as "the petitioner." The petitioner filed supplemental information to the petition on June 14, 1999.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of bulk aspirin from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring or threaten to injure an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it represents, at a minimum, the required proportion of the United States industry (*see Determination of Industry Support for the Petition* section below).

Scope of Investigation

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

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

During our review of the petition, we discussed the scope with the petitioner to ensure the petition accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (62 FR 27296, 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of our preliminary determination.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets

this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the Act directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law.[1] Section 771(10) of the Act defines the domestic like product as "a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petition is the single domestic like product defined in the "Scope of Investigation" section above. The Department has no basis on the record to find this definition of the domestic like product to be inaccurate. The Department, therefore, has adopted this domestic like product definition.

To the best of the Department's knowledge, the petitioner is the sole U.S. producer of the domestic like product. Additionally, no person who would qualify as an interested party pursuant to sections 771(9) (C), (D), (E) or (F) of the Act has expressed opposition on the record to the petition. Thus, the petitioner accounts for more than 50 percent of the production of the domestic like product. Accordingly, in accordance with section 732(c)(4) of the Act, we determine that the petition has been filed on behalf of the domestic industry. *See* Initiation Checklist dated May 17, 1999 (public version on file in the Central Records Unit of the Department of Commerce, Room B–099) (Initiation Checklist).

Export Price and Normal Value

The following is a description of the allegation of sales at less than fair value upon which our decision to initiate this investigation is based. Should the need arise to use any of this information in our preliminary or final determination for purposes of facts available under section 776 of the Act, we may re-examine the information and revise the margin calculations, if appropriate.

The petitioner identified four potential PRC exporters and producers of bulk aspirin. The petitioner based export price (EP) on (1) an offer for sale of the subject merchandise to a U.S. purchaser by a PRC exporter during the first quarter of 1999; (2) the market prices of the subject merchandise paid by a U.S. purchaser; (3) U.S. import statistics for 1998; (4) U.S. import statistics for the first quarter of 1999; and (5) export statistics from the PRC. From these starting prices, the petitioner deducted international freight and marine insurance, when the terms of the sale were delivered, and import duties, where appropriate. The petitioner based international freight and marine insurance fees on the difference between the FAS and the CIF values stated in the U.S. Bureau of the Census import statistics for 1998 imports of subject merchandise from China. Additionally, the petitioner deducted U.S. import duties of 8.7 percent from the dutiable value to obtain the net export price.

Because the PRC is considered a nonmarket economy (NME) country under section 771(18) of the Act, the petitioner based normal value (NV) on the factors of production valued in a surrogate country, in accordance with section 773(c)(3) of the Act. The petitioner selected India as the most appropriate surrogate market economy. For the factors of production, the petitioner used its own factor inputs and consumption data for materials, labor and energy, based on the production processes that the petitioner uses in its plant which is most comparable in level of technology to production processes utilized by several of the major PRC producers of bulk aspirin. The petitioner presented two alternative methods for calculating NV: The first assumes that the primary material input is purchased, and the second assumes that this input is produced in-house.

Materials, utilities, and recovered by-products were valued based on Indian prices obtained from public information contained in an affidavit supplied by the petitioner on Indian domestic market prices, international publications containing the prices applicable to India, Indian import statistics, and U.S. export statistics. Labor was valued using the regression-based wage rate for the PRC provided by the Department, in accordance with 19 CFR 351.408(c)(3). The petitioner reduced the total cost of production (COP) by the value of by-products recovered. For factory overhead; selling, general and administrative expenses; and profit, the petitioner applied rates derived from information gathered from the financial statements of a publicly-traded Indian producer of aspirin. The petitioner added one percent of COP to account for packing factor costs, consistent with Department practice in certain previous cases. (For further information on the EP and NV calculation methodology, *see Initiation Checklist* and *Calculation Adjustments Memorandum*, both dated June 17, 1999.)

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of bulk aspirin from the PRC are being, or are likely to be, sold at less than fair value. Based on a comparison of EP to NV, the petitioner's calculated dumping margins range from 8.28 percent to 144.02 percent.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of the imports of the subject merchandise sold at less than NV. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation. *See Initiation Checklist.*

[1] *See Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefore from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380–81 (July 16, 1991).

Initiation of Antidumping Investigation

Based on our examination of the petition, we have found that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of bulk aspirin from the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determination by November 4, 1999.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the government of the PRC.

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by July 12, 1999, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury by reason of imports of bulk aspirin from the PRC. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is published in accordance with section 777(i) of the Act.

Dated: June 17, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–16000 Filed 6–22–99; 8:45 am]

BILLING CODE 3510–DS–P

APPENDIX B

LIST OF PARTICIPANTS IN THE CONFERENCE

B-1

Those listed below appeared as witnesses at the United States International Trade Commission's conference held in connection with the following investigation:

INVESTIGATION NAME: Bulk Acetylsalicylic Acid (Aspirin) from China

INVESTIGATION NO.: 731-TA-828 (Preliminary)

DATE: June 18, 1999

TIME: 9:30 a.m.

The conference was held in Courtroom B of the United States International Trade Commission building, 500 E Street, SW, Washington, DC.

In Support of the Imposition of Antidumping Duties

Stewart and Stewart
Washington, DC
on behalf of

Rhodia, Inc.

Witnesses:
Benoit J. Cossart, business director, North American Zone, Rhodia, Inc.
Andrew P. McMaster, plant manager, Luling, Louisiana
Lucia Berry, marketing manager, North American Zone, Rhodia, Inc.
Michael Sadler, senior account executive, Rhodia, Inc.
William N. Farran, III, Esq., Rhodia, Inc.

Rebecca Woodings, trade analyst, Stewart and Stewart

James R. Canno, Jr.)
Patrick J. McDonough) --OF COUNSEL

In Opposition to the Imposition of Antidumping Duties

Aitken, Irvin, Lewin, Berlin, Vrooman & Cohn, LLP
Washington, DC
on behalf of

Jilin Pharmaceutical (USA), Inc.
Dastech International, Inc.
A & S

Witnesses:
David Zhao, president, Jilin Pharmaceutical (USA), Inc.

Kieran Sharpe)
Virginie Lecaillon) --OF COUNSEL

APPENDIX C

SUMMARY DATA

C-1

Table C-1
Bulk aspirin: Summary data concerning the U.S. market, 1996-98, Jan.-Mar. 1998, and Jan.-Mar. 1999

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C-3